

CODIFIED ORDINANCES

OF THE CITY OF

LANCASTER, OHIO

Local legislation current through December 13, 2021

State legislation current through June 8, 2021

DISCLAIMER

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For further information regarding the official version of any portion of the Codified Ordinances in this FOLIO Infobase, please contact the Municipality directly.

We, David Scheffler, Mayor, and Teresa Sandy, Council Clerk, of Lancaster, Ohio, pursuant to Ohio Revised Code Sections 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Lancaster, Ohio, as revised, rearranged, compiled, renumbered as to sections, codified and printed herewith in component codes are correctly set forth and constitute the Codified Ordinances of Lancaster, Ohio, 1967, as amended to December 13, 2021.

/s/ David Scheffler

Mayor

/s/ Teresa Sandy

Council Clerk

Codified, edited and prepared for
publication by
THE WALTER H. DRANE COMPANY
Cleveland, Ohio
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The Walter H. Drane Company
LANCASTER, OHIO

ROSTER OF OFFICIALS

(2021)

COUNCIL

David Uhl	President
Corey Schoonover	At Large
Orman Hall	At Large
Don McDaniel	At Large
Melody Bobbitt	First Ward
Tom James	Second Ward
Jack Mattlin	Third Ward
Thomas Stoughton	Fourth Ward
Kristina Crites	Fifth Ward
Becky Tene	Sixth Ward
Teresa Sandy	Clerk

OFFICIALS

David Scheffler	Mayor
Patricia Nettles	Auditor
Randall Ullom	Law Director
Robert Wolfinger	Treasurer
Paul Martin	Service-Safety Director
Mitch Noland	City Engineer
Adam Pillar	Police Chief
David Ward	Fire Chief

James Fields
David Landefeld
Trevor Innocenti

Municipal Court Judge
Municipal Court Judge
Municipal Court Magistrate
The publisher
expresses their appreciation
to
RANDALL T. ULLOM
Law Director
who gave his
able assistance, cooperation and counsel
to this Codification

ADOPTING ORDINANCE

AN ORDINANCE TO APPROVE, ADOPT AND ENACT THE CODIFIED ORDINANCES; TO REPEAL ORDINANCES IN CONFLICT THEREWITH; TO PUBLISH THE ENACTMENT OF NEW MATTER, AND DECLARING AN EMERGENCY.

WHEREAS, the Council of the City of Lancaster, Ohio, has had the matter of codification and general revision of the ordinances before it for some time, and

WHEREAS, it has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such codification, and

WHEREAS, the codification of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council,

BE IT ORDAINED by the Council of the City of Lancaster, State of Ohio:

SECTION 1. That the ordinances of the City of Lancaster, Ohio, of a general and permanent nature, as revised, codified, rearranged and consolidated into component codes, titles, chapters and sections are hereby approved, adopted and enacted as the Codified Ordinances of Lancaster, Ohio 1997.

One book-form copy of the Codified Ordinances shall be certified as correct by the Mayor and the Clerk of Council, attached to this ordinance as a part hereof, and filed with the permanent ordinance records of the City of Lancaster, Ohio.

SECTION 2. That the provisions of this Ordinance, including all provisions of the Codified Ordinances, shall be in full force and effect from and immediately after passage of this Ordinance and its approval by the Mayor. All ordinances and resolutions or parts thereof enacted prior to August 25, 1997, which are inconsistent with any provision of the Codified Ordinances, are hereby repealed as of the effective date of this Ordinance, except as follows:

- (a) The enactment of the Codified Ordinances shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislation provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and recodification.
- (b) The repeal provided above shall not affect:
 - (1) The grant or creation of a franchise, license, right, easement or privilege.
 - (2) The purchase, sale, lease or transfer of property.
 - (3) The appropriation or expenditure of money or promise or guarantee of payment.
 - (4) The assumption of any contract or obligation.
 - (5) The issuance and delivery of any bonds, obligations or other instruments of indebtedness.
 - (6) The levy or imposition of taxes, assessments or charges.
 - (7) The establishment, naming, vacating or grade level of any street or public way.
 - (8) The dedication of property or plat approval.
 - (9) The annexation or detachment of territory.
 - (10) Any legislation enacted subsequent to August 25, 1997.

SECTION 3. That the Clerk of Council, pursuant to Ohio R.C. 731.23, shall cause to be published in a manner required by law a summary of the new matter contained in the Codified Ordinances. All sections of the Codified Ordinances without a previous ordinance or resolution history at the end thereof indicate that the section contains new matter ordained by this Adopting Ordinance.

SECTION 4. That this Ordinance is hereby 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 there exists an imperative necessity for the earliest publication and distribution of the Codified Ordinances to the officials and citizens of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements; wherefore this Ordinance shall be in full force and effect from and immediately after its passage and approval by the Mayor.

Passed: _____

Approved: _____

President of Council

Attest: _____

Clerk

Mayor

Offered by: _____

Seconded by: _____

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EDITOR'S NOTE

The arrangement and numbering of the Codified Ordinances into component codes, titles, chapters and sections are based on an adaptation of the decimal numbering system which is similar to that used in the Ohio Revised Code, and in accord with the best accepted practice in instituting a codification. Each section is self-identifying as to code, chapter and section number. For example, 305.06 indicates that the code number is 3, the chapter number is 305 (or the 5th chapter within code 3), and the section number is .06. The code and chapter numbers appear left of the decimal, with the code number preceding the first two digits left of the decimal, and the chapter number being all digits left of the decimal. The section number appears right of the decimal. As another example, 113.10 indicates the code number is 1, the chapter number is 113 (or the 13th chapter within code 1), and the section number is .10.

This numbering system has the advantage of inherent flexibility in allowing for an almost endless amount of expansion. Codes, titles and chapters initially are odd-numbered, thus reserving the use of even numbers for future legislation. Sections within chapters are consecutively numbered, except that penalty provisions are usually assigned the number .99 as used in the Revised Code. Newly created sections subsequent to the original codification may be indicated by three digits right of the decimal in the event the law properly belongs between two consecutively numbered sections. For example, newly created 575.061, 575.062 and 575.063 follow 575.06 and precede 575.07 to be placed in their logical position.

Section histories enable a user to trace the origin of the law contained in the section. The history indicates the derivation by reference to either its passage date and the ordinance number originally assigned to it at that time, or to its inclusion in any prior code. Sections without histories indicate that the section contains new matter which was ordained by the Adopting Ordinance which enacts the Codified Ordinances.

The Comparative Section Table is included to show the disposition of every ordinance included in the Codified Ordinances. It indicates whether a given ordinance was consolidated with another into one section or split into two or more sections. Cross references direct the user to subject matter reasonably related to material contained within a given chapter.

COMPARATIVE SECTION TABLE

EDITOR'S NOTE: Source material for the Codified Ordinances of Lancaster was either ordinances or resolutions enacted by Council, or new matter ordained by the Adopting Ordinance. Sections of the Codified Ordinances without any history indicate that such sections contain new matter ordained by the Adopting Ordinance. In the following table, the disposition of all source material in the Lancaster Codified Ordinances is indicated.

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TABLES OF SPECIAL ORDINANCES OF LANCASTER

EXPLANATION OF TABLES OF SPECIAL ORDINANCES

The Codified Ordinances of Lancaster cover all ordinances of a general and permanent nature. The provisions of such general and permanent ordinances are set forth in full in the Codified Ordinances.

References must be made frequently to many special ordinances particularly those related to property, such as dedications, vacating of property, easements, purchase, sale, etc. In the following Tables A through L, all such ordinances are listed. These tables list ordinances chronologically by subject, and include both a citation to and brief description of each ordinance.

- Table A Franchises
- Table B Easements
- Table C Vacating Streets and Alleys
- Table D Dedication of Property
- Table E Sale of Property
- Table F Purchase of Property for City Use
- Table G Lease of Property
- Table H Grade Levels and Curb Lines
- Table I - Zoning Map Changes

- Table J - Annexation or Detachment of Territory
 Table K Change of Name
 Table L Special Assessments

TABLE A - FRANCHISES

Ord. Book

& Page Ord. No. Date Description

- A-136 Unno. 4-29-1889 To Wm. Duffy to operate a street ry.
 A-156 Unno. 6-23-1890 Amends Ord. of 4-29-1889.
 A-163 Unno. 11-24-1890 To W. G. Wagenhals and associates for an electric light and power plant.
 A-202 Unno. 6-22-1891 Augmenting terms of franchise of 4-29-1899 re street ry.
 A-210 Unno. 9-14-1891 To Western Union Telegraph Co. for telegraph service.
 A-236 Unno. 11-14-1892 Amending Ords. of 4-29-1889 and 6-22-1891.
 A-277 Unno. 8-12-1895 To N. M. Wynkoop and A. L. Conger et al., for electric telephone plant.
 A-282 Unno. 1-13-1896 To Andrew Bauman for street ry. for 25 years.
 A-315 Unno. 11-23-1896 To Lancaster Traction Co. to extend street ry.
 A-324 Unno. 7-10-1899 To North Electric Co. for telephone exchange.
 A-357 Unno. 6-13-1898 To O. N. Danison for telephone and telegraph lines.
 A-362 Unno. 8-8-1898 Amending Ord. of 6-13-1898.
 A-380 Unno. 7-10-1899 To North Electric Co. for telephone exchange.
 A-392 Unno. 11-13-1899 To Federal Gas and Fuel Co. for natural gas mains.
 A-398 Unno. 11-27-1899 To Columbus and Lancaster Traction Co. for street ry.
 A-433 Unno. 9-10-1900 To Lancaster Traction Co. to extend street ry.
 B-77 20 7-27-03 To Ohio Postal Telegraph-Cable Co. for telegraph service for 10 years.
 B-96 23 9-28-03 To Fairfield Traction Co. for street ry.
 B-112 35 3-28-04 To Ohio Fuel and Supply Co. of Columbus to lay pipes to supply C. P. Cole's glass factory with natural gas.
 B-249 114 8-14-05 To Henry B. Peters for street ry.
 C-93 320 5-8-11 To Lancaster Power and Traction Co. for street ry. on Front St.
 C-325 425 6-8-14 To Lancaster Traction and Power Co. for street ry.
 C-329 426 6-8-14 To Lancaster Traction and Power Co. for street ry.
 F-116 1037 3-14-27 To Ohio Power Co. for electric system.
 G-85 1289 6-23-30 To Lancaster Traction and Power Co. for electric system.
 G-97 1300 8-25-30 To Lancaster Traction and Power Co. for street ry.
 H-175 1738 6-28-37 To Lancaster Traction and Power Co. for street ry.

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- J-33 44-45 7-23-45 To Penna. R.R. for R.R.
 J-365 24-49 4-11-49 Amending Ord. 1738.
 K-256 49-53 7-13-53 Amending Ord. 24-49.
 L-29 30-57 4-8-57 Amending Ord. 24-49.
 L-432 77-60 10-10-60 Amending Ords. 30-57 and 24-49.
 L-454 91-60 12-27-60 To 2300 Cab Co., Inc., granting a 5-year franchise.
 M-344 114-65 12-13-65 To 2300 Cab Co., Inc., to maintain and operate a taxi company for 5 years.
 M-384 29-66 3-14-66 To Ohio Power Co. for distribution of Electric energy.
 N-153 13-69 2-24-69 Continental CATV, Inc. to erect, maintain and operate CATV for 10 years.
 P-183 10-72 2-14-72 2300 Cab Co., Inc. taxicab franchise for 5 years.
 P-232 37-72 6-26-72 To Fairfield Cable Television for CATV service for 15 years.
 Q-22 13-73 2-26-73 Amends Ord. 37-72.
 Q-121 57-73 12-10-73 Repeals Ord. 10-72.
 5-74 1-28-74 To William Patterson dba Safe-Way Cab Co.
 13-74 2-25-74 Approves assignment of CATV franchise from Fairfield Cablevision, Inc. to Fairfield Cablevision Associates.
 45-74 9-9-74 To South Central Power Co. to construct, maintain and operate an electrical system for 50 years.
 33-75 11-10-75 Amends Ord. 37-72 above re CATV rates.
 23-77 5-23-77 Street lighting contract with Ohio Power Co.
 12-78 5-8-78 Regulates street lighting charges of S. Central Power Co. for 10 years.
 23-83 5-9-83 To Lancaster Glass Corp. to construct and maintain a conveyor and loading hopper in Zane Alley for 25 years.
 7-92 3-9-92 Continental Cablevision granted a nonexclusive franchise renewal.
 23-93 6-14-93 Regulates street lighting charges of S. Central Power Co. for 10 years.
 6-02 3-26-02 Allows extension of the current nonexclusive cable franchise agreement with Time Warner Cable.
 22-02 6-24-02 Allows extension of the current nonexclusive cable franchise agreement with Time Warner Cable.
 35-02 9-23-02 Allows extension of the current nonexclusive cable franchise agreement with Time Warner Cable.
 14-03 4-28-03 Time Warner Cable granted a nonexclusive cable communications franchise.
 9-16 3-14-16 To Ohio Power Company, for the right to acquire, construct, maintain and operate in the streets, thoroughfares, alleys, bridges, and public places of the City, lines for the transmission and distribution of electric energy.

TABLE B - EASEMENTS

Ord. Book

& Page Ord. No. Date Description

- C-129 Unno. 11-10-1863 To Lancaster, Lithopolis & Groveport Turnpike Co. for right of way through 2nd St.

C-187 Unno. 6-21-1867 To Mineral R.R. Co. for R. R. right of way.
C-232 Unno. 3-16-1870 To Columbus and Hocking Valley R.R. Co. for right of way across Columbus, Board, High, Sycamore and Maple Sts. and the alleys intervening.
C-285 Unno. 3-10-1874 To City for dam and water privileges of the Old Koontz Dam.
A-28 Unno. 4-28-1884 To Cincinnati & Muskingum Valley R. R. Co. and its leesee, the Pittsburgh, Cincinnati & St. Louis R.R. for right of way along the canal and west of Lot 201, supplementing an Ord. of 1-11-1853.
A-28 Unno. 4-28-1884 To Columbus & Hocking Valley R.R. Co. for right of way in Carpenter's Addition, supplementing an Ord. of 3-16-1870.
A-100 Unno. 10-24-1887 To Hamden R.R. Co. for right of way for R.R. tracks.
A-125 Unno. 9-24-1888 To Hocking Valley Manufacturing Co. for natural gas mains.
B-47 Unno. 3-23-03 To Fairfield Shoe Co. for erecting poles and stringing electrical wires.
B-132 48 6-27-04 To Cincinnati & Muskingum Valley R.R. Co. to light Co. property.
B-163 69 11-14-04 To Ohio Fuel & Supply Co. of Columbus to lay pipes to supply Ohio Flint Glass Co. with natural gas.
B-385 201 9-23-07 To Ohio Fuel & Supply Co. of Columbus for laying pipes to supply the Ohio Flint Glass Co. with natural gas.
C-353 430 7-13-14 To City for right of way for sewer under ry. tracks of Penna. R.R. Co.
C-390 446 12-28-14 To City for sewer right of way from Wm. O'Gara.
D-13 502 4-24-16 To City for sewer right of way in an extension of Bridge St. or Allen St.
D-114 542 2-12-17 To City for sewer right of way through existing alley of Louis J. Snyder's Addition.
D-148 560 11-26-17 To City for right of way from Emmet Gwartuey across Lot 260 of Pioneer Addition.
D-354 668 7-12-20 To Columbus, Hocking Valley & Toledo Ry. Co. and Robt. M. Giesy for ry. siding across Lincoln Ave.
G-196 1364 8-10-31 To Chesapeake & Ohio R.R. Co. for ry. siding across Van Buren Ave.
G-460 1564 4-8-35 To Ohio Bell Telephone Co. for underground conductors.

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& Page Ord. No. Date Description

H-317 1850 9-26-38 To City for right of way for cleaning streams.
H-383 1888 2-27-39 Right-of-way agreement between the City and Penna. R.R. Co.
H-458 1948 6-26-39 To City for right of way over Penna. R.R. Co. tracks.
H-511 1992 10-2-39 To City for right of way from Chesapeake and Ohio R.R. Co.
H-518 1997 10-23-39 To Anchor-Hocking Glass Corp. to construct a R. R. switch or siding on Pierce Ave.
I-131 16-41 4-14-41 To Midwestern Engineering and Construction Co. to lay pipes and mains for the Anchor Hocking Glass Corp.
I-576 47-44 12-11-44 To Church of Jesus Christ of Latter Day Saints to build a coal bin to extend under public sidewalk.
J-166 60-46 9-23-46 To Ohio Bell Telephone Co. for right of way of Water Works Hill.
J-179 2-47 1-13-47 To Penna. R.R. Co. for right of way across Sycamore St.
J-364 23-49 4-11-49 To Catholic Diocese for temporary encroachment on Chestnut St.
J-461 44-50 6-12-50 To Ohio Fuel Gas Co. for right of way along Hunter Ave. and Pine.
K-18 53-51 8-13-51 To Lancaster Lens Co. for right of way across a portion of Bank Alley.
K-23 57-51 9-10-51 To Ohio Fuel Gas Co. for gas pipe line.
K-92 19-52 3-11-52 To Ohio Bell Telephone Co. to lay cables under certain streets .
K-168 75-52 10-13-52 To RBM Division of Essex Wire Corp. to construct an insulated steam main across a portion of an alley.
K-248 41-53 6-23-53 To Lancaster Lens Co. to build a platform across part of an alley.
K-261 54-53 7-29-53 To RBM Division of Essex Wire Corp. to construct a ramp and utility conduits across a portion of an alley.
K-426 33-55 5-23-55 To State of Ohio over a portion of Lanreco Park to facilitate construction of new Cherry St. bridge.
K-558 50-56 7-25-56 To Lancaster Brew Co. to construct a loading platform across a portion of Union St.
K-590 75-56 12-19-56 To Ohio Power Co. to construct an electric power line over portion of Forest Rose Cemetery.
L-18 21-57 3-11-57 To Ohio Power Co. to relocate power line on Rt. 33.

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L-32 32-57 4-22-57 To State of Ohio - City owned property adjacent to Rt. 33 Expressway.
L-37 35-37 4-22-57 To Ohio Power Co. to relocate power lines on Rt. 33.
L-71 63-57 8-12-57 To State of Ohio - City owned property on Rt. 188, Pleasantville Rd. Bridge.
L-93 79-57 10-14-57 To Ohio Fuel Gas Co. for right of way for a gas line.
L-103 87-57 11-25-57 Extension of right of way for E. Wheeling St. to be available for a trunk line of proposed Storm Water Sewer District No. 26.
L-165 42-58 6-23-58 To Lancaster Glass Corp. to construct and maintain a conveyor and loading hopper in Zane Alley.
L-207 71-58 9-22-58 To Kilburger, Inc., for easement across grounds of Lancaster Fairfield Hospital.
L-561 24-62 6-11-62 Easement in and to Lot 50 in Martin's Cedar Heights Addition for construction of storm water sewer.
L-566 29-62 6-25-62 To Ohio Power Co. to operate and maintain lines along Rising Park abutting on E. Fair Ave.
L-607 61-66 11-26-62 Appropriation of 10 feet off north side of Lot 11 in E. C. Rutter's 2nd Parkview Addition.
M-165 68-64 9-14-64 Authorizes purchase of slope easement from Richard Pugh.
M-307 88-65 8-9-65 To Fairfield County to install a radio transmission pole.
M-321 101-65 9-27-65 Appropriation of sewer, water and gas easement, being a 5-ft. strip off south side of Lot 4, Dennis Addition.
M-323 102-65 9-27-65 Appropriation of sewer, water and gas easement, being a 5-ft. strip off north side of Lot 3, Dennis Addition.
M-352 122-65 12-27-65 Authorizes quit-claim deed to the Anchor-Hocking Glass Corp. of property vacated by Ord. 108-65.
M-435 70-66 6-27-66 Authorizes right-of-way agreement with Penn. R.R. for sanitary sewer.
M-436 71-66 6-27-66 Authorizes right-of-way agreement with Penn. R.R. for water lines.
M-464 93-66 9-12-66 Appropriates easement for bridge across property of Barr and Kemper.

Ord. Book

<u>& Page</u>	<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
M-474	101-66	9-12-66	Appropriates easement for bridge across Fraizer property.
M-475	102-66	9-12-66	Appropriates easement for bridge across property of Albert Russell.
M-480	105-66	9-12-66	Appropriates sanitary sewer easements across property of Molar, Kennedy, Moore, Fox and Crist.
M-553	41-67	4-25-67	Appropriates right of way for street purposes over land of Kemper and Barr (7 feet off east side of Lots 5 to 9, Block 24, Chapin Addition).
M-554	42-67	4-25-67	Appropriates right of way for street purposes over land of Frank Graf (7 feet off west side of Lots 10 and 11, Block 23, Chapin Addition).
N-57	10-68	2-26-68	Appropriation of permanent easement for street purposes over property of Hedges.
N-126	54-68	11-25-68	Appropriation of sanitary sewer easement from Baltz.
N-127	55-68	12-2-68	Appropriation of sanitary sewer easement from Alvis over Lot 1 in Lenmar Subdivision 1.
N-238	52-69	8-25-69	Appropriation of sanitary sewer easements from Baker, Lehman, Bailey, Hixon, Boring, Neel and Wright.
N-285	74-69	12-8-69	Appropriation of sanitary sewer easement over property of the Lancaster Jaycees.
N-286	75-69	12-22-69	Appropriation of storm sewer easement over property of Taylor.
P-115	45-71	9-13-71	To Turner for use of all of Reserve B of the former canal lands.
P-116	46-71	9-27-71	To Lancaster Horseshoe Pitchers Assn. for property located at intersection of Memorial Dr., Arlington Ave. and Edgewood Ave.
P-165	1-72	1-10-72	Appropriation of sanitary sewer line easement over Hayes property.
P-287	64-72	12-11-72	Appropriation of right of way for street purposes over Grimm property.
Q-10	7-73	2-12-73	Appropriates permanent easements and rights of way for street and storm sewer purposes over property of Collins, Davis, Lutheran Church of Our Savior, Woodard, Cox, Haynes, Kane, Younger, Joos, Kehrler, Swartz and Hardy.
Q-80	42-73	9-24-73	Appropriates storm sewer easement over Grimm property.
35-75	11-24-75		Appropriates easements of properties owned by Evelyn Clark and Somerford Square II, Ltd. and Somerford Square, Ltd. for street purposes.
40-76	8-30-76		Appropriates permanent easement and right of way and a temporary easement for sanitary sewer over property which is part of Range 18, Township 15, Section 29.

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49-79	8-27-79		Accepts utility easement from Pleasant Development Corp.
57-79	10-22-79		Accepts sanitary sewer easement from K. Michael Deem.
58-79	10-22-79		Accepts sanitary sewer easement from G . T . C . Development .
22-81	6-8-81		Accepts sanitary sewer easement from John D. and Mary E. VanGundy.
23-81	6-8-81		Accepts sanitary sewer easement from Anchor Co., Inc.
24-81	6-8-81		Accepts sanitary sewer easement from Board of Education.
25-81	6-8-81		Accepts sanitary sewer easement from Charles R. and Mary A. Coleman.
26-81	6-8-81		Accepts sanitary sewer easement from David B. and Emogene M. Faigley.
27-81	6-8-81		Accepts sanitary sewer easement from Mary R. Sepanski, W. C. Miller and The Huntington National Bank.
28-81	6-8-81		Accepts sanitary sewer easement from Laroco Industries.
9-83	2-28-83		To Fairfield Cablevision and Associates for a satellite signal reception antenna.
13-84	4-23-84		Vacates utility right-of-way on Lot 20 of the Northshire Addition.
15-84	5-14-84		Accepts a deed of easement from the Board of Education, Lancaster City School District.
26-85	8-26-85		Appropriation of flooding easement for temporary water storage from the Tarhe Dam in the North Hocking Watershed Work Plan.
23-86	6-23-86		Appropriates easement for roadway purposes on Pierce Ave. in River Valley project area from Donald Grubb.
24-86	6-23-86		Appropriates easement for roadway purposes and slope easements along Pierce Ave. and State Route 33 in River Valley project area.
25-86	6-23-86		Appropriates easement for roadway purposes on Pierce Ave. in River Valley project area.
27-86	8-11-86		Vacants portion of utility right-of-way on Lot 9 in Second Northshire Addition.
38-86	10-27-86		Appropriates temporary easement for pole removal and loop detector installation.
39-86	10-27-86		Appropriates easement for roadway purposes from Birdella Mondhank.
40-86	10-27-86		Appropriates easement for roadway purposes from G. Spires, C. Hammack, H. Hogan, V. Pizzato and M. Pizzato.
07-87	4-13-87		Accepts street and public services easement from Robert L. and Penny L. Roush in SE quarter of Section 31, Township 15, Range 18.
08-87	4-13-87		To Fairfield Cablevision and Associates for satellite signal reception antenna.
22-88	6-13-88		Abandons slope easements once used to support Pierce Ave. and River Valley Blvd. improvements.
31-88	10-24-88		Accepts River Valley easement plat.
35-89	9-11-89		Temporary easement to Sun Refining and Marketing Co. for installation of ground water monitoring wells.
03-90	1-22-90		Temporary easement to Sun Refining and Marketing Co. for installation of ground water monitoring wells.
12-90	6-4-90		Temporary easement to Sun Refining and Marketing Co. for installation of ground water monitoring wells.

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16-90	6-25-90		Temporary easement to Sun Refining and Marketing Co. for installation of ground water monitoring wells.
22-90	8-27-90		Vacates utility and drainage easements in Greenfield Twp., Twp. 15, Range 19, Section 33, containing 0.518 acres.
19-91	5-13-91		Appropriation for detention of impounded waters from the Tarhe Dam.
32-91	8-12-91		To Anchor Hocking Co. for air space rights above the City park.
33-91	8-12-91		Accepts 15 foot easement from Don Fogg, Inc. over Lot 12 of Avery Hills Subdivision.
39-91	9-9-91		To Ohio Power Co. to construct, operate and maintain a power line.
1-92	1-13-92		Temporary easement to BP Oil Co. to install a ground water monitoring well.
30-92	10-26-92		Vacates storm sewer easement on Lots 23 and 24 of Sims Addition.

- 39-92 11-23-92 Temporary easement to Fabricated Packaging Materials, Inc. to install sanitary sewers.
- 30-93 6-28-93 Accepts permanent easement over 0.147 acre tract, being part of Township 15, Range 18, Section 28, for the Lancaster-Thornville road right-of-way.
- 42-93 9-27-93 Accepts permanent right of way over 0.075 acre tract, being part of Township 14, Range 19, Section 2, from Bateman.
- 34-94 10-24-94 Accepts permanent easement for right-of-way purposes over property of James and Amy Creech.
- 15-95 6-12-95 Vacates portion of a storm sewer easement in Lots 3, 6 and 7 of Ruzin Subdivision One.
- 8-96 2-12-96 Vacates utility easement at Stonegate Meadows.
- 16-96 5-13-96 To James and Patricia Darfus to allow building encroachment.
- 1-97 1-13-97 Vacates 2 utility and drainage easements being part of Township 15, Range 19, Section 33; and replaces them with a 0.539 acre easement, 30 ft. wide, over a tract described in deed Vol. 584, page 516.
- 31-97 5-12-97 Vacates a 7.5 foot drainage and utility easement at Stonegate Meadows Phase I Subdivision.
- 48-97 8-11-97 Vacates the public drainage and utility easement right of way at the Stonegate Meadows Phase I Subdivision.
- 77-97 12-22-97 Vacates two public utility and drainage easement right of ways in the West View Heights Addition No. 2.
- 39-98 6-15-98 Reduces the width of the public utility easement platted along the rear of Lot 199 on the Hunter Trace Estates, Part IV Subdivision plat by ten feet.
- 68-98 12-28-98 Accepts the public utility easement right of way in the Stonegate Meadows, Phase 4 Subdivision.
- 17-99 4-12-99 Vacates a public utility easement right of way in the Beverly Hills Subdivision Lot 5.
- 27-99 5-10-99 Vacates a utility easement in and around the Marietta Hills Subdivision.

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- 60-99 10-25-99 Vacates a public utility easement right of way on the Rock Mill Corporate Park.
- 1-00 1-10-00 Purchase of an easement for the Downtown Revitalization Project from Lancaster Glass.
- 2-00 1-10-00 Accepts an easement for the Downtown Revitalization Project from American Electric Power.
- 15-00 5-22-00 Accepts easements necessary for the Downtown Revitalization Project from Lancaster Board of Education and Rushcreek Properties.
- 16-00 5-22-00 Grants easements necessary for the Downtown Revitalization Project to Rushcreek Properties and the Lancaster Board of Education
- 39-00 12-11-00 Purchases an easement necessary for the Downtown Revitalization Project from Rushcreek Properties.
- 1-01 1-22-01 Appropriates easements crossing railroad tracks for water and utility lines necessary for the completion of the South Wellfield Project.
- 3-01 2-12-01 Purchases an easement necessary for the Gas Department from Robert Ruble.
- 24-01 10-8-01 Appropriating easements crossing railroad tracks for water and water pollution control transport lines.
- 33-01 11-12-01 Permits an encroachment on an easement by Slaters, Inc.
- 7-02 4-8-02 Vacates a utility easement right of way and accepts a replacement utility right of way easement in the River Valley Complex.
- 21-02 6-24-02 Vacates 2.5 feet of a 7.5 foot public utility easement right of way dedicated on the Ewing Run Estates, Phase 1 Subdivision Plat.
- 24-03 6-23-03 Authorizes the Mayor to execute an easement to the Ohio Power Co. to maintain power lines.
- 27-03 8-11-03 Vacates a sanitary sewer easement and accepts a replacement easement for the relocation of a City sanitary sewer to facilitate the redevelopment of properties in the City.
- 42-03 10-6-03 Vacates a platted drainage easement across Lots 3, 4 and 5 of Ruble's Corporate Park and accepts a replat easement for the relocation of a drainage easement.
- 7-04 2-23-04 Executes a temporary easement to Certified Oil Co.
- 16-04 3-22-04 Vacates a sanitary utility easement and accepts a replacement easement for the relocation of a City sanitary sewer.
- 23-04 4-26-04 Vacates a platted utility easement across Lots 1-12 of the Lanreco Park Addition No. 3.
- 43-04 8-9-04 Accepts easements necessary for the construction of water and sewer improvements for the Rock Mill Corporate Park Phase 2, Part 2.
- 8-05 1-24-05 Vacates right of way and easements No. 19 and 21 and to accept a replacement sanitary easement for relocation of a City sanitary sewer for expansion of the Hines Shopping Center.
- 37-05 5-23-05 Vacates a utility easement described in Exhibit A.

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- 67-05 10-31-05 Accepts an easement necessary for the construction of water improvements for the Baltimore Road Water Line Extension.
- 69-05 10-31-05 Executes an easement agreement by and between the City Gas Department and Greenfield Corp.
- 88-05 12-12-05 Accepts utility easements for the Hoffman Drive Culvert Project.
- 13-06 3-13-06 Accepts the final development plan and easement dedication for the Ety Fair Shops.
- 27-06 6-12-06 Accepts an easement necessary for the construction of sanitary sewer improvements for the Fairlawn Drive Sanitary Sewer Project.
- 36-06 9-11-06 Authorizes a municipal gas line easement agreement between the Municipal Gas Department and Young Property.
- 55-06 12-18-06 Accepts a permanent easement of 0.032 acres from Jay Nauman for the Ety Road Project.
- 3-07 2-12-07 Accepts all easements necessary for Phase I and Phase II of the Lancaster Bike Trail.
- 39-07 7-16-07 Accepts easements from RailAmerica and CSX for Phase II of the Lancaster City Bike Trail.
- 54-07 12-3-07 Vacates a waterline easement and an existing sanitary sewer easement, and accepts general utility easements within a commercial development to be known as the Shops at Ety Village.
- 3-08 2-26-08 Grants a temporary construction easement to Rockies Express Pipeline, LLC to construct and maintain a natural gas pipeline across City property.
- 4-08 1-28-08 Accepting an easement necessary for the construction of sanitary sewer improvements.
- 16-08 5-19-08 Vacates drainage and utility easements along the southern portion of Parcels 4 and 5 of the Lancaster Industrial Park.
- 54-08 11-24-08 Grants an easement to South Central Power to construct and maintain a service line across City property.

- 6-09 3-23-09 Declares a utility and access easements on seven parcels of City property.
- 13-09 5-18-09 Declares a utility and access easement on 2.326 acres of City property.
- 25-09 11-9-09 Vacates utility easement along North Memorial Dr.
- 28-09 12-14-09 Accepts water and sanitary sewer line installation easement on North Memorial Dr.
- 30-09 12-14-09 Accepts water main construction easement from DBI Land Company, LLC.
- 31-09 12-14-09 Grants service line construction and maintenance easement to American Electric Power.
- 24-13 11-18-13 Accepts an easement from Kenneth Kerr, et al., necessary for the construction of Municipal gas lines.
- 12-14 8-11-14 Accepts an easement from Retriev Technologies, Inc, necessary for the construction of a sanitary sewer.
- 13-14 8-25-14 Accepts an easement from the Lancaster City School District Board of Education, necessary for the construction of gas and water lines.
- 17-14 10-6-14 Vacates a portion of public utility easement right-of-way on the Rock Mill Corporate Park.
- 19-14 12-8-14 Accepts an easement necessary for the construction fo a sanitary sewer from the Lancaster City School District Board of Education.
- 20-14 12-8-14 Accepts an easement necessary for the construction of a storm sewer from the Lancaster City School District Board of Education.
- 21-14 12-8-14 Accepts an easement necessary for the construction of a sanitary sewer from Renkas Properties, LLC.
- 22-14 12-8-14 Accepts an easement necessary for the construction of sanitary sewer from Lancaster Motor Speedway Inc.
- 9-15 6-22-15 Vacates a portion of a public gas utility easement right of way.
- 15-15 11-9-15 Authorizing an access easement to AEP.
- 27-15 12-7-15 Accepts ingress and egress easement through Parcel No. 0533800500 from Fairfield County Land Reutilization Corporation in Section 30, Township 1, Range 18.
- 19-16 5-9-16 Accepts easements necessary for the construction of the CSO 1014 sanitary sewer project.
- 21-16 6-27-16 Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a sanitary sewer line and appurtenances.
- 26-16 9-26-16 Accepts an easement necessary for the construction of a gas line.
- 27-16 10-10-16 Accepts an easement necessary for access to a pump station and vacate an existing easement.
- 39-16 12-12-16 Grants an easement necessary for the installation of a pipeline by Columbia Gas Transmission.
- 5-17 2-13-17 Grants an easement necessary for the provision of electric services by Ohio Power Company, a unit of American Electric Power.
- 9-17 3-27-17 Accepts an easement necessary for a sanitary sewer constructed by the developer of the Moo Moo Car Wash to serve a 4.334 acres property at the northwest corner of Pierce Avenue and River Valley Boulevard.
- 16-17 4-10-17 Approves an easement for H & W Investment Properties LLC nka The Mithoff Companies, Ltd.
- 17-17 4-10-17 Grants a temporary easement to Columbia Gas Transmission, LLC for temporary work space and/or a temporary road access easement to perform service on their gas line B105 as part of the B-Systems Modernization Project from Lancaster to Columbus.
- 23-17 7-17-17 Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
- 25-17 9-11-17 Accepts an easement necessary to construct, maintain, operate, tap into, replace or remove one or more municipal gas lines.
- 26-17 9-11-17 Accepts an access easement necessary for use as a vehicle turnaround.
- 32-17 11-13-17 Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
- 33-17 11-13-17 Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace or remove a gas line and appurtenances.
- 11-18 9-10-18 Grants an easement necessary for the provision of electric services by Ohio Power Company, a unit of American Electric Power.
- 13-18 9-24-18 Approves an easement for Fairfield Homes, Inc.
- 4-19 2-11-19 Accepts an easement necessary to construct, repair, maintain, operate, inspect, replace, or remove City utilities and appurtenances from One Write Company.
- 5-19 2-11-19 Grants a supplemental easement for the provision of electric services.
- 19-19 11-4-19 Supersedes a previous easement necessary for the construction of electric lines.
- 6-20 4-13-20 Accepts an easement necessary for a sanitary sewer from Fairfield Commercial Properties, LLC.
- 9-20 6-8-20 Permanent General Utility Easement Agreement, in a portion of Fulkerson Avenue and a 12-foot alley to be vacated.
- 2-21 1-11-21 Grants multiple easements to Zayo Group, LLC for the construction of a Fiber Optic Telecommunications System through the City.
- 23-21 8-9-21 Accepts sanitary sewer easement from Robert E. Ruble.
- 30-21 9-27-21 Accepts sanitary sewer easements from Lancaster Port Authority.
- 50-21 12-13-21 Accepts an easement necessary to survey, construct, operate, maintain, remove, replace and control City gas pipeline beginning on Hawthorne Ave.

TABLE C - VACATING STREETS AND ALLEYS

Ord. Book

& Page Ord. No. Date Description

- C-104 Unno. 11-19-1859 Alley between Lots 294 and 295; alley between east ends of Lots 292 to 295 and 598 on one side and Lots 574, 605 to 608 on the other; alley between Lots 574 to 576 and Lot 608; Broadway St; alley between Lots 577, 578 and 400 and Lot 579; alley between lots 400 and 643; Brandstadt St.
- C-202 Unno. 6-26-1868 Winding St. from Porter St. to Lawrence St.; alley between Lots 290, 291 on one side and Lot 183 on the other; alley between Lots 183 and 551; alley between Lots 533 and 534; alley between Lots 536 on one side and Lots 537 and 538 on the other.
- A-43 Unno. 2-10-1886 Mt. Pleasant Ave. from Wheeling St. to Lundy's Lane.

A-295 Unno. 4-13-1896 Streets in Atkins and Geisey's Addition.
A-370 Unno. 3-13-1899 Sycamore Alley between Lawrence St. and South Alley; Short alley between Sycamore Alley and its eastern terminus.
A-383 Unno. 7-10-1899 Alley between Inlots 202 and 203 and Outlots 37 and 38 in Carpenter's South West Addition.
A-384 Unno. 8-14-1899 South Alley between Maple and Sycamore Sts.
B-29 Unno. 3-23-03 Portion of Bridge St.
B-46 Unno. 3-23-03 Portion of Bridge St.
C-104 323 6-12-11 Frederick St. from west side of Maple St. Addition to east side of such Addition.
C-348 427 6-22-14 Elm St. in Kiernan's Addition.
C-376 439 10-12-14 Strip of ground on east side of S. Cherry St. between Main St. and the second alley south of Main St.
D-146 558 10-8-17 Alley west of Pierce Ave. from 5th Ave. to Union St.
D-183 582 3-25-18 Alley between Mulberry St. and Wheeling St.
D-234 609 10-28-18 Hocking St. from Wheeling St. to North Alley.
D-372 680 11-8-20 Slocum Ave. and an alley in Cecelia Mithoff's Addition.
D-402 695 4-11-21 Decreasing width of S. Broad St.
D-430 711 10-10-21 Hunter and Hickory alleys in Simm's Addition.
E-132 810 5-28-23 Portions of 3 alleys in Park Addition.
E-268 880 5-26-24 Hocking Alley from Lincoln Ave. to Main St. and Thomas Alley from the alley east of George St. to the Hocking River Ditch.
F-298 1117 7-23-28 S. Columbus St.
F-303 1122 9-10-28 Alley in Eastwood Addition.
F-304 1123 9-10-28 Alley north of Lincoln Ave. from Thomas Ave. to the alley west of Thomas Ave.
F-331 1142 11-26-28 Alley in Pioneer Addition.
F-465 1212 9-9-29 Alley west of Lots 4, 5 and 6 in Gifford's 4th Addition.

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<u>& Page</u>	<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
G-47	1261	3-24-30	Alley between Lots 441 and 442 in Northeastern Addition
G-48	1262	3-24-30	The 1st alley south of Union St.
G-69	1277	3-12-30	12-ft. alley in rear of Lots 199, 200 and 201 extending from S. Broad St. to right of way of Penna. R.R. Co.
G-70	1278	3-12-30	Alley west of Pierce Ave. from 5th Ave. to Union St.
G-122	1313	10-27-30	Part of old Cedar Hill Rd.
H-449	1939	6-12-39	Roosevelt Ave.
H-450	1940	6-12-39	W. 6th Ave.
H-451	1941	6-12-39	Alley between Jefferson Ave. and Roosevelt Ave.
H-452	1942	6-12-39	Jefferson Ave.
H-456	1946	6-26-39	Continuation of Eastwood Ave.
I-229	94-41	12-15-41	Portion of Shryver St.
I-344	79-42	7-13-42	1st alley south of Chestnut St. between Wyandotte St. and the 1st alley east of Wyandotte St.
I-562	33-44	8-28-44	T. B. Cox, Jr's, Subdivision 5.
I-566	37-44	10-9-44	Parts of Eyman Ave. and the alley west of Champion Ave.
J-11	24-45	4-9-45	Strip of land 3 ft. on each side of Harding Ave. from 6th Ave. to Fair Ave.
J-43	54-45	9-24-45	Spring Lane St. from Baltimore Rd. to Edgewood Park Addition.
J-72	80-45	11-12-45	Alley west of Columbus St. from the alley north of Park St. to the Williamson Addition.
J-84	91-45	12-10-45	Alley north of Pleasant Rd. from Baldwin's Run to the Charles I. Rockey's Addition.
J-145	44-46	6-24-46	Alley west of Broad St. from Lewis Ave. to Hubert Ave.
J-185	8-47	3-10-47	Portion of the 1st alley north of Fair Ave.
J-207	26-47	6-23-47	Alley east of Front St. between Fair Ave. and the 1st alley north.
J-266	14-48	2-23-48	Certain streets in Edith B. Henry's Addition.
J-275	23-48	4-12-48	Portion of Sifford Court.
J-283	30-48	6-14-48	Alley east of Pierce Ave. from Mulberry St. to the Pioneer Addition.
J-309	50-48	9-13-48	Parts of Cold Spring and Pleasant View Drs. in Cold Spring Hill Addition.
J-495	63-50	7-24-50	Alley situated in rear of lots east of Cherry St. in Lanreco Addition 1.
J-561	5-51	1-22-51	Portion of a street in the Cole-Martin-Towson Addition.
J-562	6-51	1-22-51	Jefferson Court between Jefferson Ave. and Roosevelt Ave.

Ord. Book

<u>& Page</u>	<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
J-563	7-51	1-22-51	Alley between Slocum and Welsh from Wheeling St. to Mulberry St.
J-571	15-51	3-12-51	Alley west of Grandview Ave. from Lake St. south to the 1st alley running east and west.
K-136	50-52	7-14-52	Parts of Zane Ave. and Slocum St.
K-171	78-52	11-12-52	Alley between Emerson Blvd. and Memorial Dr.
K-231	28-53	4-14-53	2 alleys in Chapin Addition.
K-244	37-53	6-9-53	Street beginning at point on east side of Jefferson Ave. 122.08 ft. south of SE corner of 7th and Jefferson Aves.
K-407	15-55	3-28-55	Slocum St., Union to 5th Ave.; Zane Ave., Union to 5th Ave.; alley between Union and 5th Ave. from Slocum west to the 1st alley intersection; alley between Slocum and Zane from Union to 5th Ave; alley between Zane and George Sts. from Union to 5th Ave.
K-423	31-55	5-23-55	12-ft. alley between Leonard Dr. and Greenfield St. in the Grandview Addition.
K-455	52-55	7-25-55	The following streets and alleys of Skyline View Addition: Kinkead Ave. from SW corner of Crestview

Addition to Bounds Ave.; Bounds Ave. from Kinkead St. to the alley south of Columbus St.; Graf St. from SE corner of Lot 64 in Avondale Addition to Bounds St.; alley south of Columbus St. from Bounds Ave. to a point 32.2 ft. west of SW corner of Lot 2 in Avondale Addition; alley from the alley south of Columbus St. to the alley north of Kinkead Ave.; alley south of Graf St. from Adams to Bounds Sts.

- K-487 76-55 12-28-55 Part of 25-ft. driveway south of Emerson Blvd. and parts of Emerson Blvd. and Nelson Rd. in Van Gundy's Colonial Heights Addition.
- K-559 51-56 7-25-56 Tract bounded by W. Union St., Memorial Dr. and Forest Rose Ave.; 16-ft. passageway on east side of Lancaster Lateral Canal between Union St. and north line of Zane's original Town of Lancaster.
- L-14 17-57 2-25-57 Turn-around at the end of E. Frederick St. at Clayton Dr.
- L-87 73-57 9-9-57 N. George St. from the north line of Union St. to the south line of 5th Ave.
- L-138 20-58 3-24-58 Part of Canal Alley from Columbus St. west 248 ft. and bounded by Lots 20 to 22 on south and Lots 17, 16 and 15 on north.

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- L-140 22-58 3-24-58 Sycamore St. from Lawrence St. to its southern terminus; Brandstatt St. from point 110 ft. south of Lawrence St. to its southern terminus; 1st alley south of Lawrence St. from Sycamore St. to Brandstatt St.
- L-271 36-59 5-25-59 1st N-S alley west of Harmon Ave. from Mulberry St. to 1st alley north of Main St.
- L-323 78-59 11-9-59 1st N-S alley between 6th and 7th Aves. west of Garfield Ave. and east of Pierce Ave.
- L-395 46-60 6-27-60 Portions of 7th and Grant Aves. and an alley in the Cole-Martin-Towson Addition.
- L-490 31-61 6-12-61 An alley on the south side of Main St. and being 10 ft. front off Lot 34, and extending south the entire length of such Lot.
- L-539 7-62 3-12-62 A 12-ft. E-W alley south of Chestnut St. and extending from west line of Brook Ave. to terminus of the alley on the west line of the Brook's Addition.
- M-89 6-64 1-27-64 1st alley east of Sheridan Dr. between Allen and Frederick Sts.
- M-120 35-64 6-8-64 Part of 1st alley east of Sheridan Dr. between Allen and Frederick Sts.
- M-173 75-64 9-28-64 1st alley south of Locust St. running west from Sycamore St., thence along west side of Lot 552 in Kerns' Addition.
- M-238 37-65 3-22-65 15-ft. N-S strip running through west half of Lot 19 and a portion of Canal Alley.
- M-311 92-65 8-23-65 Portion of Hillside Dr.
- M-329 108-65 10-25-65 All of Jefferson Ave. in the Cole-Martin-Towson Addition lying south of 7th Ave. and all of 15-ft. alley running along SW line of Lots A and 210 lying west of a line parallel to and 142 ft. west of Roosevelt Ave. and east of Jefferson Ave.
- M-394 40-66 3-14-66 Alley approx. 41.5 feet west from SE corner of Lot No. 28.
- M-396 36-66 3-28-66 First alley west of N. Memorial Dr. which runs N- S between Fair Ave. and Park St.
- M-460 89-66 8-22-66 Portion of land at 204 N. Columbus St.
- M-485 108-66 10-24-66 Part of alley abutting Raymond Shumaker Subdivision.
- N-26 96-67 10-23-67 Canal Alley between Wheeling and Mulberry Sts.
- N-95 35-68 8-26-68 Portion of 16.5 ft. E-W alley between Forest Rose Ave. and Memorial Dr., and north of Fifth Ave. and south of Sixth Ave.

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- N-216 37-69 6-23-69 Portion of South Broad St.
- N-229 46-69 8-11-69 Alley west of Danison Monumental Works and east of Lot 1 of Avondale Addition.
- N-263 64-69 10-27-69 Portion of Sifford Ave.
- 22-70 5-25-70 Portion of the right of way of Edgewood Ave.
- P-27 58-70 11-9-70 Portion of Bank Alley.
- P-88 29-71 5-24-71 Part of Wheeling St. west of Washington Ave.
- P-111 42-71 9-13-71 First alley south of Columbus St. from east line of Lot 204 of Carpenter Addition to a point 3 feet east of the west lot line; all of the alley south of Lot 202 in Carpenter's Addition lying north of C. & O. Railroad right of way.
- Q-15 9-73 2-26-73 Portion of 12 ft. alley east of Pierce Ave. and south of Mulberry St.
- Q-16 10-73 2-26-73 George St. from Lincoln Ave. south to its terminus and alley running east from George St. south end to the Hocking River.
- 56-74 12-23-74 Winding St. between Lots 303 and 304.
- 38-75 12-8-75 Part of Fourth St.
- 5-76 1-19-76 Alley running parallel to North Columbus St. and Graf St. between Arlington Ave. and Skyline Dr.
- 32-77 8-8-77 Alley north of Mulberry St. between N. Columbus St. and an alley west of Columbus St.
- 42-77 9-26-77 Alley west of Sherman Ave. from second alley south of Mulberry St. extended west to Maude Ave.
- 48-77 10-10-77 Six-foot alley in Eyeman's Addition along Lots 64 and 65 from an alley east of Fourth St. to Fairfield Traction Co. right of way.
- 16-78 6-26-78 15 foot alley in Floyd E. Terry's Meadowview Subdivision, being first alley south of Old Sugar Grove Rd. from Woodland Ave. to Sugar Grove Rd. (renamed Ford St.).
- 44-79 7-2-79 Portion of North Broad St.
- 26-80 6- 9- 80 Portion of East Mulberry St.
- 37-80 9-22-80 Pershing Dr. between Baltimore Rd. and lines of Lots 53 and 56, Edgewood Park Addition.

- 56-80 11-24-80 Fifth Ave. adjacent to Lots 302, 303, 346, 347 and 348 in Millers Subdivision, First Ward.
 12-81 4-13-81 Portion of alley between Lots 2 and 3, 1 and 4, E.B.O. and Joseph Smith Addition; behind Lots 3 and 4 of Williamson's Second Addition; and behind Lot 4 of Olds Addition.
 15-82 3-29-82 Portion of 12 ft. wide alley south and adjacent to Lots 27 through 37.
 21-83 4-11-83 Alley behind Lots 21N, 21S, 22, 23 and 24 on Roosevelt Ave.

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& Page	Ord. No.	Date	Description
30-84	8-13-84		Alley lying west of and adjacent to Lots 2 through 20 in the Rising Park Addition.
36-85	12-9-85		Creek-Bank Alley in the Sims Addition to Lancaster.
37-86	10-27-86		Alley behind Lot 6 in Carbon Works Addition.
3-87	2-9-87		Alley bounded by Lots 14, 9 and 15 and Columbus St. in Skyline Drive Addition.
10-90	5-14-90		Alley bounded by Lots 30 to 35 in Rising Park Addition.
21-90	8-27-90		Portion of an alley (2725 square feet) being part of Lot 31, Zanes Original Town Plat, Block 3.
37-90	12-17-90		Wilson Rd.
24-91	6-10-91		Portion of Meda Ave. from Hocking St. south to the Hocking River; first alley east of Meda Ave. from Hocking St. south to the Hocking River.
31-91	8-12-91		Portion of Meda Ave. from Hocking St. south to the Hocking River; first alley east of Meda Ave. from Hocking St. south to the Hocking River
50-91	11-11-91		Portion of Sifford Ave.
17-92	6-8-92		Portion of alley along rear line of Lots 9 and 10 of Dan Sifford's Addition.
43-94	12-12-94		Section of Mulberry Street immediately adjacent to Lots 21 and 22 of the Charles W. and Rena Good Addition.
24-95	11-27-95		Portion of Hawthorne Street in Colonial Heights Addition.
17-96	5-28-96		Alley near Rising Park Addition.
29-96	9-23-96		Alley near Fairfield Medical Center.
4-97	2-10-97		East Lawn Dr. between Shadow Lawn Dr. and East Main St.
5-97	2-10-97		All alleys and streets within area bounded by South Alley, Brandstatt, Canal and High Sts.
7-97	2-10-97		Alley on south side of Lots 43 and 92 of Cedar Heights Addition.
55-97	8-25-97		A 12 foot alley east of the first north-south alley east of Broad Street.
73-97	11-24-97		The public street right of way on Scenic Drive.
60-98	12-14-98		The unimproved public street right-of-way for an extension of East Wheeling St., across the City owned tract referenced in Deed Book 189, page 544.
28-99	5-24-99		The public alley right of way in the Meadowview Addition.
45-99	8-23-99		The public street right of way on the Grandview Addition Plat.
7-00	2-28-00		A public street right of way of the West View Heights Addition for vacation of 0.394 acres of Scenic Drive.
18-00	6-12-00		A public street right of way of the unimproved portion of Cleveland Ave. lying west of the west line of Udell St. containing 0.18 acres.

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26-00	9-25-00		Vacates a 15 foot wide public alley right of way dedicated in the Daugherty's Addition and known as Mercury Drive.
14-02	5-13-02		Vacates part of a twelve-foot public alley right of way dedicated on the Thomas Ewing 1st Addition Plat.
49-03	11-24-03		Vacates the unimproved portion of a 25 foot public alley right of way abutting Lots 6, 7, 8, 36, 37 and 38 of the Colonial Heights Addition.
4-04	1-25-04		Vacates a portion of the Pershing Drive right-of-way.
58-05	9-12-05		Vacates part of the unimproved portion of Lane Street as dedicated to the public on the Floyd E. Terry's Meadowview Addition Revised Plat.
2-07	2-12-07		Vacates part of the Graf St. public right of way as dedicated on the Avondale Addition and the W. F. Wacker's Skyline View Addition plats.
44-07	9-24-07		Vacates the northern portion of Harmon Avenue.
45-07	9-24-07		Vacates a 14 foot wide alley to the east of Harmon Avenue and south of Lot 12 of the Charles W. and Rena Good Addition.
7-09	4-13-09		Vacates the eastern portion of West Main St.
32-09	12-14-09		Vacates portion of 15 foot wide alley running east to west between Lot 60 of Wm. Cos's Seventh Addition and Lot 3 of DeLancy's Edgemont Sub-Division.
18-11	11-28-11		Vacates the right-of-way of a 15 foot public alley in the Rising Park Addition.
13-13	8-26-13		Vacates the unimproved public right-of-way dedicated on the Colonial Heights Addition Plat.
24-17	7-17-17		Vacates a portion of unimproved public alley known as Zane Alley.
14-18	10-8-18		Vacates an alley within M.A. Daugherty's Addition.
8-20	6-8-20		Vacates a portion of Fulkerson Avenue and a 12 foot alley located within Carbon Works Addition.
10-20	6-8-20		Vacates a portion of Lowell Drive and all of Emerson Boulevard within John D. Van Gundy's Revision of the Colonial Heights Addition.

TABLE D - DEDICATION OF PROPERTY

Ord. Book

& Page	Ord. No.	Date	Description
I-141	Unno.	112-1849	Tract of New Grave Yard southeast of City held by deed from John Creed.
C-53	Unno.	6-5-1854	Mount Prospect Addition.
C-197	Unno.	4-3-1868	Alley granted by Wm. Geiger and John M. Miller on Lot 34 on Main St.
C-211	Unno.	2-17-1869	Fixing the east line of Broad St. between Wheeling and Mulberry Sts.
C-215	Unno.	4-14-1869	Extension of Mulberry St.
C-216	Unno.	4-22-1869	Porter St.
C-278	Unno.	9-16-1873	German St. from High St. to Hop Ave.

C-279 Unno. 10-2-1873 4th St. from Zane Alley to Lundy Lane.
 C-281 Unno. 2-5-1874 Lake St. from Broad St. east to High St.
 C-282 Unno. 2-5-1874 Allen St. from Broad St. to High St.
 C-306 Unno. 3-10-1876 Extension of Mulberry St.
 C-321 Unno. 6-11-1877 Parts of Maple St., Tenant St., Walnut Alley and Short Alley.
 A-43 Unno. 2-10-1886 Mt. Pleasant Ave. from Wheeling St. to Mill St.
 A-129 Unno. 3-11-1889 A. H. Chaffee's Addition.
 A-130 Unno. 3-11-1889 Plat of Pioneer Addition by John G. Deshler.
 A-133 Unno. 3-25-1889 Wm. Cox's Addition.
 A-134 Unno. 4-29-1889 Barrett's Addition.
 A-148 Unno. 11-25-1889 Chapin Addition.
 A-150 Unno. 1-27-1890 Allen St.
 A-152 Unno. 2-24-1890 Rose Bank Addition.
 A-152 Unno. 2-26-1890 Land for Maple St.
 A-153 Unno. 3-3-1890 G.W.H. Smith's Addition.
 A-154 Unno. 5-2-1890 Lincoln Ave. Addition.
 A-155 Unno. 6-2-1890 East Lawn Addition.
 A-157 Unno. 6-23-1890 Streets in southern portion of City laid off by M. Thimmes and S. Herbert Geisey.
 A-358 Unno. 6-20-1898 Plat of Slocum's Addition.
 A-341 Unno. 1-13-02 Wheeling St. from Front St. to Pioneer Addition.
 A-457 Unno. 4-8-01 Daniel Gifford's Columbus St. Addition.
 A-458 Unno. 4-22-01 Harbaugh's Addition.
 A-477 Unno. 2-18-01 Thimmes' Addition.
 A-488 Unno. 11-11-01 Plat of Kiernan's Addition.
 A-489 Unno. 11-11-01 Plat of Daniel Gifford's 2nd Addition.
 A-492 Unno. 1-13-02 Wheeling St. extension from Front St. to Pioneer Addition.
 A-493 Unno. 2-10-02 Singleton's Addition.
 A-494 Unno. 2-10-02 Plat of Isabel Addition.
 A-499 Unno. 2-10-02 Plat of Cox's 3rd Addition.
 A-501 Unno. 5-26-02 Plat of Thomas B. Cox's Addition.

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B-32 Unno. 12-8-02 Cox's 4th Addition.
 B-45 Unno. 3-23-03 Plat of Boyer's Addition.
 B-50 1 4-13-03 Peter D. Schory's Spring Garden Addition.
 B-51 2 5-11-03 Plat of Charles C. Hammitt's Addition.
 B-70 15 7-13-03 Plat of Drinkle's Addition.
 B-119 40 5-25-04 Plat of Wright's Addition.
 B-191 77 12-19-04 Plat of J. C. Hartman's Addition.
 B-203 86 2-13-05 Plat of Lehman's Addition.
 B-222 100 6-26-05 Plat of Isabel Addition No. 2.
 B-252 116 8-28-05 Plat of Eyman's Addition.
 B-318 154 8-15-06 Plat of Daniel Gifford's 3rd Addition.
 B-326 159 9-25-06 Plat of Thimmes Brothers Columbus St. Addition.
 B-334 164 11-13-06 A street passing through the lands of Victor Greenwald, et al.
 B-356 179 4-22-07 Plat of Fannie U. Work's Mt. Pleasant Addition.
 B-356 180 4-22-07 Plat of Wm. Cox's 5th Addition.
 B-450 243 11-27-08 Plat of the Farmer's Cooperative Harvesting Machine Company's Addition.
 C-58 297 8-22-10 Part of 6th Ave.
 C-59 298 8-22-10 Land for water works plant.
 C-64 301 9-12-10 Plat of Sim's Addition.
 C-71 306 12-26-10 Land for water works plant.
 C-82 310 3-26-11 Storm Water Sewer District No. 7.
 C-86 313 4-10-11 Plat of Getz's Addition.
 C-91 316 4-24-11 Part of Walnut St.
 C-92 317 5-8-11 Plat of Bauman's 2nd Addition.
 C-101 321 5-22-11 Land for part of Elmwood Cemetery.
 C-105 324 6-12-11 4 tracts in Maple St. Addition from Charles W. and Laura B. McCleery.
 C-117 328 7-24-11 Plat of E. C. Rutter's Park View Addition.
 C-149 344 3-11-12 Storm Water Sewer District No. 9.
 C-228 379 3-24-13 Extension of 1st Alley north of Wheeling St. between Mt. Pleasant Ave. and Catalpa Ave.
 C-233 384 6-23-13 Land for E. Chestnut St.
 C-244 389 10-13-13 Plat of E. C. Rutter's 2nd Park View Addition.
 C-321 423 5-25-14 Land from Geta for alley purposes.
 C-323 424 6-8-14 Land for a municipal hospital.
 C-364 433 8-10-14 Plat of Henry H. Giesy's Crest View Addition.
 C-366 434 8-10-14 Maywood Ave. from Mulberry St. to Fair Ave.
 C-388 444 12-28-14 Land from Andrew and Elizabeth Bauman for street purposes.

C-410 454 3-8-15 Extension of Forest Rose Ave.

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C-430 464 5-11-15 Thomas B. Cox, Jr. 's, 2nd Addition.

C-438 468 6-14-15 Louis J. Snyder's Addition.

C-465 477 9-13-15 Extension of Harrison Ave.

C-467 479 9-13-15 Rose O. Smith's Park St. Addition.

D-1 493 2-28-16 Meisse's Addition.

D-4 495 3-29-16 O. B. Whiley's Subdivision of Lot 16 of Hop Company's Addition.

D-7 497 4-10-16 Cecilia Mithoff's Addition.

D-8 498 4-10-16 Miesse's 2nd Addition.

D-16 504 4-24-16 Daniel Gifford's 4th Addition.

D-84 530 10-23-16 Daniel P. Dixon's Subdivision of Lots 1 to 4 and 13 of Mumaugh's Addition.

D-85 531 10-23-16 Charles D. Martin's Trustee Oakwood Addition.

D-198 591 6-24-18 Eastwood Plat.

D-278 628 5-26-19 Z. T. Sturgeon Addition.

D-293 634 7-28-19 Jordon Addition.

D-297 637 9-8-19 Curtis C. Cole's Pine Site Addition.

D-299 639 10-27-19 Simon Thomas' Addition.

D-301 640 12-8-19 Henry B. Peters' Trustee Rosebank Addition.

D-338 659 5-10-20 Joseph M. and Rose O. Smith's 2nd Addition.

D-344 665 6-28-20 Ballmer's Subdivision.

D-405 697 5-9-21 Land for a street near the Forest Rose Cemetery.

D-408 699 6-27-21 Wm. Cox's 6th Addition.

D-707 707 8-22-21 C.W. McCleery's Subdivision of part of Maple St. Addition.

D-429 710 9-26-21 Mithoff's Addition.

D-437 715 11-28-21 Land for an alley between Pearl Ave. and High St.

D-440 716 11-28-21 E. H. Bininger's Subdivision in Sims' Addition.

D-486 738 4-24-22 Thomas B. Cox, Jr's, 3rd Addition.

D-496 742 5-8-22 William S. Sim's Subdivision in Hop Co.'s Subdivision.

E-1 743 5-8-22 Property conveyed by Lucas Real Estate Co., Williamson, Enelter and Markwood.

E-3 744 5-8-22 Cole's 2nd Pine Site Addition.

E-9 745 6-12-22 Eyman's 2nd Addition.

E-31 761 7-24-22 Cole's 3rd Pine Site Addition.

E-44 768 8-28-22 Plat of Lancaster Real Estate Co.'s O'Conner Subdivision of part of Hop Co.'s Subdivision.

E-48 771 10-23-22 West half of Eastwood Ave.

E-61 778 11-27-22 W. S. Sim's Subdivision in Hocking Valley Hop Co.'s Addition.

E-75 786 12-28-22 Certain tracts for public park purposes.

E-107 795 3-26-23 Certain premises from Henry B. Peters.

E-119 801 5-14-23 Laureco's Addition.

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E-122 802 5-14-23 Beatty's Addition.

E-122 803 5-14-23 Old's Addition.

E-125 806 5-28-23 Shryver's Avondale Addition.

E-127 807 5-28-23 Lanreco's Park Addition.

E-137 813 6-11-23 Williamson's Addition.

E-138 814 6-11-23 Park Addition.

E-141 816 6-25-23 William Cox's 7th Addition.

E-159 825 9-10-23 Eagle Park Addition.

E-164 829 9-24-23 Keystone Addition.

E-267 879 5-26-24 Plat of Lewis C. Mithoff's 2nd Addition.

E-269 881 5-26-24 Plat of Lincoln Subdivision of Simon Thomas' Addition.

E-272 884 6-23-24 Plat of Reese's Fairview Addition.

E-317 905 11-24-24 Rose Arbor Addition.

E-381 931 6-22-25 Plat of Bauman's and Graf's Addition.

E-396 937 7-13-25 Plat of Edward Mithoff's South Gate Addition.

E-416 948 9-28-25 Strip of land for an alley on east side of Lot 187 of Ewing's 3rd Addition.

E-496 983 4-26-26 Land for public alley, part of Lot 3 and part of private alley north of Lot 3 of T. B. Cox, Jr's, Subdivision or Outlot 5.

F-8 989 6-28-26 Land for public alley 15 ft. off north side of Lot 15 in Hop Co.'s Addition.

F-16 996 8-9-26 Plat of the Van Gundy-Beck Addition.

F-39 1006 9-27-26 Land for street purposes from Noah and Marie Snoke, part of Lot 24 of Geisy's Addition.

F-48 1012 11-9-26 Plat of William Turkenton's Addition.

F-132 1045 6-27-27 Plat of Thomas B. Cox's, Jr's, 4th Addition.

F-160 1058 9-26-27 Plat of F. T. Sturgeon's 2nd Addition.

F-175 1067 11-7-27 Plat of Williamson's 2nd Addition.

F-285 1108 6-11-28 Plat of Thomas B. Cox, Jr's, 5th Addition.

F-308 1127 9-24-28 Land for widening Lincoln Ave.
 F-310 1129 10-8-28 Plat of Markwood's Addition.
 F-311 1130 10-8-28 Plat of Highland Subdivision of the Eastwood Addition.
 F-409 1175 3-20-29 Land from Fannie Mumaugh, the Mumaugh Homestead, Lot 153.
 F-462 1209 8-26-29 Plat of J. D. Snider, et al., of Z. T. Sturgeon's 3rd Addition.
 G-41 1257 3-24-30 Plat of John T. Reese and the Fairfield Grease and Oil Co. of Reese's 2nd Addition.
 G-283 1429 9-26-32 Land for municipal purposes.
 G-372 1501 1-15-34 Lot from J. W. and Mary Deffenbaugh for park purposes
 H-332 1861 10-24-38 Charles I. Rockey's Addition.
 H-455 1945 6-26-39 Continuation of Oakwood Ave.

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H-478 1963 7-28-39 Land by the Board of Education.
 H-508 1989 9-25-39 Anchor-Hocking Subdivision.
 H-581 2042 4-8-40 Mary and Effie Sifford's Addition.
 H-583 2044 4-8-40 Baldwin Heights Addition No. 2.
 H-600 2056 5-13-40 Baldwin Heights Addition No. 3.
 I-1 2057 5-13-40 Lewis C. Mithoff's 3rd Addition.
 I-41 2087 9-23-40 E. B. O. and Joseph Smith's Addition.
 I-51 2093 10-21-40 Deed from William McCleery and William S.Sims, et al.
 I-83 2114 12-9-40 Roger M. Work 's Addition.
 I-87 2118 12-9-40 Land for street purposes by T. C. Alfred et al.
 I-133 17-41 4-14-41 Frank Beckley's Addition.
 I-203 72-41 8-25-41 Kemper's Subdivision of Reserve C of Baldwin Heights Addition.
 I-454 34-43 7-12-43 Avondale Revision of a part of Avondale Addition.
 J-30 41-45 7-23-45 Plat of U.S. G. Salyer's 1st Addition.
 J-32 43-45 7-23-45 Plat of William Kemper's Subdivision of Reserve A of Baldwin Heights Addition.
 J-49 58-45 9-24-45 Plat of Avondale Revision of part of Avondale Addition.
 J-63 71-45 10-22-45 Plat of Amelia Schory's Subdivision.
 J-83 90-45 12-10-45 Plat of Edith B. Henry's Addition and D. H. Howe's Subdivision.
 J-138 39-46 6-10-46 Plat of Whiley Ave. Subdivision.
 J-157 52-46 8-2-46 Plat of Maher's 1st Addition.
 J-167 61-46 10-14-46 Plat of Leo M. Bash's Addition.
 J-172 66-46 10-28-46 Plat of William S. Donnelly's Addition.
 J-175 68-46 12-23-46 Plat of C. G. Bolenbaugh's Addition.
 J-182 5-47 2-10-47 Plat of C. G. Bolenbaugh's Addition.
 J-183 6-47 2-10-47 Plat of Rose Dale Addition.
 J-186 9-47 3-24-47 Plat of W. F. Wacker's Skyline View Addition.
 J-2 18 34-47 9-8-47 Plat of Colonial Heights Addition.
 J-219 35-47 9-8-47 Plat of Thimmes' Fair Ave. Addition.
 J-259 10-48 2-23-48 Plat of Salyer's 1st Addition.
 J-274 22-48 4-2-48 Utica Park Addition and Slater's 2nd Subdivision of Cole-Martin-Towson Addition.
 J-288 34-48 6-28-48 Plat of the Kiener-Coen Subdivision, Lot 21, Reese's Fairview Addition.
 J-308 49-48 9-13-48 Plat of the Riverside Addition.
 J-344 8-49 2-14-49 Plat of W. C. Jone's Clark Ave. Addition.
 J-421 8-50 1-23-50 Plat of T. B. Whiley's Addition.
 J-435 20-50 3-27-50 Alley north of Fair Ave. between Memorial Dr.and terminus of 1st alley north of Fair Ave.

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J-454 38-50 5-22-50 W. F. Wacker's Hills and Dales Addition No. 2.
 J-533 92-50 11-13-50 Plat of Pleasant View Addition.
 J-537 96-50 11-13-50 Plat of Charles W. and Rena Good's Addition.
 J-558 2-51 1-22-51 Plat of Hubert Spires' Addition.
 K-13 48-51 6-25-51 Plat of Baldwin Heights Addition.
 K-81 10-52 1-28-52 Plat of W. F. Wacker's Hills and Dales Addition No. 3.
 K-85 14-52 2-26-52 Plat of Raymond Shumaker's Subdivision of part of Outlot 17 of Hop Co. 's Addition.
 K-86 15-52 1-26-52 Plat of Larkin C. Durdin's Revision of Lot 4 of Baldwin Heights Addition, Block 2, and Lots 8 and 9 of Kemper's Subdivision of Reserve A of Baldwin Heights Addition.
 K-99 26-52 4-14-52 Plat of Larkin C. Durdin's 2nd Addition.
 K-110 36-52 5-27-52 Plat of Primrose Addition.
 K-141 54-52 7-14-52 Plat of Park View Heights Addition.
 K-162 69-52 9-23-52 Alley between Chestnut St. and Walnut St.
 K-178 82-52 11-24-52 Alley from the alley between Emerson Blvd. and Memorial Dr. to Emerson Blvd.
 K-218 17-53 3-10-53 Extension of Clark St.
 K-259 52-53 7-27-53 Land for public park from Jerry Maher.
 K-321 27-54 5-24-54 Extension of Markwood Ave.
 K-329 35-54 6-29-54 Plat of Maher's 2nd Addition.
 K-419 27-55 4-25-55 Plat of Seneca Hts. Addition No. 2.

K-457 53-55 7-25-55 Plat of Huffer-Durbin Addition No. 2.
 K-492 81-55 12-28-55 Plat of Carl G. Kline's Addition.
 K-495 84-55 12-28-55 Plat of Frank L. Gorsuch's Lenmar Subdivision No. 1.
 K-535 32-56 4-23-56 Accepting plat of W. F. Wacker's Hills and Dales Addition No. 5.
 K-583 69-56 11-26-56 Land for Widener Lane in the Avondale Addition.
 K-600 5-57 1-28-57 Accepting plat of Fairfield Hills, Inc.
 L-15 18-57 2-25-57 Accepting plat of Frank L. Gorsuch's Lenmar Subdivision No. 2.
 L-56 50-57 6-10-57 Accepting plat of Marietta Addition.
 L-60 54-57 6-24-57 Accepting plat of Willellen Addition No. 1.
 L-103 87-57 11-25-59 Accepting quit claim deeds from property owners for an extension of E. Wheeling St. from Baldwin Dr. to Kanawha Dr.
 L-139 21-58 3-24-58 Accepting warranty deed from Essex Wire Corporation granting a 15-ft. strip of land for use as an alley across a portion of the west half of Lot 19 (new numbering).
 L-166 43-58 6-23-58 Accepting plat of Charles L. Love's Subdivision No. 2.

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L-167 44-58 6-23-58 Accepting plat of W. F. Wacker's Hills and Dales Addition No. 6.
 L-218 80-58 10-27-58 Accepting plat of Maher Park Addition.
 L-219 81-58 10-27-58 Accepting plat of Frank L. Gorsuch's Lenmar Subdivision No. 3.
 L-264 29-59 4-27-59 Accepting plat of Fairfield Hills Addition No. 2.
 L-276 41-59 6-8-59 Accepting plat of the Beyer-Elick Addition.
 L-285 49-59 7-27-59 Accepting deed from Karl L. Schaus and Ethel Schaus for the purpose of widening Baldwin Dr.
 L-308 66-59 9-28-59 Accepting plat of Pleasant Ridge Addition.
 L-351 9-60 2-8-60 Accepting plat of Lenmar Subdivision No. 4.
 L-373 29-60 4-25-60 Accepting plat of Lenmar Woods Subdivision.
 L-383 35-60 5-23-60 Accepting deed from Bernice B. Jester for the purpose of extending W. Clark St.
 L-396 47-60 6-27-60 Accepting plat of Brookdale Addition No. 3.
 L-481 22-61 4-10-61 Accepting plat of Lenmar Subdivision No. 5.
 L-486 27-61 5-8-61 Accepting plat of Willellen Addition No. 2.
 L-492 33-61 7-10-61 Accepting plat of Boystel-Fauble Addition, part of Outlot 27.
 L-498 38-61 7-24-61 Accepting plat of Supman-Houfek Addition.
 L-500 40-61 8-28-61 Accepting plat of Fairfield Hills Addition No. 3.
 L-525 60-61 11-13-61 Accepting plat of Brookdale Addition No. 2.
 L-531 65-61 12-18-61 Accepting warranty deed from Graf Land Development Corp, dated Nov. 14, 1961, conveying 3 tracks as follows:

- (a) 0.7351 acres for Beacon St. between Pratt and Meda Aves. and part of Meda Ave. between Beacon and Graylock Sts.
- (b) 0.2121 acres for a public alley.
- (c) 0.5772 acres to extend Ohio Ave.

L-544 11-62 3-26-62 Accepting plat of John D. Van Gundy Revision of parts of Blocks 1, 9, 4, 10 and 11 in Colonial Heights Addition.

L-558 21-62 4-23-62 Accepting plat of Willellen Addition No. 3.
 M-2 25-63 5-27-63 Accepting deed from Anchor-Hocking Glass Corp. for street purposes.
 M-7 29-63 6-10-63 Plat of Saint Mark Addition.
 M-10 32-63 6-10-63 Plat of Brookdale Addition No. 4.
 M-37 52-63 9-9-63 Plat of Willellen Addition No. 4.
 M-42 56-63 9-23-63 Dedicating part of abandoned Hocking Canal as right of way for Memorial Dr.
 M-121 36-64 6-8-64 Plat of Crestview Manor Subdivision.
 M-289 76-65 7-12-65 Plat of Lenmar Subdivision No. 6.
 M-308 89-65 8-23-65 Plat of Brookdale Addition No. 5.

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M-386 30-66 3-14-66 From Thomas R. Gillooly for 12.5 feet bounded by Oakwood and Wheeling Sts.
 M-411 51-66 3-28-66 Dedication of Edgewood Ave.
 M-417 56-66 4-25-66 Plat of Little Brook Estates No. 1.
 M-421 60-66 5-23-66 Deed from J. Wilbert Olive et al. for alley purposes, part of Lot 7 in Reese's Fairview Addition.
 M-422 61-66 5-23-66 Deed from George H. Alten, being 15.0 feet adjacent and parallel to east line of Lot 31.
 M-502 119-66 11-28-66 Deed from Helen Kidd for 1.575 acres in Maher Park Addition.
 M-577 63-67 6-26-67 Plat of Conner Land.
 M-600 80-67 7-24-67 Revised plat of Knollwood Hts.
 N-120 49-68 9-23-68 Plat of Somerford Square.
 N-131 57-68 1-13-69 Plat of Lenmar Subdivision No.7.
 N-215 36-69 6-23-69 Plat of Willellen Subdivision No. 5.
 O-54 29-70 6-3-70 Accepting deed from Trails End, Inc. of 0.462 acres.
 O-59 32-70 6-8-70 Deed from Dykes of 4500 square feet.
 O-70 35-70 6-22-70 Deed from Lancaster National Bank for part of Outlot 8.
 O-72 36-70 6-22-70 Deed from Sater for part of Outlot 9.
 P-112 43-71 9-13-71 Deed from Turner being a 3 foot strip off entire NW side of the second alley south of Lot 204 of Carpenter Addition.

P-214 26-72 5-8-72 Plat of Lenmar Subdivision No. 8.
P-248 42-72 8-28-72 Plat of Lenmar Subdivision No. 9.
Q-50 30-73 8-27-73 Plat of Hunter Trace Estates Part I.
Q-81 43-73 9-24-73 Plat of College Green Subdivision.

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7-74 2-11-74 Dedication of Trace Dr. and various easements in Hunter Trace Estates.
10-74 2-25-74 Plat of Avery Hills Subdivision Phase One.
14-74 3-11-74 Plat of Galeco Hts. Subdivision.
36-74 6-24-74 Plat of Harley E. Miller Subdivision.
37-74 6-24-74 Plat of Briar Cliff Addition.
1-76 1-12-76 .045 acre for alley off of Broad St., being 15 ft. out of the middle of Lot 5.
56-76 12-13-76 .32 acre from Hocking Valley National Bank for street purposes.
20-77 4-25-77 Plats of Sheridan-Rainbow Divisions 1 and 2.
21-77 5-9-77 Deed from Fairfield County Agricultural Society for street purposes.
24-77 6-13-77 Plat of Independence Commons, Phase I.
31-77 6-27-77 Plat of Northshire Addition.
33-77 8-22-77 Plat of College Ave.
38-77 9-12-77 Plat of Hunter Trace, Part II.

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55-77 12-12-77 Deed of 1.64 acres from Jemo Associates, Inc. for street purposes.
57-77 12-12-77 Plat of Sheridan-Rainbow Division 5.
58-77 12-12-77 Plats of Sheridan-Rainbow Divisions 3 and 4.
61-77 12-19-77 Deed from Charles F. Alley for park purposes.
15-78 6-26-78 Plat of Hunter-Trace Estates, Section 3.
18-78 6-26-78 Plat of Hocking Meadows, Section 1.
23-78 8-28-78 Accepting Hawkshire Manor Subdivision.
35-78 12-11-78 Accepts 17.66 acres from Mary Cenci for public park purposes.
2-79 1-22-79 Accepts deed for 1.086 acres from Clark and DorWart for street purposes.
10-79 2-12-79 Accepts deed for 0.092 acres from Simmons for street purposes.
11-79 2-2-79 Accepts deed for 0.037 acres from Finnefrock for street purposes.
17-79 3-26-79 Plat of Commerce St. from Quarry Rd. 2586.80 ft. west.
18-79 3-26-79 Plat of Second Northshire Addition.
25-79 4-23-79 Plat of Sheridan - Rainbow Division 6.
36-79 5-21-79 Plat of Briarcliff Subdivision.
45-79 8-13-79 Accepts deed for 490 sq. ft. from Equitable Federal Savings and Loan Assoc. for street purposes.
48-79 8-13-79 Accepts deed for 0.138 acres from Washington Ave. Church of Christ for street purposes.
55-79 9-24-79 Plat of Northshire Addition Section 3.
61-79 11-12-79 Accepts gift from Charles and Madge Alley for park purposes.
63-79 12-3-79 Plat of Second Ave. Subdivision.
1-80 1-28-80 Plat of Avery Hills, Section 2.
3-80 1-28-80 Plat of East Lancaster Townhouses.
42-80 9-22-80 Accepts deed for 0.64 acres from Windsor Place, Ltd. for street purposes.
16-81 6-1-81 Accepting final plat of Hunter Trace Estates, Part IV.
35-81 8-10-81 Deed from Windsor Place, Ltd. for street purposes.
36-81 8-10-81 Deed from Howard J. and Nancy A. Alspach for street purposes.
48-81 9-28-81 Accepts deed from Fairfield County Automobile Club for street purposes.
56-81 11-9-81 Accepts plat of Avery Hills Phase III.
59-81 11-9-81 Accepts deed from Lancaster City School District for street purposes.
47-82 12-13-82 Accepts deed from Marko Inc. for street purposes.
51-82 12-27-82 Accepts deed from Frick Gallagher Manufacturing Co. of the west half of Faulkerson Ave. for street purposes.
28-83 8-22-83 Accepts deed from Paul W. Wacker for street purposes.
35-83 10-10-83 Accepts the final plat of Avery Hills #4.
29-84 8-13-84 Accepts deed from Pleasant Development Corp. for street purposes.
53-84 12-17-84 Accepts gift of two parcels comprising 18.94 acres from it Olivedale Foundation for park purposes.

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9-85 3-11-85 Accepts gift of Lots 1 and 2 of Edith B. Henry Addition from Columbia Gas Transmission Corp. for public park purposes.
10-85 3-11-85 Plat of Deerfield Subdivision.
12-85 3-25-85 Plat of Fourth Northshire Addition.
30-86 8-25-86 Accepts plat of Avery Hills V.
25-87 8-24-87 Accepts plat of Fifth Northshire Subdivision.
1-89 1-9-89 Accepts plat of JLA Subdivision.
2-89 1-9-89 Accepts plat of Briarcliffe Subdivision.
3-89 1-9-89 Accepts plat of Heiber Subdivision.
15-89 3-13-89 Accepts plat for public streets and drainage and utility easements in Rock Mill Industrial Park.
19-89 4-10-89 Accepts gift of land from Jack Supman, a 60 foot right of way on Sheridan Dr.
29-89 6-26-89 Accepts plat of Frear Heights Subdivision.
30-89 8-14-89 Accepts plat for Sheridan Rainbow No. 7 Subdivision.

34-89 9-11-89 Accepts rededication plat of Carbon Works Addition Alley Right- of-Way.
28-90 9-10-90 Plat of Beverly Hills Subdivision.
22-91 5-20-91 Plat of Avery Hills No. 6 Subdivision.
28-91 6-24-91 Plat of Pairan Woods Subdivision.
52-91 11-25-91 Plat of Deacon Hill Phase I Subdivision.
37-92 11-23-92 Accepts final plat of Four Seasons Subdivision.
38-92 11-23-92 Accepts final plat of Rozin Subdivision I.
20-93 5-24-93 Accepts dedication plat for Schorrway Drive.
28-93 6-28-93 Accepts final plat of Avery Hills No. 7 Subdivision.
29-93 6-28-93 Accepts final plat of Creekside Estates, Phase I Subdivision.
34-93 8-9-93 Repeals Ord. 20-93; accepts revised plat of Schorrway Drive.
35-93 8-1-93 Accepts dedication of an alley north of Lot No. 6, Block 4, Chapin Addition.
39-93 9-13-93 Accepts Chartwell Section One.
22-94 6-13-94 Accepts revised Chartwell Section One Plat dedicating a public street right of way and drainage and utility easements;
Repeals Ordinance 39-93.
24-94 6-13-94 Accepts final plat of Sheridan Rainbow Number 8 Subdivision and dedication of streets and utility rights of way.
25-94 6-27-94 Accepts final plat of Pleasant Springs Subdivision.
28-94 8-22-94 Accepts final plat of River Valley Highlands Section 1 Subdivision.
34-94 10-24-94 Deed from James and Amy Creech for right-of-way purposes.
42-94 11-28-94 Plat of Stonegate Meadows Phase I Subdivision.
1-95 1-9-95 Plat of Deacon Hill Phase 2 Subdivision.

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8-95 2-27-95 Deed from James and Amy Creech for right of way purposes.
16-95 6-26-95 Deed for right-of-way for street and utility purposes beginning at NE corner of Section 27, T15N, R19W, Congress
Lands.
17-95 6-26-95 Plat of Shallow Ridge Place Subdivision.
18-95 6-26-95 Plat of Hunter Trace Estates Part V Subdivision.
19-95 6-26-95 Plat of River Valley Highlands, Section 2, Phase 1 Subdivision.
22-95 9-11-95 Plat of River Valley Highlands, Section 2, Phase 2 Subdivision.
7-96 2-12-96 Revised plat of Shallow Ridge Place Subdivision; repeals Ordinance 17-95.
10-96 3-11-96 Plat of Hubbard Industrial Park Subdivision.
19-96 6-10-96 Plat of Stonegate Meadows Phase 2 Subdivision.
20-96 6-10-96 Plat of River Valley Highlands Section 3, Phase 1 Subdivision,
21-96 6-10-96 Plat of River Valley Highlands Section 3, Phase 2 Subdivision.
24-96 6-24-96 Plat of River Valley Highlands Section 4, Phase 2 Subdivision.
25-96 6-24-96 Plat of River Valley Highlands Section 4, Phase 1 Subdivision.
35-96 11-11-96 Deed for right-of-way for street and utility purposes beginning at Old Columbus Road.
9-97 2-10-97 Final plat of Schorrway Dr.
13-97 2-24-97 Final plat of Colonnade Commercial Subdivision.
17-97 3-10-97 Final plat of Creekside Estates, Phase 2 Subdivision.
19-97 3-24-97 Final plat of Deacon Hill Phase 3 Subdivision.
29-97 5-12-97 Final plat of Ewing Run Estates Phase 1 Subdivision.
30-97 5-12-97 Final plat of the Stonegate Meadows Phase 3 Subdivision.
43-97 6-24-97 Final plat of the River Valley Highlands Section 4, Phase 3 Subdivision.
46-97 8-11-97 Final plat of the River Valley Highlands Section 5, Phase 1 Subdivision.
47-97 8-11-97 Final plat of the River Valley Highlands Section 5, Phase 2 Subdivision.
49-97 8-11-97 Final plat of the Sheridan Rainbow Number 9 Division Subdivision.
50-97 8-11-97 Final plat of the Sheridan Rainbow Number 10 Division Subdivision.
25-98 3-23-98 Final plat of the River Valley Highlands Section 6, Phase 1 Subdivision.
26-98 3-23-98 Final plat of the River Valley Highlands Section 6, Phase 2 Subdivision.
27-98 3-23-98 Final plat of the River Valley Highlands Sections 6, Phase 3 Subdivision.
46-98 9-14-98 Accepts the public dedication of real property along Baltimore Road.
47-98 9-14-98 Accepts the public dedication of real property along Pleasantville Road.
51-98 9-28-98 Final plat of the Stonegate Meadows Phase 4 Subdivision.
57-98 11-23-98 Accepts the plat amendment to Parian Woods Subdivision.
61-98 12-14-98 Accepts the public street dedication of real property along North Columbia St.
26-99 5-10-99 Accepts the final plat of the Habitat Valley Subdivision.

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35-99 6-28-99 Accepts the final plat of the River Valley Highlands Section 7, Phase 1 Subdivision.
36-99 6-28-99 Accepts the final plat of the River Valley Highlands Section 7, Phase 2 Subdivision.
37-99 6-28-99 Accepts the final plat of the River Valley Highlands Section 7, Phase 3 Subdivision.
38-99 6-28-99 Accepts the final plat of the River Valley Highlands Section 8, Phase 1 Subdivision.
39-99 6-28-99 Accepts the final plat of the River Valley Highlands Section 8, Phase 2 Subdivision.
40-99 6-28-99 Accepts the final plat of the River Valley Highlands Section 8, Phase 3 Subdivision.
3-00 1-31-00 Accepts the final plat of the Rubel's Corporate Park Subdivision.
20-00 6-12-00 Accepts the final plat of the City View Subdivision.
22-00 8-14-00 Accepts the final plat of the River Valley Highlands Section 9, Phase 3.
24-00 9-11-00 Accepts the final plat of the River Valley Highlands Section 9, Phase 4.

29-00	10-9-00	Accepts the final plat of Twin Creek Subdivision.
34-00	11-13-00	Accepts the final plat of the Sheridan Rainbow Subdivision No. 11.
14-01	6-25-01	Accepts the final plat of the River Valley Highlands Section 9, Phase 2.
21-01	9-10-01	Accepts the final plat of the River Valley Highlands, Section 10, Phase 1 and Phase 2.
23-01	10-8-01	Accepts the final plat of the River Valley Highlands, Section 9, Phase 1 and Phase 2.
25-02	8-12-02	Accepts the final plat of the Brydan Subdivision No. 1.
27-02	8-12-02	Accepts the final plat of the River Valley Highlands, Section 11, Phase 1 and 2.
40-02	11-4-02	Accepts the final plat of Hunter Trace VI.
6-03	3-10-03	Accepts the final plat of Lancaster Industrial Park.
18-03	5-19-03	Accepts the final plat of Rock Mill Corporate Park Phase 2.
33-03	8-25-03	Accepts the final development plan of Stone Glen Condominiums.
34-03	8-25-03	Accepts the final plat of Wesley Woods Subdivision Phase 1.
35-03	8-25-03	Accepts the final plat of Overlook Quarry.
36-03	9-9-03	Dedicates City-owned property along Camp Ground Road for street and utility purposes.
55-03	11-24-03	Accepts the final plat of Wesley Woods Subdivision Phase 2.
56-03	11-24-03	Accepts the final plat of Brentwood Subdivision Section 1.
57-03	11-24-03	Accepts the final plat of Misty Meadows Section 1.
60-03	12-5-03	Accepts the final plat of Misty Meadows Section 2.
61-03	12-5-03	Accepts the final plat of Noland Estates.
1-04	1-12-04	Accepts the final plat of Brydan Subdivision No. 2.
6-04	2-23-04	Accepts the final plat of the Top-A-Hill Addition.
24-04	4-26-04	Accepts the final plat of Sheridan Rainbow No. 12.
39-04	6-28-04	Accepts the final development plan for the Villas at Roxton Ravine.
9-05	1-24-05	Amends the Rock Mill Corporate Park Phase 2 plat.
23-05	5-23-05	Amends the final plat for Hunter Trace VI.
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49-05	6-27-05	Accepts the final plat for West View Heights Addition No. 3.
50-05	7-18-05	Accepts the final plat for the Overlook Section 1.
54-05	8-22-05	Accepts the final plat for Misty Meadows Section 3.
57-05	8-22-05	Dedicates property described in Exhibit A for public alley way and utility purposes.
71-05	11-14-05	Accepts the final plat for River Valley Highland Section 12, Phase 1.
14-06	4-10-06	Accepts the final plat for the Woods Section 1.
29-06	8-14-06	Accepts the final development plan for Primrose of Lancaster.
31-06	8-14-06	Accepts the final plat for Ewing Run Estates Phase 2A.
33-06	8-28-06	Accepts the final plat for Ety Pointe Centre.
40-06	9-11-06	Accepts the final plat for Ety Pointe Centre North.
47-06	11-27-06	Accept the dedication plat for Countryside Drive.
27-07	4-23-07	Accepts the final plat for Creekside Phase 3.
28-07	4-23-07	Amends the final plat for Ety Pointe Centre.
30-08	9-8-08	Accepts the revisions to the Lancaster Industrial Park final plat.
15-09	9-14-09	Accepts final plat for River Valley Highlands Section 12 Phase 2A.
6-10	4-12-10	Restores the right of one direct access driveway onto West Fair Avenue from Reserve D of the Overlook Section 1 Development.
9-10	6-28-10	Accepts the final plat for the Election House Road relocation.
23-12	12-10-12	Accepts the final plat for River Valley Highlands Section 12 Phase 2B.
24-12	12-10-12	Accepts the final plat for River Valley Highlands Section 12 Phase 3A.
11-13	4-8-13	Amends the approved Planned Unit Development Plan for an undeveloped 17 acre +/- tract in Hunter Trace Estates lying north of the Northern Termini of Trace Drive and Linda Lane, to allow for the construction of a school.
10-14	6-23-14	Accepts the final plat for River Valley Highlands Sections 13 Phase 1.
10-15	7-13-15	Accepts the final plat for River Valley Highlands Section 13 Phase 2.
13-16	4-11-16	Accepts the final plat for River Valley Highlands Section 13 Phase 3.
24-16	9-26-16	Accepts the final development plan for the Primrose Memory Care Facility.
3-17	1-9-17	Accepts the final plat for Ewing Street Business Park.
20-17	6-12-17	Accepts a permanent right-of-way on Sheridan Drive for the turn lane widening and sidewalk project in front of Medill Elementary.
5-18	5-7-18	Accepts the right of way dedication on North Columbus Street (for the turn lane widening project near the intersection of North Columbus Street/Bush Hill Drive/Fairfield Medical Center - Health and Wellness Center Entrance).
10-18	8-13-18	Accepts the final plat for the General Sherman Junior High School Subdivision.
14-19	10-14-19	Accepts the final plat for Misty Meadows Section 4.
18-20	10-12-20	Accepts the replat of Wesley Woods Subdivision, Phase 2.
20-20	10-26-20	Accepts the final plat for the Overlook Section 2.
4-21	2-8-21	Accepts the final plat for Timbertop Phase 1.
36-21	10-25-21	Accepts the final plat for Timbertop Phase 2.

TABLE E - SALE OF PROPERTY

Ord. Book

& Page Ord. No. Date Description

A-391 Unno. 10-9-99 Lot 52 to M. A. Daugherty.

A-402 Unno. 1-22-1900 Lot 3 in William Cox's King St. Addition to W. McCleery; strip of land on south end of a 14-acre tract west of Lancaster and Groveport Turnpike in First Ward to Rev. G. W. Mechling.

A-404 Unno. 1-22-1900 Land beginning 3 chains and 10 links south 88 degrees west from the NE corner of Lot 2.
 B-471 254 2-8-09 10-acre tract in Section 2, Twp. 14, Range 19.
 D-147 559 11-12-17 Lot 11 of Hop Co.'s Addition of 1866.
 E-232 826 3-10-24 Part of Lot 46 in Danehy's Maple St. Addition.
 E-172 834 11-12-23 Portion of Lot 45 in Danehy's Maple St. Addition.
 E-182 841 1-14-24 Portion of Lot 45 in Danehy's Maple St. Addition.
 F-101 1032 2-28-27 Part of Lot 107 in Carter's 3rd Addition, known as the Starret St. Engine House.
 G-255 1404 4-25-32 Tracks along Front St. from Fair Ave. to Schryver St.
 H-464 1954 7-10-39 Lot on E. Main St. known as the Gas Reducing Station.
 H-466 1956 7-24-39 Portion of Tract 28 of the Hocking Canal property.
 I-167 42-41 6-9-41 Lot 5, Block 13, Chapin Addition; Lots 42 and 43 of Maple St. Addition; Lots 61 and 62 of Barrett's Addition.
 I-231 96-41 12-15-41 Land to Margaret Kirn.
 I-540 10-44 4-24-44 Exchange of real estate with Jacob Keller Kirn, Jr.
 I-589 6-45 1-25-45 Repealed Ord. 1954.
 J-343 7-49 2-14-49 Lot 5, Block 13, Chapin Addition; Lots 42 and 43 Maple St. Addition; Lot 61 and 62, Barrett's Addition.
 J-403 56-49 11-28-49 Gift to State of birthplace of William Tecumseh Sherman.
 J-510 72-50 8-24-50 Real estate of estate of Emma Cook.
 K-224 23-53 - 8-room frame house and garage on Lot 483, Pioneer Subdivision.
 K-330 36-54 6-28-54 Narrow strip of land along the north side of Edgewood Ave.
 L-44 42-57 5-27-57 Authorizing execution of quit claim deed for disputed canal land to George H. Alten.
 M-352 122-65 12-27-65 Quit claim deed to Anchor Hocking Glass for property vacated by Ord. 108-65.
 M-560 46-67 4-25-67 Authorizes conveyance of hospital real estate to the County Commissioners.
 N-22 93-67 10-9-67 Quit claim deed to Walter Graf for City's interest in a 12-foot alley along west side of Lot 675.

Ord. Book

& Page Ord. No. Date Description

N-40 108-67 12-26-67 Amends Ord. 46-67 to terminate authority to transfer on 12-31-67.
 N-183 25-69 5-12-69 Conveyance of hospital to Board of County Commissioners.
 O-12 7-70 3-9-70 Authorizes sale of Lancaster Market House grounds.
 O-13 8-70 3-9-70 Portion of Elmwood Cemetery across Walnut St. from the cemetery proper.
 O-55 30-70 6-8-70 Lancaster Market Grounds at SE corner of Wheeling and Front Sts. to Alten Foundry and Machine Works, Inc.
 P-95 33-71 7-12-71 Quit claim deed to Fisher for land recorded in Vol. 174, Page 142 of County Deed Records.
 57-81 11-9-81 Quit claim deed to Fairfield County Heritage Society for William Tecumseh Sherman birthplace and museum.
 02-90 1-8-90 Authorizes conveyance of property to Scott Lumber Co. in connection with Revenue Bonds.
 6-01 3-12-01 Authorizes sale of three acres more or less of City owned South Wellfield and Water Plant Property.
 18-01 8-13-01 Amends Ord. 6-01 to increase the amount of land to be sold to Berne Township from 3 to no more than 5 acres.
 27-04 5-10-04 Authorizes the sale of one acre to Berne Township on which to construct an information center.
 52-04 9-13-04 Amends Ord. 27-04 to increase the amount of land to be sold to Berne Township from one acre to 6.245 acres.
 21-05 4-25-05 Amends Ord. 18-01 to increase the amount of land to be sold to Berne Township to 5.010 acres.
 76-05 11-28-05 Authorizes the sale of 6.245 acres to the Fairfield County Park Board.
 18-14 11-24-14 Authorizes the Mayor to deed the Mithoff Building, 162-168 West Main Street, Lancaster, Fairfield County, Ohio (Parcel No. 0535803940) for one dollar (\$1.00) to the Lancaster Port Authority.
 25-14 12-8-14 Authorizes the Mayor to deed 20.771 acres, more or less, of property situated in Sections 5 and 8, Townships 14 North, Range 18, Berne Township, Back to Lancaster Glass Corporation for one dollar (\$1.00) excepting any and all easements granted to City.
 8-16 3-14-16 Authorizes the Mayor to deed approximately 4.495 acres of the approximately 18.182 acres of the former Anchor Hocking Plant 2 site located at 911 Lawrence Street for one dollar (\$1.00) to the Lancaster Port Authority.
 14-20 6-22-20 Authorizes the Mayor to Deed Parcel No. 0535883700 consisting of 18.18 +/- acres of the former Anchor Hocking Plant 2 site located at 911 Lawrence Street to the Lancaster Port Authority.
 15-20 8-10-20 Granting indemnification to the Lancaster Port Authority by the City in regard to real property transfers from the City to the Port Authority.
 48-21 12-13-21 Donates a 2.054 Parcel of land to Fairfield County to be used for Horns Mill Road Bridge Replacement and Roadway Improvement.

TABLE F - PURCHASE OF PROPERTY FOR CITY USE

Ord. Book

& Page Ord. No. Date Description

C-43 Unno. 6-11-1853 Property for street purposes from John C. Weaver, P. B. Ewing, George Beck and Charles Borland.
 C-215 Unno. 4-14-1869 Land for extension of Mulberry St.
 C-216 Unno. 4-22-1869 Land for Porter St.
 A-99 Unno. 10-3-1887 Lot in First Ward for a hose house from Charles Fahner.
 A-101 Unno. 11-28-1887 Land in Carter's 3rd Addition from Trustees of Evangelical Trinity Church for engine and hose house.
 A-114 Unno. 6-15-1888 Land for Maple St. extension from Daniel Danely.
 A-116 Unno. 6-15-1888 Land for Maple St. extension from Catherine Crook.
 A-118 Unno. 6-15-1888 Land for Maple St. extension from Thomas Sturgeon.
 A-120 Unno. 7-9-1888 Land for Maple St. extension from William G. Robinson.
 A-130 Unno. 3-19-1889 Land for Maple St. extension from Mary Pearse.
 A-140 Unno. 8-26-1889 Land for Maple St. extension from widow and heirs of George Binder.
 B-223 101 6-26-05 Land for market purposes on Lots 23 and 24.
 B-265 128 11-13-05 Strip of land south of Lot 1 in Maple St. Addition for an alley from Mary E. Bechtel.

B-341 170 12-10-06 Strip of land from John Gravett for opening of Mulberry St.
 B-420 226 5-25-08 Land from Isaac Foreman for a public alley.
 B-434 229 7-13-08 Land for a public alley from Eugenia Graybill, et al.
 F-19 999 8-23-26 Land adjacent to a R.R. terminal.
 F-49 1013 11-22-26 Land from Nora K. and B. F. Becker, beginning at the SE corner of Maple St. and Lawrence St.
 F-289 1111 7-13-28 Part of Lot 15 of William Cox's 2nd Addition from Mary and Clark Bailer.
 G-37 1253 3-10-30 Property for an alley from Joseph A. Schoor.
 G-39 1255 3-24-30 Land adjacent to Lot 1 in Olinger's Addition.
 G-95 1298 8-11-30 Land from Robert M. Geisy for park purposes.
 G-180 1349 3-11-31 Property for sidewalk purposes from Oliver and Mary Snoke in Lot 443 of Pioneer Addition.
 G-227 1385 2-12-32 Part of Lot 7 of Ewing's 2nd Addition from J. D. Van Gundy for widening a street.
 G-250 1400 3-28-32 Strips of land from abutting property owners along the line of Front St.

Ord. Book

& Page Ord. No. Date Description

G-277 1424 8-22-32 Land from heirs of A. H. Caffee for Park St., Front St. and Reber Ave.
 H-357 1869 11-28-38 Property from Emma F. Wilson for sewage treatment plant.
 H-377 1883 2-1-39 Property for sewage treatment plant.
 H-385 1890 3-2-39 Property from heirs of William H. Graf for sewage treatment plant.
 H-389 1894 3-13-39 Property from W. F. Wacker for an ejector station.
 H-399 1901 4-10-39 Property for interceptor sewer.
 H-545 2017 12-11-39 Property for street purposes.
 H-579 2040 4-1-40 Rights of way.
 I-27 2077 8-12-40 Real estate from Wm. A. McCleery.
 I-44 2089 9-23-40 Repealing Ord. 2077.
 I-231 96-41 12-15-41 Land from Margaret Kirn.
 I-259 16-42 - Property for purpose of opening Front St.
 I-346 81-42 7-27-42 Reserve A in the Rolling Mill Addition for street purposes.
 I-469 49-43 9-13-43 Land for a gas booster station.
 I-540 16-44 4-24-44 Exchange of real estate with Jacob Keller Kirn, Jr.
 J-19 32-45 6-11-45 Fairfield Memorial Park for cemetery purposes.
 J-38 49-45 8-13-45 Property west of Hocking River for park and play ground purposes.
 J-40 51-45 9-10-45 Land for public park.
 J-65 73-45 11-12-45 Former William T. Sherman home on Main Hill.
 J-168 62-46 10-14-46 Land to open one-half the alley south of Eyman Ave. and the east one-half of Second St.
 J-319 59-48 10-25-48 Land from Lawrence E. and Stella M. Ball along the Hocking River.
 J-406 59-49 11-28-49 Land adjacent to Rising Park.
 J-580 24-51 4-23-51 Land for a sanitary fill, part of the SW quarter of Section 14, Twp. 14, Range 19.
 K-233 22-53 3-10-53 Lots 483 and 484 in Pioneer Addition for new fire station.
 M-141 50-64 6-22-64 Authorizes purchase to extend W. Walnut St. from Whiley east to Memorial Dr.
 M-250 49-65 4-12-65 Appropriation to extend Pierce Ave. north to Memorial Dr.
 M-312 93-65 8-23-65 Appropriation to construct a fire house and accessory buildings.
 K-476 69-55 10-24-55 Purchase from Maynard of 12.25 acres fronting on Cherry St.
 K-566 57-56 9-24-56 Authorizes purchase from Wilson of 12.25 acres fronting on Lawrence St. adjacent to sewage treatment plant.

Ord. Book

& Page Ord. No. Date Description

M-427 64-66 5-23-66 Land in Fairfield Hills Subdivision.
 M-584 67-67 6-26-67 Authorizes purchase of Lot 118 in the Huffer- Durdin Addition No. 2.
 M-585 68-67 6-26-67 Authorizes purchase of Lot 119 in the Huffer- Durdin Addition No. 2.
 N-21 92-67 10-2-67 Appropriation of 3,640 sq. ft. from YMCA & YWCA for constructing a sewage pumping and lift station.
 N-42 110-67 12-26-67 Accepts deed from Frank Graf (executor) for 1.05 acres.
 N-44A 113-67 1-22-68 Accepts deed from Behrens for 0.25 acres.
 N-58 11-68 3-11-68 58,000 sq. ft. adjacent to Cherry St. Park from the Penn. RR.
 N-78 24-68 5-27-68 62 acres from Ellinger located south and west of Duffy Rd.
 N-91 32-68 7-22-68 Appropriation of 7 ft. off west side of Lots 12, 13 and 14, Block 23, Chapin Addition from Sheridan.
 N-94 34-68 8-12-68 Lot at NE corner of Chestnut and Broad Sts. from the Std. Oil Co.
 N-182 24-69 4-28-69 Accepts deed from Anchor Hocking Corp. for 0.339 acres.
 O-14 9-70 3-9-70 Martin and Coen property immediately south of the Municipal Building.
 P-41 64-70 12-14-70 Accepting deed to Olivedale Park.
 P-64 16-71 3-8-71 Appropriation of 5.07 acres from Guisinger for land fill purposes.
 P-71 19-71 3-22-71 Repeals Ord. 16-71.
 3-74 1-14-74 Accepts deed from Hawk for 0.02536 acres for street purposes.
 29-85 9-23-85 Purchase of 3.05 acres in Lot 12 of Carpentar Lands Subdivision from Wiley for a flood water retarding structure.
 30-85 9-23-85 Appropriation from Helber of land at SW corner of Main and Ewing Sts. for street purposes.
 31-85 9-26-85 Appropriation of part of Lot 12 of Carpentar Lands Subdivision for a flood water retarding structure.
 34-85 11-11-85 Accepts Lot 15, Jordan's Subdivision from Dorothy Schneider for public park purposes.
 35-85 11-11-85 Accepts 1.788 acres from Mary M. Gorsuch for public park purposes.
 15-86 4-14-86 Accepts 8.193 acres from Fox Foundation for public park purposes.

Ord. No. Date Description

24-86	6-23-86	Appropriation for roadway purposes along Pierce Ave. and State Route 33 in River Valley project area.
01-87	1-26-87	Accepts gift of land from Raymond L. Cramblit.
31-87	9-14-87	Accepts gift of land for right-of-way purposes on Sells Rd. from Raymond L. and Stephanie Jo Cramblit.
17-91	4-8-91	Appropriation for detention of impounded waters from the Tarhe Dam.
18-92	6-8-92	Appropriation of permanent easement and right-of-way interests for levee and fill behind levee at Tarhe Dam.
38-98	6-15-98	Authorizes the Community Development Department to purchase property at 113 West Walnut St.
3-03	2-10-03	Authorizes purchase of 4.997 acres located at 815 Lawrence St. for \$1.00.
48-03	10-27-03	Purchase of 16.69 acres located at 403 South Ewing St. for \$1.00.
68-03	12-22-03	Purchase of 1.494 acres located at 403 South Ewing St. for \$1.00.
56-04	10-4-04	Purchase of two parcels totaling 25 acres for \$1,000,000.
60-04	10-18-04	Authorizes the purchase of 10 City lots to obtain a safe crossing point across Fair Ave. at Thomas Ewing Jr. High.
52-05	7-18-05	Authorizes the appropriation of fee simple interests in certain real property for the purpose of environmental conservation and revitalization.
75-05	11-28-05	Purchase of a 0.0052 acre parcel on West Fair Ave. for \$3,000.
28-06	7-17-06	Authorizes the purchase of 698 Lawrence St. from Warthman Investment Properties, Ltd.
60-07	12-17-07	Accepts quit claim deeds for public street right-of-way and public utility purposes for the property described in Exhibits A-1, A-2, B-1 and B-2.
26-13	12-3-13	Authorizes the Service-Safety Director to accept five (5) acres, more or less, of property situated in Section 28, Township 14 North, Range 18 from Berne Township.
6-14	4-14-14	Authorizes the Service-Safety Director to accept 0.678 acres, more or less, of property situated in Fairfield City Zane's Original Town Plat, Seventh Square, Plat Book 1, Page 2.
26-15	12-7-15	Authorizes the Service-Safety Director to accept 2.164 acres, more or less, from the Fairfield County Board of Commissioners situated in Section 30, Township 15, Range 18 of Parcel No. 0533181100 and known as the Infirmary Cemetery.
39-17	12-11-17	Authorize the Service-Safety Director to accept approximately 26 acres, more or less, of property situated in Sections 27 and 34, Township 15 North, Range 19 West, Greenfield Township, Fairfield County, from the Fairfield County Land Reutilization Corporation.
5-18	3-26-18	Authorizes the Mayor to accept 2.495 acres, more or less, of property located within Parcel Number 05350231.92 from Fair-Com Rentals, Ltd.
10-19	5-6-19	Authorizes the Service-Safety Director to accept approximately 10 acres of property in Township 14, Range 19, Sections 2 & 3, from Fairfield Homes, Inc.
12-19	7-5-19	Authorizes the Service-Safety Director to accept approximately 21 acres, of property in Section 33, Township 15, Range 19, Township of Greenfield, from the estate of D. Merrill Bowers.
17-20	9-28-20	Authorizes the Mayor to enter into an agreement to purchase approximately 0.982 acres, more or less, of real property identified as Parcel Number 0535023192 from Fair-Com Rentals Ltd.
22-20	10-26-20	Authorizes the Mayor to enter into an agreement to purchase approximately 0.14 acres, more or less, of real property identified as Parcel Number 0535118000 from Wayne A. Hedges and Lorena J. Hedges.
29-21	9-27-21	Authorizes the Mayor to enter into an agreement to accept approximately 0.076 acres, more or less, of real property identified as Parcel Number 0532027400, from Fairfield County Land Reutilization Corporation.

TABLE G - LEASE OF PROPERTY

Ord. Book

<u>& Page</u>	<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
F-161	590	6-24-18	Land fronting on Front St. between Wheeling St. and Main St.
F-161	1059	9-26-27	The Hocking Canal lands from the State.
J-35	46-45	8-13-45	Grounds for City dump from Mrs. Alva Erick.
D-197	590	6-24-18	Land fronting on Front St. between Wheeling St. and Main St.
J-122	25-46	3-25-46	To State for a radio antenna on water reservoir Lot.
J-331	70-48	12-27-48	Market House property.
J-339	3-49	1-24-49	Gravel bank south of City.
J-434	19-50	3-13-50	Land for off-street parking from Ohio Bell Telephone Co. on W. Wheeling St.
K-41	71-51	11-12-51	Market House property.
K-204	4-53	1-26-53	Market House property.
K-384	77-54	12-27-54	Part of the Lancaster Lateral Canal and the passage way along the east side.
M-153	58-64	8-10-64	Lots 15 to 25, inclusive, in the Carbon Works Addition from Ray-O-Vac Div. of Electric Storage Battery Co. for park purposes.
N-81	26-68	6-10-68	Authorizes lease for Market House property.
O-56	31-70	6-8-70	With Houdaille Industries, Inc. for plastic industrial plant location.
O-79	39-70	6-22-70	Deed acceptance and lease for location of Houdaille Industries, Inc.
Q-46	28-73	7-11-73	With Scott Lumber Co. for commercial facility.
Q-58	37-73	9-10-73	With Scott Lumber Co. for commercial facility.
17-74	3-11-74		Terminates lease with Fairfield County District Library.
38-76	8-23-76		Authorizes lease for library facilities in City Hall to Fairfield County District Library.
28-77	6-27-77		Accepts realty and authorizes lease to Lancaster Glass Corp. for industrial development.
15-80	4-14-80		Amends Ord. 39-70.
31-82	8-2-82		With Society Bank for a parking lot on Chestnut St.
16-86	4-28-86		With Federal Government for 100 square foot parcel at Water Plant.
31-89	8-14-89		Lease for City property described in Schedule A.

TABLE H - GRADE LEVELS AND CURB LINES

Ord. Book

& Page Ord. No. Date Description

I-110 Unno. 3-28-1839 Main St.
 I-112 Unno. 4-9-1839 Bruce, 2nd, Columbus, 4th, Mulberry, Wheeling, Chestnut and Mill Sts.
 C-69 Unno. 7-16-1855 Changing grade of those parts of Broad St. north of Main St. between Main and Wheeling Sts. and between Wheeling and Mulberry Sts.
 C-111 Unno. 10-10-1860 Walnut St. between 4th and Maple Sts.
 C-162 Unno. 2-2-1866 Chestnut St. between Broad Alley and Maple St.
 C-191 Unno. 9-5-1867 Broad St. between Wheeling and Mulberry Sts.; repealing Section 2 and parts of Sections 3 and 4 of Ord. of 7-16-1855.
 C-251 Unno. 11-23-1870 Alley in rear of the Tallmadge and Shaeffer Blocks on Main St.
 A-6 Unno. 6-16-1879 Main St. east of Maple St.
 A-19 Unno. 8-28-1882 That part of High St. lying between North Alley and Lundy's Lane.
 A-20 Unno. 11-13-1882 E. Wheeling St. from Zane's Section to Diagonal St.
 A-24 Unno. 2-26-1883 E. Wheeling St. from Zane's Section to Diagonal St.
 A-55 Unno. 8-23-1886 Sidewalks and curbing on both sides of Main St. from the canal to Maple St.
 A-67 Unno. 10-18-1886 Maple St.
 A-76 Unno. 10-25-1886 Mulberry St. east.
 A-152 Unno. 2-26-1890 Repealing parts of Ord. of 10-18-1886 re Maple St. and condemning additional property.
 A-159 Unno. 8-11-1890 Columbus St. north from Lundy's Lane through Caffee's Addition.
 A-162 Unno. 11-24-1890 Maple St. between Main St. and Wheeling St.
 A-218 Unno. 5-9-1892 Curb grade on Lake St. between Broad St. and High St.
 A-233 Unno. 9-12-1892 Alley between Wheeling and Mulberry Sts.
 A-233 Unno. 9-12-1892 Walnut St. from Maple St. to Mt. Pleasant Ave.
 A-239 Unno. 4-7-1893 Mt. Prospect Alley between Walnut St. and Carpenter's Alley.
 A-245 Unno. 12-4-1893 Mulberry St. from Broad St. to a point 120-1/2 ft. east of Broad St.
 A-245 Unno. 12-11-1893 Curb grade of Pearl Ave. on east side.
 A-248 Unno. 1-22-1893 Locust St. from Maple St. to Mt. Pleasant Ave.
 A-253 Unno. 4-15-1894 Tenant St. from Main St. to Walnut St.
 A-254 Unno. 4-15-1894 Curb grade on Mill St. from east side of Broad St. to a point 380 ft. east of Broad St.
 A-256 Unno. 8-17-1894 Broad St. from Perry and Columbus Sts. to Lundy's Lane.
 A-263 Unno. 8-17-1894 Canal St. from Mulberry St. to Lundy's Lane.

Ord. Book

& Page Ord. No. Date Description

A-267 Unno. 8-17-1894 Wheat St. from Walnut St. to Lawrence St.
 A-269 Unno. 8-17-1894 Maple St. from Main St. to German St.
 A-273 Unno. 6-24-1895 Winding St. from Broad St. to Porter St.
 A-274 Unno. 6-24-1895 Porter St. from Winding St. to High St.
 A-280 Unno. 12-23-1895 King St. from High St. to Maple St.
 A-296 Unno. 4-13-1896 Main St. from Broad St. to Maple St.
 A-310 Unno. 6-22-1896 Lundy's Lane from Columbus St. to a point 1,000 ft. west of Columbus St.
 A-312 Unno. 7-27-1896 Starret St. from Main St. to Wheeling St.
 A-313 Unno. 7-27-1896 Bank Alley from Starret St. to a point 228 ft. east of Starret St.
 A-314 Unno. 8-10-96 Lake St. from Broad St. to a point 647-1/2 ft. east of Broad St.
 A-319 Unno. 12-14-1896 Curb grade of Wyandotte St.
 A-32 1 Unno. 1-25-1897 Curb grade of Mill St. from Forest Rose Ave. to Broad St.
 A-328 Unno. 6-12-1899 High St. from Main St. to German St.
 A-342 Unno. 8-25-02 5th Ave. from High St. to Maple St.
 A-363 Unno. 8-15-1898 Union St. from Columbus St. to a point 600 ft. west of Columbus St.
 A-376 Unno. 6-12-1899 High St. from Main St. to German St.
 A-387 Unno. 8-13-1900 Mill St. from Broad St. to High St.
 A-418 Unno. 5-14-1900 Curb grade of Allen St. from Broad St. to High St.
 A-466 Unno. 7-8-01 Columbus St. from Reber Ave. to Park St.
 A-467 Unno. 7-8-01 Chestnut St. from Maple St. to Mt. Pleasant Ave.
 A-486 Unno. 10-14-01 6th Ave. from High St. to Maple St.
 A-487 Unno. 10-28-01 5th Ave.
 A-506 Unno. 12-1-02 Della Ave.
 B-23 Unno. 8-25-02 Sycamore St. from Walnut St. to the 1st alley south of Locust St.
 B-30 Unno. 11-24-02 Curb grade of Wheeling St. from High St. to Maple St.
 B-65 12 6-29-03 Repealing Ords. of 4-15-1894, 1-25-1897, 8-13- 1900, 10-28-01 and 8-25-02 re 5th Ave., formerly Mill St.
 B-66 13 6-29-03 Curb grade of 5th Ave. from Forest Rose Ave. to Maple St.
 B-73 18 7-17-03 5th Ave. from Columbus St. to Maple St.
 B-114 37 4-25-04 High St. from Main St. to Porter St.
 B-117 39 5-9-04 Curb grade of Maple St. from Main St. to the Hocking Valley R. R.
 B-144 54 7-11-04 Curb grade of Mulberry St. from High St. to Broad St.
 B-210 92 3-27-05 Curb grade of Mulberry St. from Broad St. to Maple St.
 B-236 107 7-17-05 Curb grade of Mulberry St. from Maple St. to Madison Ave.

Ord. Book

& Page Ord. No. Date Description

B-305 148 6-11-06 Pearl Ave. from Mulberry St. to North Alley.

B-331	162	10-26-06	Curb grade of Garfield Ave. from Mulberry St. to Thurman St.
B-349	172	2-11-07	Alley in the Daugherty Addition.
B-357	181	4-22-07	Mt. Pleasant Ave. from Main St. to King St.
B-359	182	5-13-07	Mulberry St. from Madison Ave. to Cherry St.
B-360	183	6-24-07	Madison Ave. from Wheeling St. to 6th Ave.
B-378	195	9-9-07	Reber Ave. from Columbus St. to the 2nd alley west of Forest Rose Ave.
B-379	196	9-9-07	Pearl Ave. from Walnut St. to North Alley.
B-382	198	9-9-07	The alley south of 5th Ave. from Tenant St. to Maple St.
B-384	200	9-23-07	Allen St. west of Columbus St.
B-386	202	10-14-07	Columbus St. from Park St. to a point 1634.5 ft. north of Park St.
B-387	203	10-14-07	Zane Alley west of Columbus St.
B-388	204	10-28-07	King St. east of Maple St.
B-389	205	10-28-07	6th Ave. from Forest Rose to Madison Aves.
B-425	227	6-8-08	Harrison Ave. from Main St. to 6th Ave.
B-440	234	9-14-08	6th Ave. from Madison Ave. to Boyd St.
C-1	266	7-26-09	Park St. from Columbus St. to Caffee's Addition.
C-2	267	7-26-09	Thayer St.
C-35	289	5-9-10	Maple St. from Main St. to 1st alley north of Allen St.
C-38	290	5-23-10	Wheeling St. from High St. to Front St.
C-89	315	4-24-11	E. Wheeling St. from Maple St. to Cherry St.
C-140	340	2-26-12	King St. from Broad St. to Madison Ave.
C-145	342	2-11-12	High St. from 6th Ave. to Fair Ave.
C-147	343	3-11-12	Fair Ave. from Columbus St. to High St.
C-155	348	4-22-12	Washington Ave. from 6th Ave. to Fair St.
C-207	371	-	Porter, Locust and Perry Sts. from the circle to Winding St.
C-292	412	2-23-14	N. Columbus St. from Park St. to Forest Rose Cemetery.
C-350	428	6-22-14	Zane Alley from High St. to Broad St.
C-417	459	4-26-15	Alley north of 5th Ave. from Broad St. to High St.
C-446	470	7-26-15	Harrison Ave. from Main St. to Hocking River Ditch.
C-458	474	7-26-15	W. Wheeling St. from Front St. to Washington Ave.
C-470	482	9-27-15	Lincoln Ave. from Front St. southwesterly.
C-472	483	9-27-15	Grade of East St. from Fair Ave.
D-12	501	4-24-16	E. King St. from Madison Ave. to East St.
D-17	505	5-8-16	Mt. Ida Ave. from Broad St. to the west corporation line.
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D-18	506	5-18-16	W. Wheeling St. from Front St. to Washington Ave.
D-59	521	8-14-16	E. Main St. from Cherry St. to Ewing St.
D-106	S39	1-8-17	E. Chestnut St. from Ewing St. to Baldwin's Run.
D-111	541	2-12-17	Garfield Ave. from Mulberry St. to the Hocking River Ditch.
D-231	607	10-14-18	W. 5th Ave. from Harrison Ave. to the west corporation line.
F-64	1018	12-27-26	S. Columbus St.
F-121	1039	4-25-27	Eastwood Ave. from Fair Ave. to 5th Ave.
I-195	67-41	8-11-41	Reese Ave.

TABLE I - ZONING MAP CHANGES

EDITOR'S NOTE: Zoning districts are classified by letter as follows:

- A - Single Residence District
- B - Multiple Residence District (B1, B2 and B3)
- C - Commercial District (C1, C2 and C3)
- D - Light Industrial District
- E - Heavy Industrial District
- F - Mobile Home District

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H-415	1914	4-2-39	Area bounded by 1st alley south of E. Main, S. Maple, E. Chestnut and Tenant Sts. from A to B. Land near intersection of Fair and Van Buren Aves. from A to E.
H-448	1938	6-12-39	Area bounded by 7th, Roosevelt, 6th and Jefferson Aves. from A to E.
H-578	2039	-	(a) Area bounded by E. Main St., 1st alley east of Maple St., E. Chestnut St. and S. Maple St. from A to B. (b) Area bounded by W. Fifth Ave., 1st alley east of Forest Rose Ave. Union Ave. and Forest Rose Ave. from A to B. (c) Area bounded by S. High St., E. Walnut St., 2nd alley west of High St. and first alley north of Walnut St. from A to B. (d) Area bounded by W. Fair Ave., Harrison Ave., 1st alley north of Fair Ave. and Washington Ave. from A to C . (e) Area bounded by E. Locust St., S. Ewing St., 1st alley north of E. Locust St. and Della Ave. from A to B.
H-580	2041	-	(a) Area bounded by Main St., Zane Alley, Pearl Ave., Tenant St. from C to A. (b) Area bounded by E. Wheeling St., 1st alley south of Wheeling St., 1st alley west of Mt. Pleasant Ave. and Mt. Pleasant Ave. from A to B. (c) Area bounded by 1st alley south of Main St., 1st alley north of Walnut St., S. Ewing St. and 1st alley east of Ewing St. from A to B. (d) Area bounded by W. Wheeling St., W. Main St., 1st alley west of Welsh St. and Welsh St. from A. to C.

(e) Harmon Ave. from A to C.

H-589 2050 4-22-40 Harmon Ave. from 1st alley north of E. Main St. north to City Hospital Grounds from A to C.

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H-599 2055 - (a) Area bounded by E. Allen St., 1st alley east of N. Broad St. 6th Ave. and N. Broad St. from A to C, except east half of Graf Lot at 622 N. Broad St. from A to D.

(b) Area bounded by 1st alley north of Wheeling St., 1st alley west of Maple St. and E. Wheeling St. and Pearl Ave. from A to B.

(c) Lot 10 in Hunter 2nd Addition on E. Chestnut St. from A to D.

(d) Lots 135 to 137 in Cedar Hts. Addition from A to E.

H-596 2059 - (a) Area bounded by 1st alley east of Pierce Ave., W. Main St., Pierce Ave and W. Wheeling St. from A to C.

(b) Area bounded by 1st alley east of Washington Ave., W. Wheeling St., Washington Ave. and W. Wheeling St. from B to C.

(c) NE corner of Cherry and Angle Sts. from A to C.

(d) Lots 1 to 30 in Highland Subdivision of Eastwood Addition. Setback changed from 60 to 45 ft.

(e) West side of Pierce Ave. from 8th to Fair Aves. from A to B.

I-14 2068 - 3 areas from A to B and bounded as follows:

(a) E. Chestnut St., S. Maple St., 1st alley south of Chestnut St. and Tenant St.

(b) Park St., N. Columbus St., W. Fair Ave. and 1st alley west of Columbus St.

(c) N. Cherry St. 1st alley south of Mulberry St., Oakwood Ave. and 1st alley north of Mulberry St.

I-20 2073 7-16-40 North side of W. Wheeling St. from George St. west to 1st alley from A to B, and setback line changed from 60 to 40 ft. in Thomas B. Cox, Jr.'s 6th Addition.

I-35 2083 - (a) West side of Garfield Ave. from 7th to 8th Aves., all of Balmer's Subdivision and Strigle's Subdivision and all land north of Mulberry St. in Isabella Addition No. 2 from A to B.

(b) West side of Harrison Ave. from 6th to 7th Aves. and east side of Rutter Ave. from Frederick St. to Fair Ave. Setback changed from 60 to 40 ft.

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I-71 2096 - (a) South side of E. 6th Ave. in 200 Block from A to B.

(b) 120 W. Allen St. and area bounded by Broad St. 6th Ave., 1st alley west of Broad St. and Allen St. from A to B, except 627, 637, 639 N. Broad St. from A to C.

2096 - (c) NE corner of King St., and Mt. Pleasant Ave. from A to B.

(d) Lot 136 in Brooks Addition from B to C.

(e) Old Methodist Parsonage at 328 N. High St. from A to B.

I-109 5-41 1-27-41 Area bounded by Maple St., Chestnut St., 1st alley west of Mt. Pleasant Ave. and Walnut St. from A to B.

I-123 13-41 3-10-41 Property owned by John Behrens on SW corner of Cleveland Ave. and S. Broad St. from A.

I-139 20-41 - (a) Area bounded by 1st alley west of High St., 1st alley south of 5th Ave., 1st alley east of Broad St. and 5th Ave. from A to B.

(b) Properties fronting E. Mulberry St. between Catawba and Mt. Pleasant Aves. from A to B.

I-140 21-41 4-28-41 Property of John Hoskins on SW corner of Fair Ave. and High St. from B to C, and Farmers Co- operative Harvesters Machine Co.'s Addition from A to D.

I-163 38-41 5-26-41 (a) North side of Wheeling St. from Madison Ave. to the east school property from A to B.

(b) Lots 7 to 14 in Dickson Subdivision from B to D.

(c) Lots 61, 62, 43 and 44 of Reese's 2nd Fairview Addition from A to C.

(d) 6.29 acres at NW corner of Fair Ave. and Front St. from A to C.

I-187 59-41 7-14-41 South side of Reber Ave. from A to B, and east side of Harrison Ave. from Main to Wheeling from A to C.

I-204 73-41 8-25-41 Both sides of N. Broad St. and Fair Ave. to 1st alleys changed. Setback on north side of W. Wheeling from George St. to 1st alley west from 55 to 48 ft.

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I-212 79-41 9-22-41 North side of W. 6th Ave. from 1st alley west of Broad St. to Maywood Ave. and south side of E. Allen from 1st to 2nd alley east of Broad St.: from A to B.

I-216 83-41 10-27-41 Land beginning at NW corner of Forest Rose and 5th Aves. from A and B to C.

I-217 84-41 10-27-41 Area bounded by Wheeling St., Harrison Ave., Mulberry St. and Welsh Ave. from B to C.

I-279 26-42 4-27-42 Area on east side of Welsh Ave. from Main St. to Wheeling St. from A to D.

I-402 130-42 12-28-42 Lot 5 in Curtis C. Cole's Pine Site Addition from C to D.

I-466 46-43 9-13-43 Setback line on north side of W. 8th Ave. between Jefferson and Grant from 60 to 45 ft.

I-492 68-43 11-8-43 Area on south side of E. Wheeling St. from Mt. Pleasant Ave. to Starret St. from A to C.

I-529 5-44 2-14-44 Lots 7, 8 and 9 in Block 4 of Chapin Addition from A to D.

I-530 6-44 2-14-44 Lots 5 to 26, inclusive, of Bauman's Addition from C to D.

J-64 72-45 11-12-45 Area bounded by Chestnut St., Pearl Ave., Walnut St. and High St. from A to C; 0.303 acres on N. Columbus St. from C to D.

J-90 97-45 12-20-45 Lots 182 and 183 in Timmes' Addition from A to C.

J-111 14-46 2-25-46 Area bounded by Chestnut St., south corporation line, Fulkerson Ave. and Penna. R.R. from A to E.

J-114 17-46 3-11-46 2nd lot north of Angle St. on east side of N. Cherry St. from A to C.

J-115 18-46 3-11-46 Lot 11 in Maple St. Addition from A to C.

J-127 29-46 4-8-46 Change of classification from A to E.

J-134 35-46 5-13-46 Lots 321 to 324 in Reber's Addition, Lots A, B and C in Delaney's Subdivision, Lots 671 to 673 in Tenant's Addition, Lots 773 to 776 in Garaghty's Addition and Lot 6 in Hettlinger's Subdivision from B to C; 2nd lot west of alley west of Madison on south side of King St. from A to B.

J-160 55-46 8-26-46 Area bounded by Mt. Pleasant Ave., Lot 112, Zane Alley and Chestnut St. from A to C.
 J-169 63-46 10-14-46 Lots 1 to 3 in Frank Berkley Addition from A to D.
 J-170 64-46 10-14-46 Lot 9 in East Lawn Addition from A to B.
 J-171 65-46 10-14-46 Lot 770 in Peter's Addition from A to C.
 J-176 69-46 12-23-46 Part of Lot 796 in Philip Rising Addition from A to C.

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J-177 70-46 12-23-46 Land near Main St. and west line of Cedar Heights Addition from A to C.
 J-178 1-47 1-13-47 Part of Outlot 6 from A to B.
 J-189 11-47 4-28-47 Lot 190-S Hop Co.'s 3rd Subdivision from A to C.
 J-190 12-47 4-28-47 Setback of 47 ft. permitted on block south of 7th Ave. on east side of Goodwin Ave.
 J-200 21-47 5-26-47 Setback of Lots 114 to 122 on Spring St. between Mithoff Dr. and Talmadge Ave. from 60 to 47 ft.
 J-201 22-47 5-26-47 Lots 53 and 106 of Brook's Addition from E to A.
 J-227 43-47 10-13-47 Lot 7 in Constable's Subdivision and Lots 22 to 24 in Reese's Fairview Addition from A to C.
 J-228 44-47 10-13-47 Lots 1 to 9 in Block 16 in Chapin Addition from A to C.
 J-229 45-47 10-13-47 Setback of Lots 12 and 13 in Kemper's 2nd Subdivision of Reserve C., Baldwin Heights Addition.
 J-230 46-47 10-13-47 Lot 10 of Eyman Addition from A to C.
 J-231 47-47 10-13-47 Lot 44 of Park Addition on W. 6th Ave. from B to D.
 J-232 48-47 10-13-47 Setback line change.
 J-235 51-47 10-27-47 Lot 80 of Brook's Addition from A to C.
 J-237 53-47 11-24-47 Setback of Lots 23 to 27 in Lonreco Park Addition from 60 to 40 ft.
 J-248 1-48 1-12-48 East side of N. Broad St. between Union and 5th Aves. from A to B.
 J-257 8-48 2-23-48 Lot 6, Block 4, in Chapin Addition from A to C.
 J-269 17-48 3-22-48 Part of Outlots 8 and 89 in Northwestern Addition from C to E.
 J-270 18-48 3-22-48 Lots 121 to 131 in Cole-Martin-Towson Addition from A to B.
 J-278 25-48 4-12-48 Lots 10 to 18, Block 16, in Chapin Addition from A to B.
 J-289 35-48 6-28-48 Lot 256 in Pioneer Addition from A to B.
 J-291 37-48 7-26-48 Lot 10 of Cole's Pine Site Addition from A to B.
 J-299 42-48 8-9-48 Lot A in Haas Subdivision from C to B.
 J-300 43-48 8-9-48 Setback on east side of Ruth Ave. from Allen to Frederick Ave. from 60 to 40 ft.
 J-310 51-48 9-13-48 Setback on south side of Smithfield Ave. from 60 to 45 ft.
 J-322 62-48 10-25-48 Lots 69, 70 and 71 in Park Addition from B to D.
 J-327 67-48 11-22-48 Setback on east side of Madison Ave. from Smithfield St. north to terminus from 60 to 45 ft.
 J-332 71-48 12-27-48 Lot 33 of Wright's Addition from A to C.

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J-333 72-48 12-27-48 North side of Chestnut St. from High St. to Pearl Ave. from A to C.
 J-334 73-48 12-27-48 Lot 15 of Slocum's Addition from A to B.
 J-340 4-49 2-14-49 Four lots on N. Maple St. from A to B.
 J-371 29-49 5-23-49 Lots 208, 209 and 210 in Atkins' and Geisy's Addition from A to C.
 J-379 36-49 6-13-49 Lots 75 to 77 in Park Addition from A to D.
 J-400 54-49 10-24-49 Setback of 6 ft. permitted on Fair Ave. between Maple and Mt. Pleasant.
 J-412 65-49 2-30-49 Lot 93 in Fairview Addition from A to D.
 J-420 7-50 1-23-50 Lots 213, 214, 216 and 217 in Towson and Cole Addition from A to D.
 J-424 11-50 2-13-50 Correcting Ord. 7-50 re classification change.
 J-444 29-50 4-24-50 Property abutting south side of Lake St. north of 1st alley south of Lake St. between 1st alley east of Broad St. and Haas Addition from A to B.
 J-445 30-50 4-24-50 Setback of 40 ft. permitted on east side of Pierce Ave. between Beacon and Fair.
 J-484 54-50 7-24-50 Lands bounded by Mulberry St., Slocum St., and Wheeling Ave. and Welsh Ave. from B to C.
 J-485 55-50 7-24-50 Block 6 of L. C. Mithoffs 2nd Addition from A to E.
 J-486 56-50 7-24-50 Repealing Ord. 28-50 and amending Ord. 1866; classification change from A to C.
 J-506 56-50 8-14-50 Setback of 49 ft. permitted on Lots 6 to 10 in Turkenton Addition.
 J-544 100-50 12-26-50 Lots 13 to 19 in George Bolenbaugh's Addition from C to E.
 J-545 101-50 12-26-50 Setback of 42 ft. permitted on east side on N. George St. from Main St. to 1st alley north.
 J-572 16-51 3-26-51 Lots 94 and 95 in Carter's 2nd Addition from A to B.
 J-577 21-51 4-9-51 Lots 79 to 84 in Cedar Heights 2nd Addition from A to B.
 J-592 31-51 4-23-51 West side of Pierce Ave. from Main St. to 1st alley north from A to B.
 J-569 35-51 5-18-51 Repealing Ord. 30-51.
 J-597 36-51 5-28-51 Setback of Lots 78 to 85 on west side of Pierce Ave. from 8th to Fair Aves. from 42 ft. 1 in. to 38 ft. 6 in.
 K-11 46-51 6-25-51 Land east of Maud Ave., north of 5th Ave. and south west of C. & O. R.R. in Miller Addition from E to A.
 K-12 47-51 6-25-51 Area on south side of E. Wheeling from Mt. Pleasant Ave. to Starret St. from C to A.

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K-15 50-51 7-23-51 Lots 66 to 68 in Park Addition from B to D.
 K-16 51-51 8-13-51 Lots 13 and 14 of Marten's Hedges Addition from A to B.
 K-22 56-51 8-27-51 Outlots 12 and 13 in Bank Subdivision on E. Main St. from A to C.
 K-35 65-51 10-8-51 Lots 44 to 47 and 53 to 56 in Floyd T. Terry's Meadowview Subdivision Revised from A to C.
 K-38 68-51 11-12-51 Lot 23 of Benadum Addition: classification change and fixing setback line.

K-39 69-51 11-12-51 Lot 49 of Triangle Addition from A to C.
K-42 72-51 11-26-51 Lots 75 to 84 in Caffee's Addition, Park St. from A to B.
K-52 13-52 2-26-52 Lots 8 and 9 in Park Addition on W. 6th Ave. from B to C.
K-104 31-52 4-28-52 Setback of 39 ft. permitted on south side of Fair Ave. from Forest Rose Ave. to Memorial Dr.
K-105 32-52 5-12-52 Lots 173 to 183 and Lots 248 to 269 in Wright's Addition from A to C.
K-112 38-52 5-26-52 Lots 23 to 29 and 30 to 36 in Colonial Heights Addition from A to C, and changing a setback line.
K-130 44-52 6-10-52 Lot 94 of Miller's Subdivision from A to B, Lots 31 to 38 and 84 to 95 in Park Addition from B to C.
K-135 49-52 7-14-52 Lots 184 to 194, 237 and 247, 270 to 280 and 323 to 331 in Wright's Addition from A to C.
K-160 67-52 9-9-52 Block 1, Lots 1 to 12 of Chapin Addition from A to D.
K-161 68-52 9-8-52 Lots 151 to 172 in Wright's Addition from A to C.
K-166 73-52 10-14-52 Lots 16 to 24, Block 5, of Chapin Addition from A to B.
K-167 74-52 10-14-52 Lots 12, 22 and 23 of Charles and Rena Good Addition from A to B; Lots 3 to 21 from D to A.
K-169 76-52 10-14-52 Lots 1 to 6, Block 2, in Colonial Heights Addition from A to C and requiring 30-ft. setback line (fronting Emerson Blvd.)
K-177 81-52 10-25-52 Land on north side of Park St. 260 ft. east of Memorial Dr. from A to C.
K-216 15-53 3-10-53 Lots 39 to 43 in Park Addition from B to C.
K-217 16-53 3-10-53 Lot 20 in Maple St. Addition from A to B.
K-245 38-53 6-22-53 West half of Lot 2 and all Lot 3 in Skyline View Addition from A to B.
K-246 39-53 6-23-53 Lots 9 to 14 in Maher's First Addition from A to B.

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K-247 40-53 6-23-53 Land near north line of Ang. Development Corp.'s 2.47-acre tract from C to A.
K-251 44-53 7-13-53 Setback of 20 ft. permitted on Lot 22 of Charles and Rena Good's Addition.
K-271 62-53 8-24-53 Setback of 20 ft. permitted in Lots 77N, 78N, 78S and 32 ft. strip off south Lot 76 in Rising Park Addition.
K-294 4-54 2-8-54 North side of W. Fair Ave. from Forest Rose Ave. to Memorial Dr. from A to B.
K-306 12-54 3-22-54 Lot 21 on the corner of 6th Ave. and Maple St. from A to B.
K-311 17-54 4-12-54 Lot 63 in Maple St. Addition from A to C.
K 323 29-54 6-14-54 Lot 29 in Wright's Addition from A to B.
K-371 66-54 11-8-54 Lots 158, 159 and 166 of Hop Co.'s 3rd Subdivision from A to D.
K-372 67-54 11-8-54 Lots 151 to 172 and 178 to 183 in Wright's Addition from C to D.
K-383 76-54 12-13-54 Land near NE corner of Lot 8 in Cold Spring Hill Addition from A to C.
K-385 78-54 12-27-54 Setback fronting Edgewood Ave. in Reserve A, Wacker's Skyline View Addition, from 25 to 20 ft.
K-408 16-55 3-28-55 Lots 50 and 51 in Caffee's Addition from B to C.
K-416 24-55 4-25-55 Lot 13 in Edgewood Park Addition from A to C.
K-417 25-55 4-25-55 Setback change on Lot 90, William Cox's 7th Addition.
K-421 29-55 5-9-55 Part of Outlot 20, Bank Addition No. 2, of Outlot 5 (2. 11 acres) from A to C.
K-422 30-55 5-9-55 Lots 157 to 163, inclusive, in Cole-Martin-Towsen Addition from A to B.
K-459 55-55 8-8-55 Lot 730 in the Hunter and Weaver Addition from A to B.
K-462 57-55 8-22-55 West side of Pierce Ave. from Main St. to 1st alley north from B to A.
K-477 70-55 10-24-55 Lots 377 to 383, inclusive, on Van Buren Ave. in the Cole-Martin-Towson Addition from A to C.
K-478 71-55 11-28-55 Colonial Heights Addition: Lots 14 to 30, inclusive, in Block 2, Lots 8 to 19, inclusive, in Block 9, and all of Lots 6 and 7 of Block 9, except that portion within 130 ft. of Nelson Rd., from A to C.
K-489 78-55 12-28-55 Lots 158 to 160, inclusive in Hop Co.'s 3rd Sub division from D to A.
K-490 79-55 12-28-55 Lots 143 to 146, inclusive, in Zanes Original Town from C to A.

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K-491 80-56 12-28-55 Lots 124 to 127, inclusive, and east half of Lots 133 to 135, inclusive, in Zanes Original Town from C to A.
K-514 15-56 2-27-56 Lots 84 and 85 in Hop Co. 's Subdivision from A to C.
K-534 31-56 4-23-56 Reserve A (1.817 acres) in Lenmar Subdivision No. 1 from A to C.
K-575 64-56 10-8-56 Classification change from "C" Commercial to "D" Light Industrial. Lots 90 and 91 in Park Addition from C to D.
L-11 14-57 2-25-57 Setback change in Miller Addition Lots 31, 32, 33 and 34.
L-68 60-57 7-22-57 Lot 1 in Pioneer Addition from A to C.
L-69 61-57 7-22 57 Lots 1, 2 and 3, Block 2, in Chapin's Addition from A to C.
L-78 67-57 8-12-57 Change in setback line on Lot 11 in C. B. Whiley's Subdivision.
L-141 23-58 4-14-58 (a) Lots 13 to 21, inclusive (except that area lying east of a line 105 ft. west of Harmon Ave.), and Lot 24 in Good's Addition, from A to C.
(b) Outlot 8 (lying north of an alley north of Main St.), Outlot 9 (4.32 acres) and 1.33 acres of Outlot 10 except a 32-ft. front lot on N. Cherry St.) in the Bank Subdivision from A to C.
L-70 62-57 8-12-57 Consenting to a side yard waiver for the Lancaster Meter Parts Co.'s property on Baldwin Dr.
L-195 61-58 8-11-58 Waiving the side lot and intensity of use requirements on a Class A area 60 ft. off the rear of Lot 625 in Latta's Addition.
L-201 65-58 9-8-58 Lots 1, 2 and 3 in Terry's Meadowview Subdivision, Revised, and also 0.40 acres immediately east thereof from A to C.
L-205 69-58 9-8-58 Changing the setback from 60 to 54 ft. on Lot 15 in Highland Subdivision.
L-216 78-58 10-13-58 Lots 93 and 94 in the Brooks Addition from A to B.
L-244 15-59 3-9-59 Changing the setback from 60 to 40 ft. on the west side of Eastwood Ave. (Frederick St. to Fair Ave.) on Lots 12 through 22 in Rutter's 2nd Parkview Addition.

L-245 16-59 3-9-59 Changing the setback from 60 to 40 ft. on Lots 25 and 26 in the Edgewood Park Addition.

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L-277 42-59 7-14-59 Lots 13 through 24 in Block 10 of the Chapin Addition from A to B.

L-286 50-59 7-27-59 Changing the setback from 32.75 to 30 ft. on Lots 56 through 61 in Cedar Heights Subdivision No. 2.

L-309 67-59 9-28-59 Lot 727 in Hunter's Addition from A to B.

L-317 72-59 10-26-59 Changing the setback from 30 to 21 ft. on Lot 5 in T. B. Whiley's Addition.

L-336 87-59 12-28-59 Lots 224 through 232 in the Pioneer Addition from A to B.

L-343 4-60 1-25-60 Changing the setback from 60 to 40 ft. from the centerline of Marrose Dr. for Lots 44 through 49 in W. F. Wacker's Hills and Dales Addition No. 6.

L-389 40-60 6-13-60 Lots 311 through 321 and Lots 279 through 289 in the Cole-Martin-Towson Addition from A to E.

L-390 41-60 6-13-60 Lots 1 through 4 and 16 through 18, and Reserve A, in the Maher Park Addition from A to B.

L-391 42-60 6-13-60 Changing the setback from 60 to 35 ft. from the centerline of the street for Lots 29 through 32 in Wacker's Hills and Dales Addition No. 6, and Lots 8 through 10 in Wacker's Hills and Dales Addition No. 5.

L-392 43-60 6-13-60 Changing the setback from 60 to 50 ft. from the centerline of the street for Lots 133 through 139 in Reese's 2nd Fairview Addition.

L-406 57-60 7-25-60 Changing the setback from 60 to 40 ft. from the centerline of the street for Lot 1, Block 23, in the Chapin Addition.

L-409 59-60 8-8-60 Changing the setback from 60 to 40 ft. from the centerline of the street for Lots 302 through 305 in the Miller Addition. Lots 302 and 303 shall face Ohio Ave. and the setback line shall be determined by referring to Ohio Ave.

L-410 60-60 8-22-60 Changing the setback from 55 to 50 ft. from the centerline of the street for Lots 82 and 83 in the Park Addition.

L-421 68-60 9-12-60 Lots 6, 7, 10, 11, 22 through 29 and 47 through 50 in the Park Addition from B to C.

L-424 71-60 9-26-60 Changing the setback to 28 ft. from the center line of the street for 108W, 109W, 110 and 111 in the Pioneer Addition.
Changing the setback to 48 ft. from the center line of the street for Lots 209 through 212 in the Pioneer Addition.

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L-425 72-60 9-26-60 Lots 10 through 15, Block 4, in the Chapin Addition from A to C.

L-429 75-60 9-26-60 Lots 1 through 3 and 84 through 89 in Wright's Addition, except the east 40 ft. on Lots 84, 85 and 86, from A to C.

L-459 3-61 2-27-61 Changing the setback from 60 to 35 ft. from the center line of the street for Lot 55 in the Edgewood Park Addition.

L-499 39-61 8-14-61 Changing the setback from 60 ft. to the following number of ft. from the center line of Union St. in the Miller Subdivision: Lot 376 - 53 ft. on the west lot line to 45 ft. on the east lot line. Lots 377 through 385 - 45 ft.

L-508 46-61 9-11-61 Lots 7 through 15 Block 3 of the Chapin Addition from A to C.

L-519 55-61 10-23-61 Outlot 91, Auditor's Tract 12 (171 E. 6th Ave.) from A and C to C.

L-520 56-61 10-23-61 Changing the setback from 45 to 38 ft. from the centerline of the street for Lots 76-S and 77-N in the Rising Park Addition.

L-526 61-61 12-11-61 Lots 2 through 7 on E. Fair Ave. in John Widener's Addition from B to C.

L-533 1-62 1-8-62 Changing the setback of Lot 766 on S. High St., between Perry and Walnut Sts. in Carpenter's Addition, to 31.5 ft. from the center line of Walnut St. by changing the setback to 35 ft. from the center line of Perry St. and to 8 ft. from the center line of the alley west of High St.

L-555 18-62 4-23-62 Lot 81 in the Brooks Addition from A to C.

L-556 19-62 4-23-62 40 ft. of the north side of Lot 771 in Peters' 2nd Addition from A to C.

L-562 25-62 6-11-62 Lots 1 through 9, Block 18, in the Chapin Addition from A to B.

L-564 27-62 6-25-62 Changing the setback from 60 to 45 ft. from the center line of the street for Lot 1 and part of Lot 2 in Constable's Subdivision (corner of Hubert Ave. and Boving Rd.).

L-567 30-62 7-9-62 Lots 26 through 38 in the Brooks Addition from A to B.

L-570 32-62 7-9-62 The north side of W. Mulberry St. between Forest Rose Ave. and N. Columbus St. from A to C.

L-572 34-62 7-23-62 Changing the setback from 60 to 30 ft. from the centerline of Pershing Dr. and from 60 to 45 ft. from the center line of Claredon St. for Lots 22 through 24 in Edgewood Addition.

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L-599 53-62 9-24-62 Lots A, B and C of Ed. DeLancy's Subdivision from B to C.

L-603 57-62 9-24-62 Changing setback on north side of W. Chestnut St. between Dean Ave. and the alley west from 60 to 32 ft.

L-611 64-62 11-26-62 3.04 acres facing Tarhee and S. Broad Sts. from A to C.

L-612 65-62 12-17-62 Lots 3 and 4 and west part of Lot 5 in E. B. Henry's Addition from A to C.

L-613 1-63 1-28-63 Rear portions of properties between Memorial Dr. and Edgewood Ave. from A to C.

L-614 2-63 2-11-63 Lots 321W, 321E, 322, 323 and 324 in Reber's Addition from B to C.

L-615 3-63 2-11-63 Lots 203M, 203W, 204N and 204S in Hop Co.'s Addition from A to C.

L-624 12-63 3-11-63 Lot 46 and west half of Lot 47 in Louis Snyder's Addition from A to B.

M-25 43-63 8-12-63 Lots 616 and 617 in Caffee's Addition from B to C.

M-108 22-64 4-13-64 Lot 1 in Hop Co.'s Addition and Lots 1 through 6 in Isabel Addition No. 2 from A to C.

M-114	28-64	5-11-64	East and west sides of High St. from 5th Ave. to alley north of 5th Ave.
M 135	45-64	6-22-64	Lots 4, 5 and 6 in the Chapin Addition from A to C.
M-136	46-64	6-22-64	Corner of S. Maple and Walnut Sts. from B to C.
M-143	52-64	7-27-64	Lots 4, 5 and 6 in Carbon Works Addition from A to B.
M-152	57-64	8-10-64	Lots 564, 565, 557 and 558 in the City from A to C.
M-161	64-64	8-24-64	Changing setback to 36 ft. from St. center line of Lot 360 in Northwest Addition.
M-163	66-64	8-24-64	Auditor's Tracts 14, 15 and 16 from A to B.
M-174	76-64	9-28-64	East side of Forest Rose Ave. from North to W. Allen Sts. and north side of W. Allen St. to the 2nd alley east of Forest Rose Ave. from A to B.
M-187	85-64	10-26-64	Lots 72, 73 and 74 in the Parks Addition on Slocum St. from B to D.
M-193	91-64	11-9-64	Lots 34 through 38 in Carter's Addition from A to B.
M-227	26-65	2-22-65	Lots 12 SW, 13W, 13E and 14 in the Avondale Addition from A to B.
M-309	90-65	8-23-65	Outlots 6-1 and 6-1-NW from A to B.
M-324	104-65	10-11-65	Lot 8, Maher's 1st Addition from A to B.
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M-364	10-66	2-14-66	Rising Addition - Lots 788 to 793, Allen St., Maywood Ave. to first alley east from A to B.
M-365	11-66	2-14-66	Two parcels containing 3.83 acres and 101.26 acres, respectively, in Hocking and Berne Townships, respectively, to B.
M-381	26-66	3-14-66	Lanreco Park Addition No. 3, Lots 9 to 12 (1.04acres) from A to C-1.
M-382	27-66	3-14-66	1257.90 acres beginning at a point on north section line of Section 8 and existing corporation line at east line of Co. Rd. 313 to C-2, D and E.
M-433	69-66	5-23-66	Lot 9 in Hunter's 2nd Addition (E. Chestnut St.) from A to C-2.
M-438	73-66	7-11-66	Lots 151 through 158 of Barrett's Addition and Lots 1, 2 and 3 of Keystone Addition (west side of Boyd St. from 5th to 6th Aves.) from A to B.
M-442	77-66	7-25-66	Lots 246 through 249 of Carpenter's Addition (east side of Broad St. between Winding and Walnut Sts.) from C-2 to D.
M-451	84-66	8-8-66	80.87 acres being parts of Westview Hts. Addition and Colonial Hts. Addition in Greenfield Township to A.
M-483	106-66	9-26-66	Portions (296.49 acres) of Sections 28, 29, 32 and 33 to C-2 and B.
M-486	109-66	10-24-66	Lots 59 and 60 of Lanreco Park Addition No. 2 and Lot 1 of Addition No. 3 from A to C-1.
M-498	116-66	11-28-66	Part of Reserve "A", Little Brook Estates from A to B.
M-499	117-66	11-28-66	Lots 10 through 18, 797 E and 797 W in Rainey Addition and Lots 10 through 14 in Weidner Addition from A to B.
M-537	27-67	3-27-67	All lots abutting N. Columbus St. between Allen St. and Fair Ave. and extending west to the first alley west of Columbus St. and extending east to Maywood Ave. from C-2 to C-1.
N-27	97-67	10-31-67	1.65 acres near intersection of Emerson Blvd. and Hawthorne St. from A to C2.
N-32	100-67	11-27-67	All lots on south side of Wheeling St. from Starrett St. to Eastwood Ave. from A to B.
N-35	103-67	12-26-67	Property bounded by Pure Oil bunk plant, Lewis Ave., Talmadge Ave. and Mithoff Dr. from E to B.
N-44C	114-67	2-12-68	6.826 acres on Sheridan Dr. from A to B.
N-75	21-68	5-27-68	Lots 3N, 3S, 4N, 4S, 5E, 6, 7, 8, 9 and 10 in Floyd Wright's Addition on south side of Tiki Lane from A to C-1.
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N-96	36-68	8-26-68	Lot 5W in Floyd Wright's Addition on south side of Tiki Lane from A to C-1.
N-119	48-68	9-23-68	Lots 36-44 on East Fifth Ave. from A to B.
N-123	51-68	10-28-68	Parcel bounded by Ohio Ave., Hocking River, corporation line and Anchor Hocking Glass Corp. from E to A.
N-148	9-69	2-10-69	Lots 562 and 563 in Sifford Addition, Lots 569 and 570 in King Addition and Lots 640 and 641 in Latta Addition from B to C-1.
N-160	14-69	3-10-69	Lot 621 in Latta's Addition and Lots 36-44 (Auditor's Tracts) in Outlot 90 from A to B.
N-210	33-69	5-26-69	Lots 10-18, Block 23 in Chapin Addition from A to C-2.
N-226	43-69	7-28-69	NE corner of Sixth Ave. and Forest Rose from A to C2.
N-268	67-69	11-10-69	SW corner of East Wheeling and Cherry Sts. from B to C2.
O-7	4-70	2-9-70	Four tracts from A to C2.
O-9	5-70	2-9-70	451.466 acres owned by Anchor Hocking Corp. from A to E.
O-52	27-70	6-8-70	Part of Eagle Park Addition bordered by C. & O. Railroad on the south, Hocking River on the west, Memorial Dr. on the east and Walnut St. on the north from E to C2.
O-53	28-70	6-8-70	Lots 89 through 93, 95 and 96 in Pioneer Addition (Pierce Ave. from Eighth Ave. to Fair Ave.) from A to B.
P-28	59-70	11-9-70	Lots 43 through 50 in Auditor's Tract (north side of Fair Ave. from first alley east of Columbus St. to alley west of Fairgrounds entrance) from A to B.
P-45	67-70	12-28-70	Part of NW Quarter of Section 4, Twp. 14 (Berne), Range 18 from A to C2.
P-90	31-71	6-28-71	18.92 acres in Blocks 4 and 5 of Westview Hts., Emerson Dr. vacated between Whittier St. and Memorial Dr. and part of Block of Colonial Hts. Addition from A to B; 1.96 acres at SE corner of Block 3 of Westview Hts. Addition and 5.96 acres at SW corner of Block from A to C2.
P-93	32-71	6-28-71	11.75 acres bounded on north by West Fair Ave. and on the east by Becks Knob Rd. from A to C2.
P-133	53-71	11-22-71	12.354 acres beginning at SE corner of Lot 9 in Floyd Wright Subdivision from A to B.
P-159	61-71	12-27-71	All lands presently zoned B rezoned to B3.
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P-197	15-72	3-27-72	South half of the block bounded by S. Mt. Pleasant, S. Wyandotte St., E. Chestnut St. and E. Walnut St. from A to B.
P-212	24-72	4-24-72	Lots 64 through 74 in Pioneer Addition on west side of Pierce Ave. between Seventh and Eighth Aves. from A to C1.
P-213	25-72	4-24-72	Lots 4, 5 and 6 in Lanreco Acres Subdivision from A to C2.
P-218	28-72	5-22-72	Lot 423 in Northeastern Addition from A to B-1.
P-278	59-72	12-11-72	19.233 acres on U. S. Route 22 from A to B-3.
P-280	60-72	12-11-72	4.042 acres on U.S. Route 22 from A to C-2.
Q-1	1-73	1-8-73	650 E. Mulberry St. from A to C-2.
Q-40	23-73	5-14-73	1438 and 1450 Sheridan Dr. from A to C-1.
Q-51	31-73	8-27-73	Tract in SW corner of east half of Lot 133 in the Original Town from A to C-1.
Q-85	46-73	11-12-73	115 W. Fair Ave. from B to C-1.
Q-86	47-73	11-12-73	Lots 297 to 303 of Cole Martin Towson Addition in 1500 block of W. Fair Ave. from A to C-2.
Q-87	48-73	11-12-73	Two parcels of 1.57 and 0.488 acres from A to C- 2.
Q-89	49-73	11-12-73	Lot 158 in Pioneer Addition and the vacated alley to the east from A to E.
Q-90	50-73	11-26-73	Lots 344 NW, 344 NE, 344 N. 344S, 345 W. 346W, 345E, 346E, 347 W and 347 E on W. Sixth Ave. from A to C-2.
29-74	5-28-74		Site of Fairfield County Maintenance Garage from A to C-2.
39-74	8-12-74		4.64 acres owned by Stan Risch in Section 31, Township 15, Range 18 from A to B-2.
40-74	8-12-74		7.27 acres being part of NW Quarter of Section 4, Berne Township from A to B-2.
30-75	9-22-75		25.16 acres in the north half of Section 31, Pleasant Township 15, Range 18, from A to C-2.
32-75	10-27-75		3.501 acres in Section 11, Township 14, Range 19, from A to C-1.
15-76	2-9-76		4.706 acres in Section 7, Township 14, Range 18, from A to E.
26-76	4-11-76		Lots 58 to 62, 70 to 80 and 82 to 93, and vacated alley beside Lots 84 and 85 of F.E. Terry's Meadowview Subdivision Revised, from A to C-2.
29-76	6-14-76		Real estate described in Exhibit A from A to D.
30-76	6-21-76		20.199 acres in the vicinity of Pierce Ave., Canal and Route 33, from A to C-2.
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31-76	6-28-76		Lot 81 In Terry's Meadowview Subdivision Revised, from A to C- 2.
32-76	7-2-76		15.32 acres and 7.99 acres of Ralph Sharpnack's property located on East Main St. at Sells Rd., from Residential to C-2.
42-76	9-27-76		Lot 30 on Cedar Hill Rd. and Lot 39 on West Chestnut St. from E to C-2.
46-76	10-11-76		Site purchased by City from LeRoy E. Ellinger in 1969 in vicinity of Lawrence St, and Ewing St, from A to E.
9-77	2-28-77		Lots 773, 774, 775 and 776 of Garaghty's Addition, Lots 671, 672 and 673 of Tennant' s Addition and the south side of East Main St, between Tennant St. and the Perry & Co. building from B-3 to C-1.
10-77	3-14-77		10.311 acres located approximately one mile east of the intersection of Rainbow and Sheridan Drs, from A to C-2.
11-77	3-14-77		10.048 acres located approximately one mile east of the intersection of Rainbow and Sheridan Drs. from A to B-3.
25-77	6-13-77		Parcel One, Tracts 1 (1.9463 acres) and 2 (11.67 acres) and Parcel Two, Tracts 1 (6.45 acres), 2 (0.64 acres) and 3 (37 acres) from Class A single residential and nonconforming industrial to Class D Light Industrial; Parcel Two, Tracts 4 (23.97 acres) and 5 (11.20 acres) zoned Class E Heavy Industrial.
53-77	11-14-77		16.63 acres on Fair Ave. and another 1 acre tract from Class A Single-Family Residence to Class C-2 Commercial.
3-78	1-23-78		Lot 11 of Ewings Second Addition (415 Wheat St.) from Class E Heavy Industrial to Class C-2 Commercial.
6-78	3-13-78		1242 S. Broad St. from Class A Residential to Class C-1 Commercial.
7-78	3-27-78		Two tracts of 1 and 0.75 acres in Section 7 of Berne Twp. No. 14, Range 18 from Class A Single-Family to Class D Light Industrial.
19-78	8-14-78		Part of NW Quarter of Section 4, Township 14, Range 18, Congress Lands from Class A and C-2 to Class B-3.
27-78	9-25-78		Lots 53 to 63 in Pioneer Addition from Class A Single Residence to Class C-2 Commercial.
36-78	12-11-78		Lots 12 to 19 in Sixth Ward, Bowman and Graf Subdivision from Class A Single Residence to Class B-3 Multiple.
14-79	2-26-79		Lots 82 through 85 in Pioneer Addition from Class B-3 Multiple Residence to Class C-2 Commercial.
42-79	7-2-79		Parcel in Pleasant Twp., Twp. 15, Range 18, SE quarter of Section 30 from Class A Single Residence to Class C-2 Commercial.
5-80	2-25-80		Lots 5 through 16 in Block 24, Chapin Addition from Residential to Class C-2 Commercial.
7-80	3-10-80		Lots 149 through 161 in Brooks Addition, 1100 Block of East Locust St. from Class A Residential to Class B-1 Multi-Families.
11-80	4-14-80		Lot 4 in Block 24 of Chapin Addition from Class A Residential to Class C-2 Commercial.
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12-80	4-14-80		Willock Addition 699 from Class B-3 Multiple Residence to Class C-2 Commercial.
17-80	4-28-80		Lots 1 through 6 in Block 6 of Chapin Addition from Class A Single Residence to Class C-2 Commercial.
27-80	6-9-80		124 Gay St. from Class C-2 Commercial to Light Industrial.
29-80	7-14-80		1.377 acres in SW quarter of Section 34, Twp. 15, Range 19 from Class A Single Family to Class C-2 Commercial.
45-80	9-22-80		Outlot 2 (631 N. Broad St.) from Class B-3 Multiple Residence to Class C-2 Commercial.
50-80	10-13-80		Lot 768 West in Peters Addition and Lot 695 West in Willock Addition from Class A Residential to Class C-1 Commercial.
51-80	10-13-80		1522 W. Chestnut St. from Class A Residential to Class B-1 Multiple Dwelling .
60-81	11-23-81		3 acres adjacent to and west of St. Marks Parish and West Chestnut St. from Class A Single-Family Residence to Class B-3 Multiple Family Residence.
61-81	11-23-81		Lot at 1756 Granville Pike from Residential to Class C-2 Commercial.
14-82	3-29-82		Lots 27 through 37 from Class A Residential to Class E Heavy Industrial.

- 12-84 4-23-84 48.21 acres bounded on the west by Ewing Run, on the north by land owned by Jones & Barry, on the east by land owned by First Baptist Church, and on the south by land owned by Ohio Power from Class A Residential to Class B-3 Multiple Residence.
- 19-84 6-11-84 3.52 acre tract described in a deed to the Gesling Co. from Class C- 2 Commercial to Class D Industrial.
- 22-84 6-25-84 A 6.07 acre tract described in a deed to the 3-S Co. from Class B-3 Multiple Residence to Class C-2 Commercial.
- 39-84 9-24-84 7.9479 acres in Township 15, Range 18 and Section 28 from Class A Residential to Class B-3 Multiple Residence.
- 2-85 1-14-85 0.445 acres on Sheridan Dr. from Class A Residential to Class 1 Commercial.
- 16-85 3-25-85 Lots 2 and 3 of Hubert Spires Addition (1470 E. Main St.) from C- 2 Commercial to C-3 Commercial Filling Stations.
- 17-85 3-25-85 0.517 acres at NW corner of Memorial Dr. (U. S. 33) and Sixth Ave. from C-2 Commercial to C-3 Commercial Filling Stations.
- 23-85 6-24-85 10.378 acres owned by the Community Hospital from B-3 Multiple Residence to C-2 Commercial; all lots in Outlots 11 and 12 from A Single Residence to C-1 Commercial; Lots 1, 2, 22 and 23 in Good Addition from B-3 Multiple Residence to C-1 Commercial.

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- 5-86 2-10-86 Lots 317 to 322 of Wright's Addition and Lot 30 of Park Addition from Class A Residential to C-2 Commercial.
- 18-86 6-23-86 Lands bounded by east line of Bauman and Graf Addition, north line of Hubert Ave., north line of Eyman Second Addition, south line of SR 33, centerline of Tarhe Run, south line of Eyman Second Addition extended, south line of Eyman Second Addition, south line of Beatty Addition and west line of Lots 4 through 8 of Beatty Addition from Class E Heavy Industry to Class B3 Multiple, Residence.
- 41-86 11-24-86 Approximately 1/2 acre on SR 188 from Heavy Industrial to Residential.
- 22-87 8-24-87 53.743 acres of River Valley Associates from Class A Single Residence to Class C-2 Commercial.
- 23-87 8-24-87 228.469 acres of River Valley Associates from Class C to Class C-2 Commercial.
- 9-88 2-8-88 1.626 acres being part of Section 36, Township 15, Range 19 from Class A Single Residence to Class C-2 Commercial.
- 12-88 3-2-88 Lots 702 to 704 and 711 to 713 from B-3 Multiple Residence to C-2 Commercial.
- 27-88 9-12-88 7.391 acres in Section 11, Twp. 14, Range 19 from A - Single Residence to B-3 Multiple Residence.
- 7-89 2-13-89 Lots 4, 5 and 6 in Siffords Addition from C-2 Commercial to C-3 Commercial.
- 40-89 11-27-89 Lots 731 to 736, formerly being Lots 11 to 16 of Hunter and Weavers Addition from A Single Residence to B-3 Multiple Residence.
- 44-89 12-18-89 Lots 771 South, 772, 622 to 624, formerly being Lots 5 South, and 6 in Robinson J. Peter's Addition N. and Lots 2 to 4 in John Latty's Addition N. from A Single Residence to B Multiple Residence.
- 05-90 2-26-90 2.4563 acres in Section 2, Tier 14, Range 19 Congress Lands from A Single Residence to B-3 Multiple Residence.
- 09-90 4-23-90 Lot A School Lot in H.C. Drinkle's Addition from A Single Residence to C-2 Commercial.
- 18-90 8-13-90 South-half of Lot 190 of Third Subdivision of Lot 14 of the Subdivision of Lot 13 of the Hop Co. Addition from C-2 Commercial to A Single Residence.
- 36-90 12-10-90 Lot 571 of City numbering system from Class B-3 Multiple Residence to Class C-1 Commercial.
- 21-91 5-13-91 Lots 13 to 17 of Dan Danehey's Second Addition from Class A Single Residence to Class B-2 Multiple Residence.
- 29-91 6-24-91 Lot 768 East and Lot 695 East of City numbering system from Class A Single Residence to Class B-3 Multiple Residence
- 12-92 4-27-92 Lot 1, Block 7 of Chapin Addition from Class A Single Residence to Class C-2 Commercial.
- 14-92 6-8-92 Lots 2 and 3 of Block 7, Chapin Addition from Class A Single Residence to Class C-2 Commercial.

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- 22-92 8-10-92 Lots 11 to 17 in Outlot 11 of the Bank Addition from Class C-1 Commercial to Class C-2 Commercial
- 27-92 9-28-92 Land on State Route 37 from Class A Single Residence to Class C-2 Commercial.
- 28-92 10-12-92 Approves conditional use of single residence use in Lots 27 to 30 in Carbon Works Addition being in a Class E Heavy Industry District.
- 36-92 11-9-92 Rear 166 feet of Auditor's Parcels 12 and 13 of Outlot 20, Banks Second Addition from Class A Single Residence to Class C-2 Commercial.
- 13-93 2-8-93 Newly annexed Sections 26, 27 and 35 of Greenfield Twp. from B 1 Business to C-2 Commercial; I-1 Industrial to E Heavy Industrial and A-1 Restricted Agricultural to A Single Residence.
- 17-93 5-10-93 1.006 acres on Memorial Dr. from Class A Single Residence to Class C-2 Commercial.
- 32-93 8-9-93 Lots 348 through 351 of Northwestern Addition from Class A Single Residence to Class B-1 Multiple Residence.
- 15-94 4-11-94 Lots 1 through 12 of Lanreco Park Addition No. 3 from Class A Single Residence to Class C-2 Commercial.
- 21-94 5-23-94 96.977 acres being in Greenfield Township, Section 27, Township 15, Range 19, Congress Lands from Class E Heavy Industrial to Class A Residence, from Class E Heavy Industrial to Class A Single Residence.
- 23-94 6-13-94 Charles and Rena Good Additional from Class C-1 Commercial to C-2 Commercial.
- 32-94 10-10-94 Lot 16 of Boystel-Fauble Addition from Class A Single Residence to Class C-2 Commercial.
- 38-94 11-14-94 10 acres in Section 2, Township 14, Range 19, lying SW of Indiana Ohio Rail System, west of Brumfield Road and south of Fair Avenue from Class A Single Residence to Class C-2 Commercial.
- 41-94 11-28-94 Crites two property tracts from Class B-2 Multiple Residence to Class C-2 Commercial.
- 2-95 1-9-95 3.78 acres beginning at intersection of South Maple St. and SW corner of White's Addition from Class A Single Residence to Class C-2 Commercial.
- 13-95 4-10-95 Lots 725 and 726 of Hunter Weaver Addition from Class A Single Residence to Class C-1 Commercial; Lot 727 from Class B-3 Multiple Residence to Class C-1 Commercial.
- 33-96 10-28-96 78.153 acres annexed by Ordinance 14-96 from Class I-1 Industrial to Class C-2 Commercial.
- 34-96 10-28-96 Property annexed by Ordinance 27-96:
Tracts A (79.873 acres), B (100 acres) and C (58.722 acres) from Class RR Rural Residential to Class E Heavy Industrial; Tract D (33.896 acres) from Class GB General Business to Class E Heavy Industrial; Tract E (203.29 acres) from Class RR Rural Residential to Class D Light Industrial.

3-97 1-27-97 2.701 acres on State Rt. 37 from A Single Residence to C-2 Commercial.

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- 6-97 2-10-97 Approves two family residence on Lot 212 North of Carpenter's Addition, in an E Heavy Industrial District.
26-97 5-12-97 Lots 1 through 5, inclusive in Block 3 of Chapins Addition from A Single Residence to C-2 Commercial.
41-97 6-9-97 Property described in Exhibit A to this ordinance from Hocking Township District of Rural Residential to C-2 Commercial.
42-97 6-9-97 Property described in Exhibit B-1 to this ordinance from Hocking Township District of Rural Residential to A Single Residence.
44-97 8-11-97 Property described in Exhibit A and B to this ordinance annexed from Hocking Township zoned B-3 Multiple Residence District.
45-97 8-11-97 Property described in Exhibit A to this ordinance zoning property annexed from Greenfield Township C-2 Commercial.
64-97 10-27-97 Property described in Exhibit A to this ordinance from its current Greenfield Township classification of R-1 and B-1 to C-2 Commercial.
69-97 10-27-97 The 4.998 acres annexed to the City on application of the Lancaster Board of Education zoned A Residential.
71-97 11-24-97 Property described in Exhibit A from A Single Residence to B-3, Multiple Residence.
72-97 11-24-97 Property described in Exhibit A from A Single Residence to C-2 Commercial.
6-98 1-26-98 Property described in Exhibit A from B-3 Multiple Residence to C-1 Commercial.
7-98 1-26-98 Lots 809 through 814, inclusive, in J.C. Kinkead's Addition from A Single Residence to B-1 Multiple Residence.
13-98 2-23-98 124, 122, 120 and 118 North Ewing Street from A Single Residence to C-2 Commercial.
14-98 2-23-98 Property located between US 33 and North Columbus St. and immediately east of Mount Carmel's Health Systems River View Surgery Center from A Single Residence to C-2 Commercial.
15-98 2-23-98 Lots 618E and 618W of Coffee's Addition from A Single Residence to C-2 Commercial.
16-98 2-23-98 Property described on the attached Exhibit A from Greenfield Township classification R-1 to E Heavy Industrial.
17-98 2-23-98 Property located at 1981 Granville Pike from Pleasant Township B- 1 to C-1 Commercial.
23-98 3-23-98 59.11 acres annexed from Greenfield Township under Ord. 32-92, from Greenfield Township R-1 Residential to A Single Residence Classification.
29-98 4-13-98 15 acres lying northeast of the Monmouth St. and Chartwell Drive Intersection from B-3 Multiple Residence to C-2 Commercial.
36-98 6-8-98 The Ruble farm at Whiley Road from D Light Industrial and C-2 Commercial to D Light Industrial.
50-98 9-28-98 1.968 acres off North Columbus St. at the Ety Road Intersection from E to C-3.
67-98 12-28-98 Lots 13 through 24 inclusive in Block 8 Chapin Addition from A to B-3.
30-99 5-24-99 4.971 acres being the southwest corner of South Maple and Canal Streets.

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- 44-99 8-23-99 Newly acquired property from the Schultz Annexation zoned A and C-1.
54-99 10-11-99 The west side of Pierce Ave. between North Memorial Drive and the north line of the Chaplin Addition from A to C-2.
55-99 10-11-99 2413 East Main St. from A to C-2.
58-99 10-25-99 Forty feet off the east side of Lot 615 from B-3 to C-2.
59-99 10-25-99 Lots 705, 706, 714 and 715 from B-3 to C-2.
63-99 11-8-99 Newly acquired property from the Morris annexation zoned A.
12-00 4-24-00 Newly acquired property from the Water Works Hill annexation zoned A.
27-00 9-25-00 1.5 acres along the north side of West Fair Ave. between 1829 and 1941 West Fair Ave. from C-2 to C-3.
33-00 11-13-00 Newly acquired property from the Anderson/Claypool annexation of 55.156 acres zoned A.
17-01 6-11-01 Adopts a revised Zoning Map for the City.
28-01 10-22-01 15.8 acres of newly annexed territory zoned RM-O with PUD overlay for Fetter property; RS-1 for Carpico property; and RS-1 for Seifert property.
1-02 1-28-02 Property at 918 North Washington Ave., known as Lot 7 Chapin Block 4 from RS-4 to IL.
2-02 3-11-02 8.101 acres at the northeast corner of Pleasantville Road and Wheeling Road from RS-3 to RM-2.
13-02 5-13-02 Parcels abutting the north side of East Main St. from Sells Road to Lot 31 Rae High Acres from RM-2 to CG.
26-02 8-12-02 The rear portion of 2413 East Main St. from RS-3 to CG.
31-02 8-26-02 7.52 acres on the west side of Sells Road approximately 350 feet north of Deerfield Court from RS-3 to RM-O.
37-02 9-27-02 The Venz/Kimmel annexation zoned RM-O with a PUD overlay.
54-02 12-16-02 Properties at 84W, 85M and 86M Wright's Addition in the 700 Block of West Fair Ave. from RS-4 to CG.
8-03 4-14-03 Lots 27, 28 and 29 Avondale Addition from RS-4 to RM-2.
15-03 5-12-03 11.267 acres on the west side of Pleasantville Road from RS-3 to RM-2 with a PUD overlay.
17-03 6-9-03 Lots 7 and 8, Block 6, Chapin Addition from RS-4 to CG.
21-03 6-23-03 4.219 acres on Pleasantville Road north of Concordia Drive from RS-3 to CN.
22-03 6-23-03 The rear 70 feet of 2505 East Main St. from RS-3 to CG.
28-03 8-11-03 40.6 acres at 160 Elm St. from RS-4 to AG.
38-03 9-8-03 17.32 acre on the west side of South Broad St. north of Angela Drive.
39-03 9-22-03 Amends the zoning map for various properties to correct zoning boundaries to conform with property lines.
47-03 10-27-03 35.72 acres at the northwest corner of Rainbow Drive and Pleasantville Road known as the Noland Property to a PUD overlay.
51-03 11-24-03 The 13.049 acres known as the One Write Co. Annexation located on the north side of East Main St. between State Route 37 and US 22 zoned IM.

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- 52-03 11-24-03 The 1.403 acres known as the Cole Annexation located on the west side of High St. at the northern boundary of the City zoned RS-1.

59-03	12-8-03	The 7.78 acres known as the Keller Kirn annexation located on the west side of Stringtown Road at the northern boundary of the City zoned RS-3.
14-04	3-22-04	The 27.18 acres on the south side of Fair Ave. at the Ety Road intersection zoned with a PUD overlay.
25-04	4-26-04	The 87.5 acres on the northwest corner of West Fair Ave. and Ety Road intersection from RE to RM-O, RS-3, CG, and with 12.9 acres to remain RE all within a PUD overlay.
28-04	5-24-04	5.14 acres at 766 South Maple St, from RS-3 to CG.
29-04	5-24-04	Lots in the Lincoln Ave. Subdivision and the Pioneer Addition Subdivision from RS-4 to CG.
44-04	8-9-04	10.751 acres at 2130 West Fair Ave from RS-3 to CN.
57-04	10-4-04	31.271 acres on the north side of Wesley Way 1/3 of a mile south of Tiki Lane.
62-04	10-18-04	Restores zoning on certain properties to the zoning that existed on the CAD based zoning map prior to adoption of the G.I.S. based zoning map.
64-04	11-8-04	840 Harrison Ave., Lot 3 of the Wright Addition from CG to RS-4.
10-05	2-14-05	60 acres of recently annexed property zoned RM-3 and 150 acres zoned IH.
4-06	2-13-06	22.46 acres off of Pleasantville Road and Wesley Way from RS-3 to RM-3 with a Planned Unit Development Overlay.
5-06	2-13-06	68.412 acres off Sheridan Drive and Fairlane Drive from AG to RS- 1.
17-06	4-24-06	169.548 acres off of State Route 188 and Whiley Road from CH and RS-1 to RM-3; from RS-1 and CH to RS-3 and from RS-1 to CH.
21-06	5-8-06	Lots 13 through 19 of the G.G. Bolenbaugh Addition on Fair Ave. just south of U.S. 33 from IM to CG.
25-06	6-12-06	Upon the passage of the ordinance to accept the annexation of 24.524 acres such land zoned CG.
35-06	9-11-06	Parcel No. 053-63-113-00 being 17 acres north of Elizabeth Drive at Trace Drive and Linda Lane from RM-2 to RM-2 with a PUD overlay from the development known as Hunter Trace Estates.
10-07	3-12-07	The 4.879 acres annexed by Ordinance 9-07, zoned CG.
24-07	4-9-07	The 49.053 acres annexed by Ordinance 24-07, zoned RS2.
30-07	5-21-07	15.813 acres (Ross Cast Metals, Inc.) from IH to CH.
13-08	4-14-08	17.4 acres known as the Cyril Scott annexation zoned 1M.
23-08	8-25-08	The 1.595 acres known as the Ohio State Highway Patrol Post zoned IH- Industrial Heavy District.
25-08	8-25-08	The 15.483 acres known as Cedarlan Park zoned CN-Commercial Neighborhood.
4-10	2-22-10	Approximately .56 acres, Parcel Number 05340023.10 located near Lynwood Lane and Pleasant Run from RS-3 (Residential Single- Family High Density District) to CG (Commercial General District).
5-10	2-22-10	The NW corner of W. Fair Avenue and Ety Road which is part of the Reserve "D" of the existing subdivision entitled "The Overlook Section 1" from RM-0/PUD (Residential Multi-Family District) to CG (Commercial General District).
21-10	11-22-10	The .134 +/- acres known as the Nauman Annexation zoned Commercial General.
11-11	9-26-11	The 10.246 +/- acres known as the Olivedale Annexation zoned Commercial Neighborhood, the same as the other Olivedale property.
11-15	8-24-15	Amends the Zoning Map subject to passage of the annexation of 3.284 acres in Greenfield Township to zone such property Commercial General (CG).
20-15	11-23-15	Amends the Zoning Map subject to the passage of the annexation of 0.838 acres in Pleasant Township.
21-15	11-23-15	Amends the Zoning Map subject to the passage of the annexation of 5.633 acres in Pleasant Township.
2-17	1-9-17	184.264 acres on the west side of Whiley Road and north of Royalton Road from CH High Intensity Commercial, RM-3 Residential Multifamily and RS-3 Single Family Residential to CH High Intensity Commercial, IH Heavy Industrial and RS-3 Single Family Residential.
18-18	10-22-18	The 4.971 acre property at the southwest corner of the Canal Street and South Maple Street intersection with Parcel Number 0535026000 from IH Industrial Heavy to IL Industrial Light.
4-20	3-23-20	Amends the Zoning Map subject to passage of the annexation of 76.877 +/- acres in Greenfield Township to establish zoning as follows:
		a. Commercial Neighborhood (CN)
		b. Residential Multi-Family (RM-2)
		c. Residential Single Family (RS-3)
11-20	6-8-20	18.939 acre property between North Memorial Drive and North Columbus Street/Nelson Road Parcel Numbers 0532152400, 0532152600, 0532144900, 0532145000 from RS-3 Residential Single Family and CG Commercial General to RM-2 Residential Multi-Family with a Planned Unit Development (PUD) overlay.
12-20	6-8-20	21.000 acre property consisting of three parcels located along Campground Road and including the existing residence address 1443 Campground Road Parcel Numbers 0531004100, 0531004300, and 0531004110 from RS-1 Single Family Residential to IH Industrial Heavy District.
13-20	6-8-20	12.646 acres tract, Parcel Number 0534000700, behind 2535 East Main Street from RS-3 Single Family Residential to CG Commercial General.
38-21	11-22-21	Subject to passage of the annexation of 25.8723 +/- acres in Hocking Township, change of zoning from NB (Neighborhood Business) in Hocking Township to CH (Commercial High Intensity) zoning district in the City of Lancaster.

TABLE J - ANNEXATION OR DETACHMENT OF TERRITORY

Ord. Book

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
C-256	Unno. 3-2-1871	Territory in Berne, Hocking, Greenfield and Pleasant Twps. contiguous to the City.
A-151	Unno. 6-27-1890	Land beginning at a point on the range line between Hocking and Berne Twps.
A-160	Unno. 8-11-90	Land beginning at a point on the range line between Hocking and Berne Twps.
A-293	Unno. 4-13-1896	A portion of the Forest Rose Cemetery.
A-354	Unno. 9-27-1897	Territory beginning at the intersection of the Cincinnati and Muskingum Valley R.R. and the existing east corporation line.

A-355 Unno. 2-14-1898 Territory beginning at a point in the old corporation line in the center of Cleveland Ave.
E-123 804 5-14-23 19.53 acres in Berne Twp., part of the NW quarter of Section 5, Twp. 14, Range 18.
E-245 870 4-28-24 Application of Mary Taylor, et al., for land west of City in Hocking Twp.
E-394 935 7-13-25 Application of George C. Callahan, et al., for land east of City in Section 5, Twp. 14, Range 18.
F-468 1214 9-23-29 (a) Part of NE and SE Quarters of Section 2, Twp. 14, Range 19, in Hocking Twp.
(b) Part of SW Quarter of Section 5, Twp. 14, Range 18, in Berne Twp.
(c) Part of Section 5, Twp. 14, Range 18, in Berne Twp.
G-254 1403 4-25-32 All that part of Edgewood Park and Avondale Additions not now a part of the City.
I-40 2086 8-26-40 38 acres being part of east half of Section 2, Twp. 14, Range 19.
I-219 86-41 10-27-41 38 acres being east half of Section 2, Twp. 14, Range 19.
I-434 18-43 3-22-43 25.48 acres beginning at the SW corner of the SE Quarter of Section 31.
J-304 46-48 8-23-48 Application of W. F. Wacker for 67.03 acres in Greenfield Twp., being part of Sections 35 and 36, Twp. 15, Range 19.
K-76 6-52 1-28-52 Application of Anchor-Hocking Glass Corp. for 64.4385 acres being part of Section 35, Twp. 15 (Greenfield), Range 19.
K-290 77-53 12-28-53 Application of Thomas C. Taylor, et al., for part of Section 5, Twp. 14, Range 18, in Berne Twp.
K-341 44-54 7-26-54 Application of Robert S. Grandstaff, et al., for 98 acres being part of Section 32, Twp. 15, Range 18.

Ord. Book

<u>& Page</u>	<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
K-399	10-55	2-22-55	Annexation application of Johnson and Griffith, et al., for 30.798 acres near Baltimore Rd. at NW corner of Forest Rose Cemetery.
K-484	73-55	11-28-55	Annexation application of Wacker for 13.9 acres in Section 25 and 30.54 acres in Section 26, Twp. 15, Range 19, and Lots 16 to 20, inclusive, and part of Lots 11 to 15 and 21 to 31, inclusive, in Wacker's Hills and Dales Addition No. 3.
K-486	75-55	12-12-55	Annexation application of Nabergal for 201.59 acres being part of Section 2, Twp. 14, Range 19 and part of Section 35, Twp. 15, Range 19.
K-574	63-56	10-8-56	Application of Sitterley, Nusbaum and Paulin for 3.58 acres in Pleasant Twp. beginning at the NE corner of Rising Park.
K-584	70-56	11-26-55	Application of Fairfield Hills, Inc., for 80.29 acres in Pleasant Twp. beginning 110.22 ft. west of the SE corner of Section 32.
L-41	39-57	5-27-57	Application of Van Gundy and Turner for 60.053 acres, being part of Sections 26 and 35, Greenfield Twp. beginning at a stone at the NE corner of Section 35.
L-224	86-58	11-24-58	Application of Board of Education for 28.673 acres being part of Section 31, Twp. 15, Range 18, Fairfield County.
L-275	40-59	6-8-59	Application of Board of Education for 37.93 acres, being part of Section 32, Twp. 15, Range 18, and beginning at the NE corner of the Huffer-Durbin Addition, except the right of way of Sheridan Dr. and Pleasantville Rd.
L-434	78-60	10-10-60	Application of Supman for 7.03 acres, being part of the SW Quarter, Section 12, Twp. 14, Range 19, except a 25-ft. roadway right of way along the north side thereof.
L-545	12-62	4-9-62	Application of Pratt for 9.01 acres, being part of the north half of Section 7, Twp. 14, Range 18, and beginning at the SE corner of the Alkire- Hornbeck Addition and west line of Maple St.
L-594	50-62	8-27-62	Application of Brown for 149.70 acres being part of Sections 2 and 11, Twp. 14, Range 19.
M-35	51-63	9-9-63	Annexation application of Kermit C. Sitterley for 0.516 acres near NE corner of Rising Park.
M-102	18-64	3-23-64	Accepting annexation application of Jack Supman for 2 tracts (12.3 and 34.460 acres).
M-341	111-65	11-22-65	Annexation application of Chas. E. Reed for 15.60 acres being a portion of Floyd E. Terry's Meadowview Subdivision Revised.
M-351	121-65	12-27-65	Annexation application of Robt. U. Hastings, Jr., for 2 tracts containing 2.16 acres.

Ord. Book

<u>& Page</u>	<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
M-365	11-66	2-14-66	Annexation of 2 parcels containing 3.83 acres and 101.26 acres, respectively, in Hocking and Berne Townships, respectively.
M-382	27-66	3-14-66	Annexation of 1257.90 acres beginning at a point on the north section line of Section 8 and existing corporation line at east line of Co. Rd. 313.
M-419	58-66	5-9-66	Annexation of part of Section 11 and part of Section 12, including all of Lottie Starners Subdivision.
M-451	84-66	8-8-66	Annexation of 80.87 acres being parts of Westview Hts. Addition and Colonial Hts. Addition in Greenfield Township.
M-483	106-66	9-26-66	Annexation application of H.R. Byrd for 296.49 acres in Sections 28, 29, 32 and 33 of Pleasant Township.
M-563	49-67	4-25-67	Annexation of 20.85 acres being part of Section 3, Township 14, Range 19, Fairfield County.
M-569	55-67	6-12-67	Annexation of 47.95 acres in Sections 25 and 26, Township 15, Range 19, Fairfield County.
N-33	101-67	12-11-67	Annexation application of Walter Graf for 39.65 acres in Sections 25 and 36, Twp. 15, Range 19, Fairfield County.
N-34	102-67	12-11-67	Annexation of 20.85 acres in Section 3, Twp. 14, Range 19, Fairfield County.
N-36	104-67	12-26-67	Annexation application of Walter Graf for 15.48 acres in SE Quarter of Section 12, Twp. 14, Range 19, Fairfield County.
N-37	105-67	12-26-67	Annexation application of James Ross for 11.15 acres in Section 31, Twp. 15, Range 18, Fairfield County.
N- 44	112-67	1-8-68	Annexation application of Walter Graf for 4.80 acres in SW Quarter of Section 12, Twp. 14, Range 19, Fairfield County.
N-44D	115-67	2-12-68	Annexation application of Kermit Sitterley for 143.95 acres in Section 31 and 90.29 acres in Section 30,

Pleasant Twp.

- N-97 37-68 8-26-68 Annexation application of Walter Graf for 166.15 acres in Hocking Twp.
 N-98 38-68 8-26-68 Annexation application of Charles Reed for 62 acres in Section 25 and 31.04 acres in Section 36, Greenfield Twp.
 N-177 21-69 4-28-69 Annexation application of Kermit Sitterley for 146.71 in Pleasant Twp.
 N-234 49-69 8-11-69 Annexation application of Walter Graf for 1410.60 acres in Greenfield and Hocking Twps., Fairfield County.
 N-236 50-69 8-25-69 Annexation application of E. R. Lentz for 101.53 acres in Pleasant Twp.

Ord. Book

& Page Ord. No. Date Description

- O-250 46-70 8-25-70 Annexation application of Harry Shaw for 68.80 acres in Pleasant Twp.
 P-81 26-71 4-26-71 Annexation application of Herbert C. Shank, Jr. for 22.9 acres being part of SW Quarter of Section 33, Twp. 15, Range 18.
 P-96 34-71 7-12-71 Annexation application of Ralph Dittoe for 86.067 acres in Hocking Twp.
 P-230 35-72 7-26-72 Annexation application of Robert E. Johnson, agent for 3.854 acres in Pleasant Twp.
 Q-24 14-73 3-12-73 Annexation application of Charles E. Reed, agent for 33.40 acres in Pleasant Twp.
 Q-26 15-73 3-12-73 Annexation application of Charles E. Reed, agent for 26.37 acres in Hocking Twp.
 Q-29 17-73 3-12-73 Annexation application of Norman Ogilvie, agent for 370.02 acres in Beme Twp.
 Q-54 34-73 8-27-73 Annexation application of David Jones, agent for 48.50 acres in Pleasant Twp.
 Q-56 35-73 8-27-73 Annexation application for Denise Waits for 7.03 acres in Hocking Twp.
 23-74 4-22-74 Annexation application of William Sitterley, agent for 2 tracts of 9.02 and 29.32 acres in Pleasant Twp.
 10-75 2-24-75 Application of Clark R. Graham, agent, for 1.76 acres in Pleasant Twp.
 24-75 8-11-75 Application of Ronald L. Hawk, agent, for 130 acres in Pleasant Twp.
 40-75 12-22-75 Application of Joseph T. Clark, agent, for 7.70 acres in east half of Section 30, Pleasant Twp. 15, Range 18.
 54-76 12-13-76 Annexation application of First Baptist Church, agent, for 18.268 acres in Pleasant Twp.
 8-78 4-10-78 Annexation application of Steven O. Williams for 198.36 acres in Pleasant Twp.
 9-78 4-10-78 Annexation application of Ronald L. Hawk for 11.47 acres in Pleasant Twp.
 17-78 6-26-78 Annexation application of Raymond E. Sifford for 4.285 acres in Hocking Twp.
 32-79 5-14-79 Application of Raymond Sifford for 20.67 acres in Hocking Twp.
 10-81 2-23-81 Application of Peter M. Vandervoort for 7.54 acres in Pleasant Twp.
 18-87 7-13-87 Application of Glimcher Development Co. for territory in Greenfield Twp.

Ord. No. Date Description

- 07-90 4-9-90 Annexation application of Leonard Gorsuch for 46.042 acres in Pleasant Twp.
 27-90 9-10-90 Annexation application of David C. Martens, agent for annexation of territory in Pleasant Twp., as described in Exhibit A.
 29-90 9-24-90 Annexation of five tracts in Pleasant Twp. containing 40.69 acres, 0.50 acres, 1.9 acres and 9 acres in Pleasant Twp.
 35-91 8-26-91 Annexation of 1.653 acres near Wheeling Rd.
 4-92 2-24-92 Annexation of 61.52 acres in Pleasant Twp.
 9-92 3-23-92 Annexation of 422.19 acres in Sections 26, 27 and 35 of Greenfield Twp.
 24-92 9-14-92 Annexation of 32.062 acres in Pleasant Township.
 32-92 10-26-92 Annexation of 59.11 acres in Greenfield Township.
 37-93 8-23-93 Annexation application of Rick Snider for 41.39 acres in Pleasant Twp.
 28-95 11-27-95 Annexation of 1.21 acres being Lots 3 and 4 in Block one of the West View Heights Addition.
 14-96 4-22-96 Annexation of 78.153 acres being the Ety property on Ety Road.
 27-96 6-24-96 Annexation application of Ray Michalski, agent for Ruble, Babbert, Inc. and Cupp Living Trust for 477.65 in Sections 4 and 5, Township 14, Range 19.
 15-97 2-24-97 Annexation application of Kraner property in Greenfield Twp. for 106.317 acres on Wilson Rd.
 20-97 4-14-97 Annexation application of Mary M. Gorsuch in Nocking Twp. for 46.485 acres in Section 11, Township 14, Range 19.
 33-97 5-12-97 Annexation of 12.362 acres from Greenfield Twp. on the application of Ray Michalski.
 40-97 6-9-97 Annexation of 38.957 acres on Sections 26 and 35 of Greenfield Twp. on the application of William J. Sitterly.
 68-97 10-27-97 Annexation of 4.998 acres in Pleasant Township on the application of the Lancaster City School Board of Education.
 42-98 6-29-98 Annexation of property owned by the City in Pleasant Township and Known as Water Works Hill.
 46-99 8-23-99 Annexation of 11.51 acres on the application of Schultz.
 64-99 11-8-99 Annexation of 1.135 acres known as the Morris property.
 32-00 11-13-00 Annexation of 55.156 acres in Greenfield Township known as the Anderson/Claypool annexation.
 27-01 10-22-01 Accepts an application for the Carpico Drive annexation for 15.8 acres in Pleasant Township.
 36-02 9-27-02 Accepts an application for the Kimmell/Venz (Villas at Sherman Bluff Project) annexation for 9.38 acres in Pleasant Township.
 41-03 9-22-03 Consents to the annexation of Keller-Kirn Park.
 53-03 11-24-03 Accepts an application for the One Write Co. annexation for 13.049 acres in Pleasant Twp.
 54-03 11-24-03 Accepts an application for the Blake M. Cole annexation for 1.403 acres in Pleasant Twp.
 11-05 2-14-05 Accepts an application for the Gary and Lucinda Young annexation of 213.685 acres in Greenfield Township.
 60-05 9-26-05 Annexation of 68.412 acres owned by Robert and Gwendolyn Shahan in Pleasant Township.
 2-06 1-23-06 Accepts an application for the annexation of property owned by 3-S Co. for 68.412 acres in Pleasant Township.
 23-06 5-22-06 Consents to the annexation of 24.524 acres in Greenfield Township.
 37-06 9-11-06 Accepts a petition for the annexation of 24.524 acres in Greenfield Township.
 46-06 11-13-06 Consents to the annexation of 4.879 acres in Greenfield Township.
 49-06 11-27-06 Consents to the annexation of 49.053 acres in Greenfield Township.
 9-07 3-12-07 Consents to the annexation of 4.879 acres in Greenfield Township.

- 25-07 4-9-07 Accepts an application for the annexation of 49.053 acres owned by the Smith Family Real Estate Ltd.
- 12-08 4-14-08 Accepts a petition for annexation of 17.4 acres known as the Cyril Scott annexation in Pleasant Twp.
- 18-08 6-9-08 Consents to the annexation of 1.595 acres for the new Ohio State Highway Patrol Posts.
- 19-08 6-9-08 Consents to the annexation of 15.482 acres known as Cedarlan Park.
- 24-08 8-25-08 Accepts a petition for the annexation of 1.595 +/- acres in Hocking Township for the New Ohio State Highway Patrol Post.
- 26-08 8-25-08 Accepts a petition for the annexation of 15.483 +/- acres in Hocking Township for Cedarlan Park.
- 46-08 10-20-08 Accepts a petition for the annexation of 76.799 +/- acres in Greenfield Township and Pleasant Township for Keller-Kim Park.
- 8-09 4-27-09 Accepts a petition for the annexation of 1.020 acres in Greenfield Township for the new wastewater plant.
- 20-10 11-22-10 Accepts the annexation of .134 +/- acres known as Nauman Annexation.
- 3-11 2-28-11 Accepts a petition for the annexation of .134 +/- acres in Greenfield Township.
- 4-11 4-11-11 Authorizes a petition for the annexation of 10.246 +/- acres known as Olivedale Senior Facility in Hocking Township.
- 12-11 10-3-11 Detachment of a tract which is comprised of 7.117 acres, Section 27 of Township 15, Range 19, Fairfield County.
- 10-11 9-26-11 Consents to annexation for the Olivedale Parcel.
- 7-15 3-14-15 Amends Ord. 35-72 to correct the description of annexed property.
- 14-15 10-12-15 Accepts a petition for the annexation of 3.284 acres in Greenfield Township.
- 18-15 11-23-15 Accepts a petition for the annexation of 5.633 acres in Pleasant Township.
- 19-15 11-23-15 Accepts a petition for the annexation of 0.838 acres in Pleasant Township.
- 5-16 3-28-16 Conforming boundaries of the City and Pleasant Township and declare an emergency in the Sheridan Drive 1 Annexation.
- 11-16 3-28-16 Conforming boundaries of the City and Pleasant Township and declare an emergency in the Sheridan Drive 2 Annexation.
- 3-20 3-23-20 Accepts a petition for the annexation of 76.877 +/- acres in Greenfield Township.
- 7-20 6-8-20 Confirming boundaries of the City of Lancaster and Greenfield Township pursuant to the regular annexation of 76.877 +/- acres in Greenfield Township.
- 16-20 8-10-20 Council authorizes the annexation of Parcel No. 0140112530 and Parcel No. 0140112520, for the development of "Bowers Park".
- 37-21 11-22-21 Accepts a petition for the annexation of 25.8723 +/- acres in Hocking Township.

TABLE K - CHANGE OF NAME

Ord. Book

Ord. No. Date Description

- I-35 Unno. 4-6-1847 That part of Johnstown Rd. lying north of Broad St. and the Greenfield Twp. line to Broad St.
- C-194 Unno. 2-21-1868 2nd St. to Columbus St.; Jackson and 4th Sts. to High St.
- A-210 Unno. 7-27-1891 Hop Ave. to Madison Ave.; Diagonal St. to Cheny St.; New St. to Chestnut St.
- A-320 Unno. 12-14-1896 Lundy's Lane to Fair Ave.
- A-320 Unno. 1-25-1897 Canal St. to Forest Rose Ave.
- A-445 Unno. 1-8-01 German St. to 6th Ave.
- A-446 Unno. 1-28-01 Mill St. to 5th Ave.
- A-483 Unno. 9-9-01 Hoover Ave. to Harrison Ave.; Danehy Ave. to Garfield Ave.; Deshler Ave. to Washington Ave.; Sinks Ave. to Pierce Ave.
- B-28 Unno. 10-16-02 Thurman St. to 7th Ave.; Stansberry St. to 8th Ave.
- C-231 382 6-9-13 Columbus Rd. to Maywood Ave.
- C-283 407 2-9-14 Thayer St. to Wilson Ave.
- C-414 457 4-10-15 Wilson Ave. to Kinkead Ave.
- D-75 527 10-9-16 Blackoler St. to Oakwood Ave.; East St. to Eastwood Ave.
- F-429 1189 6-10-29 1st Court to Weil Ave.; 2nd Court to Grand View Ave.; 3rd Court to Edgemont Ave.
- J-80 87-45 12-10-45 Fairview Ave. to Fairview Dr; Cowden Ave. to Baldwin Dr.; Baldwin St. to Brooks Ave.
- J-313 54-48 9-27-48 Front St. to Memorial Dr.
- J-355 15-49 3-14-49 Ohio Ave. in Olinger Addition to Olinger Ave.; Elm St. from the 1st street north of Main St. to Wheeling St.
- K-283 71-53 11-23-53 Pershing Dr. to Neoso Ave.
- K-298 8-54 2-8-54 Neoso Ave. to Pershing Dr.
- K-387 80-54 1-10-55 Hunter Blvd. between E. Main St. and Pleasantville Rd., to Kanawha Rd.
- K-547 43-56 6-11-56 Virginia Alley to Clark Alley.
- L-547 48-57 6-10-57 Wacker Dr. to Berwick Dr.
- L-290 54-59 8-10-59 Bounds Ave. to Skyline Dr.
- M-383 28-66 3-14-66 East Wilson Ave. to Woodcliffe Lane.
- M-597 78-67 7-24-67 Naming 12-foot alley off Reese Ave. north to the Penn. RR. as Olive Lane.
- N-23 94-67 10-9-67 Alley west of Front St. from South St. to the C. & O. RR. named Bradford Court.
- 4-80 2-11-80 1500 Block of East Fair Ave. to Sha Lane.
- 3-81 1-12-81 Coventry Place North and Chancer Dr. to Coventry Circle.
- 17-84 5-14-84 Cherry St. Park to Mary Burnham Park.

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- 26-89 5-22-89 Alley north of Automobile Club, between Forest Rose Ave. and Memorial Dr., named Triple-A-Way.
- 3-92 2-10-92 Bridge St. to West Allen St.; Whittier St. in Colonial Hts. Addition to Whittier Dr. South; Whittier Dr. in Brookdale Addition to Whittier Dr. North; Cold Spring Dr. to Plaza Way; U.S. Route 33 Expressway to South Memorial Dr.; frontage road parallel to U.S. Route 33 Expressway (old Route 33) to Old Logan Rd.
- 29-92 10-26-92 Old Columbus Rd., Northwest to North Columbus St.; Columbus- Lancaster Rd., Northwest to North Memorial Dr.
- 56-99 10-11-99 The section of the street now known as Eyman Ave. between the westerly most line of Champions Ave. and the

westerly line of the first north-south alley east of Fairfield Ave. named Stemen Ave.

21-00 6-26-00 Highland View Drive to Landcrest Drive.

12-05 2-14-05 Freedom Drive to Declaration Drive.

TABLE L - SPECIAL ASSESSMENTS

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C-216	Unno.	4-22-1869	For improving Union St. between Columbus St. and Broad St.
A-9	Unno.	4-23-1881	Improvement of sidewalks on Main St. east of Maple St.
A-29	Unno.	4-14-1884	Reassessment of costs of extending German St.
A-51	Unno.	6-28-1886	Property benefited by extension of Mt. Pleasant Ave.
A-83	Unno.	6-24-1887	Maple St. extension.
A-142	Unno.	9-23-1889	Broad St. from the R.R. to Main St.; Main St. from Broad St. to the Canal.
A-154	Unno.	3-24-1890	Allen St. from Broad St. to High St.
A-161	Unno.	9-22-1890	Additional special assessments for Broad St. from the R.R. to Main St. and from Broad St. to the Canal.
A-166	Unno.	3-24-1890	Allen St. from Broad St. to High St.
A-167	Unno.	12-15-1890	Columbus St., Canal St., Zane Alley sewer.
A-173	Unno.	2-23-1891	Additional assessments for Broad St. from the R.R. to Main St. and Main St. from Broad St. to the Canal.
A-188	Unno.	5-25-1891	Columbus St. from Main St. to Broad St.
A-193	Unno.	5-25-1891	Columbus St. from Main St. to Reber Ave.
A-203	Unno.	7-2-1891	Broad St. from Main St. to Lundy's Lane.
A-223	Unno.	9-5-1892	Main St. from Maple St. to Cherry St.
A-240	Unno.	6-12-1893	Alley between Main and Chestnut Sts.
A-242	Unno.	9-25-1893	Alley between Main and Chestnut Sts. from Broad to High Sts.
A-271	Unno.	4-8-1895	Pearl Ave. from Wheeling St. to the 1st alley north of Wheeling St.
A-279	Unno.	9-23-1895	Maple St. from Main St. to German St.
A-291	Unno.	2-24-1896	Against the Columbus, Hocking Valley and Toledo R.R. to light their property with electric lights.
A-306	Unno.	7-27-1896	Winding St. from Broad St. to Porter St.
A-317	Unno.	11-25-1896	Wheeling St. between Maple and Diagonal Sts.
A-334	Unno.	4-9-1900	High St. from Main St. to Mill St.
A-343	Unno.	4-12-1897	Main St. from Broad St. to Maple St.
A-365	Unno.	10-10-1898	Union St. from Columbus St. to a point 600 ft. west of Columbus St.
A-422	Unno.	5-14-1900	Mill St. from a point at the existing eastern terminus of Mill St. sewer to a point 260 ft. east of High St., and High St. from Mill St. to Mulberry St.
A-434	Unno.	9-24-1900	Allen St. from Broad St. to High St.
A-440	Unno.	11-12-1900	Carpenter's Alley from Broad St. to Columbus St.

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A-448	Unno.	3-25-01	High St. from Main St. to 5th Ave.
A-459	Unno.	5-14-01	High St. from 5th Ave. to 6th Ave.
A-472	Unno.	7-8-01	Maple St. from Main St. to Walnut St.; Walnut St. from Maple St. to Mt. Pleasant Ave.; Wheat St. from Walnut St. to Lawrence St.
A-502	Unno.	6-6-02	Columbus St. from Reber Ave. to Park St.
B-15	Unno.	6-23-02	Zane Alley from Pearl Ave. to Maple St.
B-127	47	6-13-04	Wheeling St. from High St. to Maple St.
B-158	66	9-12-04	Carpenter Alley from Pearl Ave. to Maple St.
B-166	71	11-14-04	High St. from Main St. to Porter St.
B-170	72	12-1-04	Maple St. from Main St. to Hocking Valley R.R.
B-184	76	12-19-04	Broad St., Columbus St. and Water St. from Chestnut St. to Hocking River.
B-270	131	12-11-05	Mulberry St. from Broad St. to Maple St.
B-286	134	1-8-06	5th Ave. from Columbus St. to Maple St.
B-324	160	10-8-06	5th Ave. from Broad St. to Hocking River.
B-339	168	12-10-06	Chestnut St. from Maple St. to Front St.
B-416	223	4-27-08	Broad St. from Chestnut St. to Carpenter Circle.
B-451	244	11-27-08	Storm Water Sewer District No. 3.
B-453	245	12-14-08	Amending Sections 2 and 3 of an Ord. 244.
B-469	252	1-11-09	Amending Sections 2 and 3 of Ord. 245.
B-474	256	3-8-09	Construction of sewers in Storm Water Sewer District No. 1.
C-11	275	10-25-09	Mulberry St. from Broad St. to Front St. and Forest Rose Ave. to Union St.
C-13	276	10-25-09	Columbus St.
C-31	287	2-14-10	Storm Water Sewer District No. 4.
C-33	288	3-28-10	Elm St. Sewer.
C-40	291	5-23-10	Storm Water Sewer District.
C-42	292	7-11-10	6th Ave. sewer.
C-83	311	3-26-11	Storm Water Sewer District No. 5.
C-87	314	4-10-11	Maple St. from Main St. to the 1st alley north of Allen St.
C-102	322	5-22-11	Wheeling St. from High St. to Front St.
C-135	335	1-22-12	Storm Water Sewer District No. 7.
C-160	350	5-27-12	Storm Water Sewer District No. 8.

C-164 353 5-27-12 Storm Water Sewer District No. 6.
 C-172 356 6-10-12 Storm Water Sewer District No. 3.
 C-185 359 8-12-12 E. Wheeling from Maple to Cherry Sts.
 C-187 360 8-12-12 Perry St. sewer.
 C-203 369 10-14-12 Pearl Ave. from Walnut St. to North Alley.
 C-205 370 11-25-12 Storm Water Sewer District No. 10.
 C-250 392 10-13-13 High St. from 6th Ave. to Fair Ave. and Fair Ave. from High St. to Columbus St.
 C-253 393 10-13-13 King St. from Broad St. to Madison Ave.
 C-263 400 8-12-13 Storm Water Sewer District Nos. 1 and 4.
 C-285 409 2-9-14 Porter, Locust and Perry Sts.

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C-288 410 2-9-14 6th Ave. from Forest Rose Ave. to East St.
 C-351 429 7-13-14 Sidewalks for Lots 198 and 199 of Pioneer Addition, Lot 16 of Sherrick's Addition, Lot 142 of Main St., and Lot 675 of Tenant's Addition.
 C-370 437 10-12-14 Washington Ave. from Wheeling St. to Fair Ave.
 C-382 442 12-14-14 Columbus St. from Park St. to Forest Rose Cemetery.
 C-385 443 12-14-14 Arnold Ave. from Columbus St. to Broad St.
 C-391 447 12-28-14 Center Alley and Union St.
 C-407 452 2-8-15 Columbus St.
 C-435 467 6-14-15 Wheeling St.
 C-450 471 7-26-15 Storm Water Sewer District No. 5.
 C-455 473 7-26-15 Storm Water Sewer District No. 3.
 C-485 490 1-10-16 Winding St. from Columbus St. to Broad St.
 C-488 491 1-10-16 Perry St. from Winding St. to High St.
 D-56 520 8-14-16 Union St. from Columbus St. to Broad St.
 D-64 523 8-28-16 Walnut St. from Columbus St. to Mt. Pleasant Ave.
 D-72 526 9-25-16 Sewer in alley west of S. Columbus St.
 D-76 528 10-23-16 Chestnut St. from Maple St. to Wyandotte St.
 D-80 529 10-23-16 Fair Ave. from Columbus St. to the Old Canal.
 D-98 535 1-8-17 Zane Alley from High St. to Broad St.
 D-101 536 1-8-17 Canal Alley from Columbus St. to Broad St.
 D-143 556 7-23-17 Storm Water Sewer District Nos. 1 to 11.
 D-149 561 11-26-17 E. Main St. from Cherry St. to Ewing St.
 D-196 589 5-28-18 Sewer District No. 12.
 D-233 608 10-28-18 E. Main St. between Cherry St. and Ewing St.
 D-239 613 12-23-18 W. Wheeling St. from Front St. to Washington Ave.
 D-243 614 12-23-18 S. High St. sewer.
 D-257 617 2-10-19 Sewer District No. 12; Repeals Ord. 589.
 D-261 620 3-10-19 1st alley north of Mulberry St. from Maple St. to High St. and 1st alley south of E. Main St. from Wyandotte St. to Mt. Pleasant Ave. in Storm Water Sewer District No. 3.
 D-263 621 3-10-19 Storm Water Sewer District No. 5.
 D-339 660 6-14-20 Park St.
 D-341 662 6-14-20 Sewer District No. 13.
 D-342 663 6-14-20 Sewer District No. 1.
 D-371 674 10-25-20 Sewer District No. 14.
 D-419 703 7-11-21 Carpenter Alley between High and Broad Sts.
 D-420 704 7-11-21 S. Center Alley in Carpenter Addition.
 D-436 714 11-14-21 S. Broad St. from Main St. to the C. & H. V. R.R. Co. right of way.
 D-441 720 1-23-22 Lincoln Ave. between Front St. and west corporation line.
 D-456 723 1-23-22 Storm Water Sewer District No. 8.

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D-467 729 1-23-22 Front St. between Main St. and Wheeling St.
 E-32 762 8-14-22 Carpenter Alley between Old Alley and Pearl St.
 E-34 763 8-14-22 6th Ave. between Madison Ave. and Eastwood Ave.
 E-36 764 8-14-22 High Alley between Main St. and Zane Alley.
 E-38 765 8-28-22 Storm Water Sewer District No. 5.
 E-46 770 9-11-22 Harrison Ave. between Main St. and 6th Ave.
 E-60 777 11-13-22 Madison Ave. between Frederick and Wheeling Sts.
 E-63 780 11-27-22 Storm Water Sewer District No. 12.
 E-66 782 12-11-22 Canal Alley and George St.
 E-68 783 12-11-22 Wilson Ave. between Broad and Columbus Sts.
 E-171 833 10-22-23 Forest Rose Ave. between Edgewood Ave. and Park St.
 E-174 836 11-26-23 Lake St. from Broad St. to High St.
 E-178 839 12-10-23 5th Ave. between Maple St. and Boyd St.
 E-211 854 2-11-24 Repeals Ord. 832 levying an assessment in Storm Water Sewer District No. 69 and 5th Ave.
 E-228 859 2-25-24 E. 5th Ave. from Madison Ave.

E-233	863	3-24-24	Storm Water Sewer District No. 69 and 5th Ave. sewer districts.
E-271	883	6-23-24	Storm Water Sewer District No. 3.
E-285	889	7-14-24	Forest Rose Ave. from Union St. to Fair Ave.
E-286	890	7-15-24	Garfield Ave. from Mulberry St. to Beacon St. and W. Mulberry St. from Washington Ave. to the right of way of the Columbus Hocking Valley R. R. Co.
E-309	899	11-24-24	Vine Alley from Columbus St. to Forest Rose Ave.
E-310	900	11-25-24	W. Main St. from Broad St. to Front St. and N. Columbus St. from Main St. to Mulberry St.
E-312	901	11-24-24	E. Walnut St. from Wheat St. to Mt. Pleasant Ave.
E-313	902	11-24-24	E. Walnut St. from High St. to Maple St. and in the 1st, 2nd and 3rd Courts in William Cox's 7th Addition.
E-314	903	11-24-24	North Alley from Maple St. to Tenant St.
E-380	930	6-8-25	Carpenter Alley from Broad St. to Columbus St.
E-398	939	8-24-25	Carpenter Alley from Ewing St. to Della Ave. and Della Ave. from Carpenter Alley to Chestnut St.
E-399	940	8-24-25	Alley east of 2nd St.
E-400	941	8-24-25	Storm Water Sewer District No. 12.
E-401	942	8-24-25	S. Columbus St. in Storm Water Sewer District Nos. 14 and 15.

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E-424	954	11-9-25	Marks Ave. from Broad St. to Columbus St.
E-426	955	11-9-25	Reber Ave. from Columbus St. to the 2nd alley west of Forest Rose Ave.
E-428	956	11-9-25	S. Broad St. from the C. & M. V. R.R. to the intersection of S. Broad St. and Chillicothe St.
E-430	957	11-9-25	E. Mulberry St. from Madison Ave. to Cherry St.
E-443	961	12-14-25	Amending a special assessment levied on property of John S. Crook for the improvement of South Broad St. in Ord. 956.
E-445	963	12-28-25	Cherry St. from North Alley to 5th Ave.
F-11	992	-	Storm Water Sewer District No. 5.
F-13	993	7-26-26	S. Broad St. from Mt. Ida Ave. to the Sheridan Tebbs land.
F-14	994	7-26-26	Storm Water Sewer District No. 8.
F-15	995	8-9-26	Wyandotte St. from Main St. to Lawrence St.
F-44	1009	11-9-26	S. Columbus St. from C. & M. V. R.R. Co. right of way to the Hocking Canal lands.
F-46	1010	11-9-26	Cherry St. from Chestnut St. to the east corporation line.
F-47	1011	11-9-26	Allen St. from High St. to Maple St.
F-138	1049	7-25-27	Canal Alley from High St. to Pearl Ave.
F-139	1050	7-25-27	Maple St. from Main St. to Lawrence St.
F-146	1053	9-12-27	Storm Water Sewer District No. 1.
F-164	1061	10-10-27	S. Columbus St. from Main St. to Walnut St.
F-169	1064	11-7-27	N. Ewing St. from Main St. to the north corporation line.
F-171	1065	11-7-27	S. Columbus St. from Walnut St. to Broad St.
F-173	1066	11-7-27	S. Ewing St. from Main St. to Locust St.
F-177	1068	11-7-27	E. King St. from Madison Ave. to Cherry St.
F-179	1069	11-7-27	E. Chestnut St. from Wyandotte St. to Cherry St.
F-236	1087	2-13-28	Bank Alley from High St. to Pearl Ave.
F-237	1088	2-13-28	Canal Alley from Madison Ave. east.
F-300	1119	8-27-28	W. Main St. from Harrison Ave. to Pierce Ave. and Pierce Ave. from Main St. to Mulberry St.
F-301	1120	8-27-28	Sanitary sewer in territory east of Ewing St.
F-347	1148	1-28-29	3rd Court.
F-348	1149	1-28-29	E. Allen St. from Maple St. to Eastwood.
F-349	1150	1-28-29	Mt. Pleasant Ave. from Walnut St. to Allen St.
F-351	1151	1-28-29	W. 6th Ave. from Forest Rose Ave. to Garfield Ave.
F-352	1152	1-28-39	1st and 2nd Courts.
F-453	1203	7-22-29	Storm Water Sewer District No. 1.
F-457	1206	8-12-29	Storm Water Sewer District No. 8.
G-20	1242	1-27-30	George St. from Lincoln Ave. to Mulberry St.

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G-29	1249	2-13-30	Sanitary sewer in S. Broad St. and Mt. Ida Ave.
G-93	1296	7-28-30	Storm Water Sewer District No. 3.
G-162	1338	3-9-31	Storm Water Sewer District No. 16.
G-163	1339	3-9-31	Sewers in alley west of Slocum St., alley south of Walnut St., 8th Ave., alley west of Garfield Ave., Main St. and Cedar Hill Pike.
G-165	1340	3-9-31	W.6th Ave., Forest Rose Ave., Front St. and Cedar Hill Road.
G-166	1341	3-9-31	Jefferson Ave. from Fair Ave. to 6th Ave.
G-167	1342	3-9-31	Pierce Ave. from Cedar Hill Pike to Fair Ave.
G-186	1355	6-22-31	Amending Ord. 1339.
G-325	1459	7-10-33	Zane Ave. from Main St. to Lincoln Ave.
G-499	1595	9-23-35	W. Mulberry St. from Pierce Ave. to Maude Ave.
H-299	1836	7-25-38	Roosevelt Ave. from 6th Ave. to Fair Ave.
H-400	1902	4-10-39	E. 6th Ave. from Eastwood Ave. to Fetters Run Bridge.
H-401	1903	4-10-39	Madison Ave. from Frederick St. to Fair Ave.

H-402	1904	4-10-39	Sheridan Dr. from 6th Ave. to Fair Ave.
H-403	1905	4-10-39	Storm water sewer in Madison Ave. from Frederick St. to Fair Ave.
H-411	1910	4-24-39	Repeals Ord. 1824.
H-430	1926	5-22-39	E. Fair Ave. from 2nd alley east to 3rd alley east of High St.
H-431	1927	5-22-39	W. Main St. from George St. to the west side of Zane Ave.
H-432	1928	5-22-39	7th Ave. from alley west of Pierce Ave. to McKinley Ave., and McKinley Ave. from 6th Ave. to Fair Ave.
H-433	1929	5-22-39	W. Mulberry St. from C. & O. R.R. to Maude Ave.
H-492	1972	8-28-39	Frederick St. from Mt. Pleasant Ave. to Eastwood Ave.
H-495	1973	8-28-39	Eyman Ave. from 2nd St.
H-498	1976	8-28-39	N. Pierce Ave.
H-499	1977	8-28-39	W. Mulberry St.
H-500	1978	8-28-39	Grant Ave.
H-501	1979	8-28-39	Edgewood Ave. from Columbus St. to Olds Ave.
H-502	1980	8-28-39	McKinley Ave. and 7th Ave.
H-503	1981	8-28-39	W. Main St. from George St. to Zane Ave.
H-493	1982	8-28-39	Washington Ave. from Fair Ave. to Beacon St., and Beacon St. from Washington Ave. to Garfield Ave.

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H-590	2051	4-22-40	Lake St. from Maple St. to Edgemont Ave.; Maple St. from Lake St. to Fair Ave.; Jefferson Ave. from Anchor-Hocking Glass Subdivision to Fair Ave.; Miller Ave. from Mulberry St. to Union St.; W. Main St. from Zane Ave. to the C. & O. R.R., Walnut St. from Ewing St. to Della Ave.
H-593	2053	4-22-40	Graylock St.; Greene Ave.; alley east of Busby Ave.; Miller Ave. from Union St. to C. & O. R.R.; W. Main St.; Ohio Ave.; Markwood Ave.; Frederick St. from Mt. Pleasant Ave. to Rutter Ave.; N. Maple St. from Frederick St. to Fair Ave.; N. High St.; Medill Ave. from Fair Ave. to 6th Ave.; Harding Ave. from 6th Ave. to Fair Ave.
I-174	46-41	6-23-41	Mt. Pleasant Ave. from Allen St. to Fair Ave.
I-175	47-41	6-23-41	W. Union St. from Harrison Ave. to Pierce Ave.
I-176	48-41	6-23-41	Monroe Ave. from 8th Ave. to Fair Ave.
I-177	49-41	6-23-41	Olds Ave. from Park St. to Edgewood Ave.
I-178	50-41	6-23-41	Baldwin Dr., Lanreco Blvd. and Kemper Dr.
I-179	51-41	6-23-41	Goodwin Ave. from 6th Ave. north.
I-180	52-41	6-23-41	Welsh Ave. from Wheeling St. to Main St.
I-181	53-41	6-23-41	8th Ave. from Harrison Ave. to Washington Ave.
I-182	54-41	6-23-41	Sanitary sewer and Parkview Dr.
I-183	55-41	6-23-41	Sanitary sewer in Rutter Ave. from Allen St. to Frederick St.
I-184	56-41	6-23-41	Sanitary sewer in Rutter Ave. from Frederick St. to Fair Ave.
I-185	57-41	6-23-41	Sanitary sewer in Pioneer Alley, Zane Alley and Franklin Ave.
I-186	58-41	6-23-41	Sanitary sewer in Eagle Park Addition and Reese's Fairview Addition.
I-296	27-42	4-27-42	Della Ave. from Main to Locust Sts.
I-294	35-42	4-27-42	Locust St.
I-295	36-42	4-27-42	E. Fair Ave. from the 3rd alley east of High St. to Maple St.
I-297	38-42	4-27-42	Oakwood Ave. from King Ave. to 6th Ave.
I-298	39-42	4-27-42	7th Ave. from Harrison to Pierce.
I-299	40-42	4-27-42	Harding and Medill Aves.
I-300	41-42	4-27-42	Sanitary sewers in Sherman and Dewey Aves.
I-301	42-42	4-27-42	Sanitary sewers in Grant Ave.
I-302	43-42	4-27-42	Sanitary sewers in Charles Court.
I-303	44-42	4-27-42	Sanitary sewers in Lanreco Blvd.
I-304	45-42	4-27-42	Sanitary sewers in Ohio Ave.
I-305	46-42	4-27-42	Sanitary sewers in the Rosebank Addition.
I-306	47-42	4-27-42	Sanitary sewers in Cedar Heights.

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I-320	58-42	5-25-42	Repeals Ord. 44-42.
I-321	29-42	5-25-42	Lanreco Blvd. from Ewing St. to Baldwin Dr.
I-322	60-42	6-8-42	Sanitary sewers in Lanreco Blvd. from Baldwin Dr. to Kemper Ave.
I-372	101-42	10-12-42	E. Locust St.
I-373	102-42	10-12-42	Reese Ave.
I-374	103-42	10-12-42	Tenant St.
I-375	104-42	10-12-42	Miller Ave.
I-376	105-42	10-12-42	Greylock St.
I-377	106-42	10-12-42	E. Wheeling St.
I-378	107-42	10-12-42	W. 6th St. and Jefferson Court.
I-379	108-42	10-12-42	Baker Ave.
I-394	122-42	11-23-42	Sanitary sewers in N. Baker Ave.
I-395	123-42	11-23-42	Sanitary sewers in Union St. and the alley west of Busby Ave.
I-396	124-42	11-23-42	Sanitary sewers in Welsh Ave.

I-397 125-42 11-23-42 Sanitary sewers in the alley east of Harrison Ave.
 I-405 133-42 12-28-42 Sanitary sewers in alley west of Broad St., Clark St. and Cleveland Ave.
 I-406 134-42 12-28-42 Sanitary sewers in Hubert Ave.
 I-407 135-42 12-28-42 Sanitary sewers in alley west of Della Ave.
 I-408 136-42 12-28-42 Sanitary sewers in alley east of 3rd St.
 I-409 137-42 12-28-42 Sanitary sewers in the alley west of Garfield Ave., Pierce Ave., Beacon St. and Meda Ave.
 I-421 6-43 1-25-43 Baltimore Rd. from Lots 66 to 71 of Edgewood Park Addition.
 I-502 76-43 11-22-43 Cleveland Ave. from Broad St. west.
 I-503 77-43 11-22-43 Franklin Ave. from 6th to Fair Aves.
 I-504 78-43 11-22-43 Sylvan and O'Gara Aves. from Mulberry to Union Sts.
 I-505 79-43 11-22-43 Locust St. from Wheat St. to Mt. Pleasant Ave.
 I-506 80-43 11-22-43 Frederick St. to Fair St.
 I-507 81-43 11-22-43 Hubert Ave. from Boving to Talmadge Aves.
 I-508 82-43 11-22-43 2nd St. from Eyman Ave. to Pickering Alley.
 I-509 83-43 11-22-43 Chestnut St. from Baldwin St. to Della Ave.
 I-510 84-43 11-22-43 Frederick St. from Maple St. to Mt. Pleasant Ave.
 I-572 43-44 11-13-44 Dickson Court from Forest Rose Ave. to Front St.
 J-1 16-45 3-26-45 Storm Water Sewer District No. 18.
 J-133 34-46 4-22-46 Sherman Ave. from Main St. to Mulberry St.
 J-165 59-46 9-9-46 Storm Water Sewer District No. 20.
 J-222 38-47 9-22-47 5th Ave. from Columbus St. to Maple St. and Allen St. from High St. to Maple St.
 J-262 12-48 2-23-48 For construction of sanitary sewers.

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J-267 15-48 2-23-48 7th Ave. from Jefferson Ave. to McKinley Ave., Baldwin Dr. from Lanreco Blvd. to alley north of Mulberry St., and Fairview Dr. from Baldwin Dr. to its western terminus.
 J-316 56-48 10-11-48 For constructing sanitary sewers.
 J-353 14-49 2-28-49 Cedar Ave., Dewy Ave., E. Main Ave. and Rutter Ave.
 J-363 22-49 4-11-49 Madison Ave. from Fair Ave. to the north corporation line.
 J-389 43-49 7-25-49 Medill Ave., Wacker's Skyline View Addition, Avondale Revision of Rosedale and Mithoff's 1st Additions, alley south of Reese Ave., Pleasantville Rd., and N. George St.
 J-390 44-49 7-25-49 Amending Ord. 22-49.
 J-432 18-50 3-13-50 For sanitary sewers on parts of Memorial Dr. alley east of Goodwin Ave., Schory Ave. and alley east of Harrison Ave.
 J-477 48-50 6-16-50 Amending Ord. 18-50.
 J-478 49-50 6-26-50 Alley south of Graf St., Columbus Rd. and Wacker Dr.
 J-479 50-50 6-26-50 Amending Ord. 18-50.
 J-568 12-51 2-15-51 On property mentioned in Res. 22-50.
 J-573 17-51 3-26-51 Storm Water Sewer District No. 21.
 J-574 18-51 3-26-51 Storm Water Sewer District No. 23.
 J-575 19-51 3-26-51 Parts of Fay Ave., E. Mulberry St. and Kemper Ave.
 J-576 20-51 3-26-51 Parts of Oak St. and Maryland Ave.
 J-590 29-51 4-23-51 Sanitary sewers in parts of alley east of Harrison Ave., O'Gara Ave., Willow Ave. and Cleveland Ave.
 K-24 58-51 9-10-51 Parts of alley east of Whiley Ave., Peters Ave and Ellwood Ave.
 K-94 21-52 3-24-52 Property listed in Res. 18-51.
 K-95 22-52 3-24-52 Storm Water Sewer District No. 22.
 K-100 27-52 4-15-52 Parts of Green Ave., Pool St., Wheat St., Kemper Ave., Hilltop Dr., Virginia Ave. and Garner Lane.
 K-117 42-52 5-26-52 Sanitary sewers in Boyd St. from Allen St. to Fair Ave.
 K-142 55-52 7-14-52 Amending Ord. 27-52.
 K-207 7-53 2-10-53 Parts of Bounds Ave. and Graf St.
 K-213 12-53 2-23-53 Amending Ord. 7-53.
 K-234 31-53 5-25-53 Wacker's Hills and Dales 3rd Addition, part of Allen St. and part of Mulberry St.
 K-295 5-54 2-8-54 Parts of King St., Allen St. and Mulberry St.

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K-296 6-54 2-8-54 Storm Water Sewer District No. 21.
 K-297 7-54 2-8-54 Part of Fay Ave.
 K-305 11-54 2-22-54 Part of Brumfield Rd.
 K-348 49-54 8-9-54 Storm Water Sewer District No. 24.
 K-349 50-54 8-9-54 Sewers for part of Cedar Hill Rd. and an alley west of Slocum St.
 K-357 58-54 9-27-54 Sanitary sewer in E. Walnut St. from Brooks Ave. to Della Ave.
 K-358 59-54 9-27-54 Sanitary sewer for Terry's Meadow View Addition.
 K-359 60-54 9-27-54 Parts of Oakwood Ave. and Frederick St.
 K-390 3-55 1-10-55 Nelson Rd. and Burns Ave.
 K-420 28-55 4-25-55 Resurfacing: E. 5th Ave. from N. Maple to N. Cherry Sts.; George St. from W. Main St. to Lincoln Ave.; Forest Rose Ave. from Park St. to Edgewood Ave.; Lake St. from N. Broad to N. High Sts.
 K-497 2-56 1-9-56 Resurfacing Oakwood Ave. from King St. to 5th Ave.

- K-498 3-56 1-9-56 Resurfacing Mt. Pleasant Ave. from Main to Allen Sts.
 K-499 4-56 1-9-56 Resurfacing Allen St. from Mt. Pleasant to Madison Aves.
 K-512 13-56 2-27-56 Sanitary sewer construction in Brumfield Rd. and Ohio Ave. and territory adjacent thereto.
 K-597 3-57 1-28-57 (a) Grading and constructing curbs and gutters in Lewis Ave. from Talmadge Ave. to Maher Park; Hubert Ave. from Hunter Ave. to west line of Maher's 2nd Addition, Lanreco Blvd. from Kemper Ave. to Marietta Rd. and Kanawha Rd. from Pleasantville Rd. to a point 575 ft. south thereof.
 (b) Resurfacing Lake St. from High St. to a point 590 ft. east thereof; Pierce Ave. from Cedar Hill Rd. to the C. & O. R.R., and Wyandotte St. from Walnut St. to Lawrence St.
 L-1 6-57 1-28-57 Storm Water Sewer District No. 25 in Kemper's 3rd Subdivision and Baldwin Heights Addition.
 L-39 37-57 5-13-57 Sanitary sewer in territory north of the Penna.R.R., east of Kemper Ave., south of Lanreco Blvd. and west of the Fairfield County Children's Home.

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- L-96 81-57 10-28-57 (a) Grading and constructing curbs and gutters in Ohio Ave. from W. Union St. to north line of Lot 295 near 6th Ave.; Harmon Ave. from Main St. to north terminus; Frederick St. from McLain Ave. to Clayton Dr., and Clayton Dr. from Frederick St. to a point 180 ft. north.
 (b) Sanitary sewer in W. Union St., Ohio Ave. to Westview Dr.
 (c) Storm water sewer in territory south of Lake St. between Grandview Ave. and Edgemont Ave.
 L-112 94-57 12-23-57 Grading and constructing curbs and gutters in W. Fair Ave. from Memorial Dr. to Harrison Ave.
 L-116 4-58 2-17-58 (a) Resurfacing George St. from Wheeling St. to Main St.
 (b) Grading and constructing curbs and gutters in W. 6th Ave. from Memorial Dr. to Harrison Ave.
 L-136 18-58 3-24-58 Cost and expense of construction of Storm Water Sewer District No. 27.
 L-153 35-58 5-26-58 Sanitary sewer in Westview Dr. from Union St. to 6th Ave.
 L-235 6-59 1-26-59 (a) Surfacing the alley south of Fair Ave. from the alley east of Broad St. to a point near High St.
 (b) Storm Water Sewer District No. 26 in accordance with Ord. 17-58.
 (c) Storm Water Sewer District No. 28 in accordance with Ord. 12-58.
 L-250 18-59 3-23-59 (a) Surfacing and constructing curbs and gutters in W. 5th Ave. from Harrison Ave. to Hacking St.
 (b) Paving and constructing curbs and gutters in W. Union St. from Brumfield Rd. to Westview Dr.
 L-265 30-59 4-27-59 Resurfacing Allen St. from Madison Ave. to Eastwood Ave.
 L-283 47-59 7-15-59 (a) Resurfacing Memorial Dr. from Mulberry St. to Arlington Ave.
 (b) Resurfacing S. Columbus St. from Walnut St. to the Lancaster Circle.
 L-305 63-59 9-14-59 Grading and constructing curbs and gutters in Westview Dr. from Union St. to 6th Ave.
 L-352 10-60 2-8-60 Constructing pavement with curb in Reese Ave. from S. Broad St. to Talmadge Ave.

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- L-353 11-60 2-8-60 Surface treatment of:

Streets

Boyd St. from Allen to Fair;
 Boyd St. from 6th to Fetters Run;
 Frederick St. from Boyd to alley east;
 Allen St. from Franklin to Fetters Run;
 8th Ave. from Slocum to Goodwin;
 Charles Court from Hubert to Reese;
 Virginia Ave. from Boving, east 250 ft.;
 Beacon St. from Harrison to Goodwin;
 Salyer's Court from Chestnut south

Alleys

1st alley N. Walnut from Mt. Pleasant to a point 200 ft. west;
 Alley E. Mt. Pleasant from Wheeling to Bank Alley;
 Alley S. Hubert from Talmadge to Mithoff;
 Alley E, Wyandotte from Chestnut to Zane Alley;
 Alley S. Main from Della to Brooks;
 Alley S. Chestnut from Ewing west 400 ft.
 Alley N. 6th from Franklin to Sheridan;
 Alley W. Sheridan from Fair to Frederick;
 Alley E. Medill from Fair to alley N. 6th;
 Alley W. Medill from Fair to Alley N. 6th;
 Alley W. Harding from Fair to Alley N. 6th;
 Alley W. Franklin from Fair to Allen;
 Alley W. Penna. R. R. from Talmadge to Hunter.

- L-355 12-60 2-8-60 (a) Curbs and gutters in Eastwood Ave. from Frederick St. to Fair Ave.
 (b) Curbs and gutters in E. Mulberry St. from the 1st alley east of Ewing St. to Baldwin Dr.
 (c) Paving Slocum St. from 5th Ave. to 6th Ave.
 L-362 19-60 3-14-60 Curbs and gutters in Goodwin Ave. from 7th Ave. to 8th Ave.
 L-456 1-61 2-13-61 (a) Concrete pavement in Fair Ave. from Maple St. to Mt. Pleasant Ave.
 (b) Concrete pavement and sanitary sewer in W. Union St. from Harrison Ave. to Hocking St.
 (c) Sanitary sewer in Summitview Dr. from Union St. north to Lot 315 of Miller's Subdivision.

- (d) Sanitary sewer along north side of E. Main St. from Kanawha Rd. east 650 ft.
- (e) Sanitary sewer in Furry Court from King St. to the 2nd alley north.
- L-458 2-61 2-13-61 Paving Summitview Dr. from Union St. to the north line of Lot 315.
- L-480 21-61 4-10-61 (a) Concrete paving the north lane of Memorial Dr. from Pershing Dr. to Milton Ave.
- (b) Resurfacing High St. from Fair Ave. to the north corporation line.
- (c) Resurfacing Lincoln from the west corporation line to Memorial Dr. and Main St. from Memorial Dr. to Ewing St.
- L-504 43-61 8-28-61 Resurfacing, as enumerated in Res. 15-60.
- L-515 52-61 10-9-62 (a) Resurfacing Pierce Ave. from the C. & O. R.R. to Fair Ave. and George St. from Wheeling St. to Mulberry St.
- (b) Resurfacing Chestnut St. from Wyandotte St. to Cherry St. and Cherry St. from Main St. to Chestnut St.
- L-522 58-61 11-13-61 Sanitary sewer in the Chapin and Willellen Additions in accordance with Ord. 82-60.
- L-540 8-62 3-12-62 (a) Constructing pavement on George St. from Mulberry St. to Union St.; Huber Ave. from Talmadge Ave. to Hunter Ave.; Baldwin Dr. from Main St. to alley north of Mulberry St.; S. Ewing St. from Penna. R.R. to the south corporation line; Talmadge Ave. from Lewis Ave. to the Penna. R.R.
- (b) Resurfacing S. Broad St. from Penna. R.R. to Hubert Ave.
- L-542 9-62 3-26-62 Sanitary sewer in Slocum St. from an alley north of 6th Ave. to 7th Ave. in accordance with Ord. 88-60.
- L-601 55-62 9-24-62 Sanitary sewer in E. Main St. from Kanawha Rd. 720 ft. east.
- L-602 56-62 9-24-62 Storm water sewer in Storm Water Sewer District No. 29 and part of District No. 21.
- L-606 60-62 11-5-62 Sanitary sewer in Spring St. from Maher to Hunter Aves.

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- M-8 30-63 6-10-63 Surface treatment of: Eagle Ave. from Reese to Lewis; Whiley Ave. from Reese to alley north; Marietta Rd. from Lanreco to corporation line, and six alleys.
- M-15 35-63 6-24-63 Reduction of sewer assessment on Lot 5, Block 19, Chapin Addition.
- M-47 61-63 11-11-63 Concrete paving of: Walnut St. from Brooks to Della Ave.; Goodwin Ave. from 5th to 6th Aves.; Slocum St. from 6th to Fair Aves.
- M-53 66-63 12-9-63 Curb, gutter and surface treating E. 6th Ave. from Franklin Ave. to Sheridan Dr.
- M-80 74-63 12-16-63 Storm water sewer in Storm Water Sewer District No. 30.
- M-88 5-64 1-27-64 Concrete paving, curb and storm sewer in Spring St. from Hunter to Maher Aves.
- M-112 26-64 4-27-64 Surface treatment of streets and alleys listed in Res. 6-63.
- M-140 49-64 6-22-64 Mowing weeds on Lots 58E and 59W of Huffer- Durdin No. 1 Addition and Lot 8 of Reese- Fairview Addition.
- M-159 62-64 8-10-64 Concrete paving, curbs and sidewalks on E. Fair Ave. from Madison Ave. to east line of Thomas Ewing Jr. High.
- M-162 65-64 8-24-64 Concrete paving of Zane Ave. from 5th to 6th Aves.
- M-166 69-64 9-14-64 Surface treatment of streets and alleys listed in Res. 28-64.
- M-167 70-64 9-14-64 Surface treatment of streets listed in Res. 17-64.
- M-168 71-64 9-14-64 Resurfacing Mulberry St. from a point 100 ft. east of Memorial Dr. to Broad St.
- M-169 72-64 9-14-64 Resurfacing Mt. Pleasant Ave. from Walnut to Main Sts.
- M-191 89-64 10-26-64 Paving Garfield Ave. from Beacon to Zimmer Sts.
- M-192 90-64 10-26-64 Paving and curbs in Arlington Ave. from Memorial Dr. to Baltimore Rd.
- M-196 94-64 11-23-64 Mowing weeds on Lot 39, Baldwin Hts. No. 6, and Lots 108 to 120 in Barrett's Addition.
- M-197 95-64 12-28-64 Resurfacing and curbs in E. Fair Ave. from Thomas Ewing Jr. High to Sheridan Dr.
- M-200 97-64 12-28-64 Surfacing streets and alleys listed in Res. 48-64.
- M-201 1-65 1-11-65 Resurfacing Kemper Dr. from Hilltop Dr. to Pleasantville Rd.
- M-214 14-65 1-25-65 Amends Ord. 95-64.
- M-313 94-65 8-23-65 Resurfacing alleys listed in Res. 31-64.

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- M-316 96-65 9-27-65 Mowing weeds in Lots 108 to 120 of Barrett's Addition.
- M-342 112-65 11-22-65 Mowing weeds in Lots 11 to 14 of Jordan's Subdivision.
- M-345 115-65 12-13-65 Mowing weeds on Lots 108 to 120 of Barrett's Addition.
- M-349 119-65 12-13-65 Constructing sidewalks for Lots 4, 6, 7 and 10 of Block 1 of L.C. Mithoff's 2nd Addition.
- M-374 20-66 2-28-66 Paving streets listed in Res. 39-65.
- M-375 21-66 2-28-66 Paving Reber Ave.
- M-376 22-66 2-28-66 Paving alleys listed in Res. 56-65.
- M-377 23-66 2-28-66 Paving streets listed in Res. 20-65 and 51-65.
- M-379 24-66 2-28-66 Paving of streets and alleys listed in Res. 40-65.
- M-395 39-66 3-14-66 Construction of sewer in Cedar Hts. area.
- M-445 80-66 7-25-66 Resurfacing Union St. from N. Broad St. to Forest Rose Ave.
- M-447 81-66 7-25-66 Resurfacing alley south of Allen St. from Maple St. to Mt. Pleasant Ave.
- M-457 87-66 8-8-66 Improving Busby Ave. from Mulberry to Union Sts.
- M-466 95-66 9-12-66 Improving 3 alleys listed in Res. 54-66.
- M-468 96-66 9-12-66 Resurfacing Fair Ave. from N. Columbus to N. High Sts.
- M-471 99-66 9-12-66 Resurfacing Graf St. from Arlington to Wildwood Aves.
- M-487 110-66 10-24-66 Water line in Lynwood Lane.
- M-526 19-67 2-27-67 Street improvements for following Ords. determining to proceed: 47-66, 48-66, 62-66, 63- 66, 65-66, 80-66,

81-66, 62-66 and 95-66.

M-544 34-67 3-27-67 Mowing weeds on Lots 13 and 14, Avondale Addition.
M-545 35-67 3-27-67 Street improvements for following Ords. determining to proceed: 50-65 and 65 -66.
M-552 40-67 4-25-67 Water line in Lynwood Lane from Main St. to the corporation line.
M-568 54-67 6-12-67 Reduces E. Fair Ave. street improvement assessment levied against Lots 41 and 120 in Barrett's Addition.
N-48 4-68 2-12-68 Mowing weeds on Lot 742.
N-49 5-68 2-12-68 Street improvements per Ords. 87-66, 96-66, 65- 67, 80-66, 85-67 and 87-67.
N-52 7-68 2-12-68 Water lines in Cedar Hill Rd. and Pleasantville Rd.

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N-108 43-68 9-9-68 Mowing weeds on Lots 684, 685 and 686, Tenants Addition, and Lots 13 and 14, Avondale Addition.
N-138 5-69 2-10-69 Water lines in Spring St., Sunset Dr., Highland Ave., Boving Rd. and Knollwood Court.
N-140 6-69 2-10-69 Sanitary sewers to serve Block 5, Colonial Hts. Addition, in Spring St., Boving Rd., Highland Ave., Sunset Dr. and Smithfield St.
N-142 7-69 2-10-69 Mowing weeds in Lots 9 and 10, Block 10, Colonial Hts. Addition.
N-143 8-69 2-10-69 Street and alley improvements per Ords. 46-66, 63-66, 99-66, 74-67, 85-67, 99-67, 86-67, 98-67, 95-67, 20-68, 29-68, 25-68, 28-68, 33-68, 50-68 and 42-68.
O-3 3-70 2-9-70 Street and alley improvements per Ords. 38-69, 31-68, 39-69, 32-69, 31-69, 48-69 and 47-69.
P-16 54-70 10-26-70 Water line along Sheridan Dr. from Grandstaff Ave. to Beechwood Dr.; water line along Tiki Lane from Sheridan Dr. to Pleasantville Rd.; water line along Barr Dr. from West Fair Ave. to the south terminus; water line along Nolder Dr. from West Fair Ave. to the south terminus.
P-18 55-70 10-26-70 Street and alley improvements per Ords. 12-70 and 25-70.
P-40 63-70 12-14-70 Amends Ord. 54-70 re Nolder Dr. water line.
P-42 65-70 12-28-70 Water line along Hoffman Dr. from West Fair Ave. to the south terminus.
P-49 3-71 2-15-71 Repairing sidewalks along various streets enumerated in Res. 56-68.
P-50 4-71 2-15-71 Street and alley improvements per Ords. 70-69, 26-70, 42-70 and 52-70.
P-76 22-71 4-12-71 Amends Ord. 3-71 re sidewalks in Zane's Original Town.
P-77 23-71 4-12-71 Constructing sidewalks along various streets enumerated in Res. 56-68.
P-120 49-71 10-11-71 Street improvements per Ord. 24-70.
P-167 2-72 1-10-72 Street and alley improvements per Ords. 28-71, 44-71 and 55-71.
P-171 3-72 1-10-72 Eight-inch sanitary sewer in Cleveland Ave. per Ord. 47-71.
Q-16 12-73 2-26-73 Sanitary sewer in Shawnee Dr. from Cedar Hill Rd. to Union St. per Ord. 19-72.
Q-27 16-73 3-12-73 Sanitary sewer in E. Main St. from 215 ft. west of Homestead Court to 1807 ft. east of Homestead Court per Ord. 31-72.

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Q-45 27-73 6-25-73 Street improvement on Starrett St. from Main to Wheeling Sts.
Q-49 29-73 8-27-73 Water line in Beck's Knob Rd. from W. Fair Ave. 1320 ft. south.
Q-52 32-73 8-27-73 Street improvement on Whittier Dr. from Memorial Dr. to Columbus St.
Q-107A 54-73 12-10-73 Sanitary sewer in Quarry Rd. from Main St. to Penn Railroad and E. Main St. from Quarry Rd. 2400 ft. east per Ord. 18-72.
2-74 1-14-74 Sanitary sewers in Nolder Dr., Hoffman Dr. and W. Fair Ave.
6-74 1-28-74 Sanitary sewer in Barr Dr. from W. Fair Ave. to south City limits per Ord. 38-73.
8-74 2-11-74 Street improvement in Shawnee Dr. from Cedar Hill Rd. to Union St.
11-74 2-25-74 Sanitary sewers in alley north of Greenfield St. and in Baltimore Rd. per Ords. 32-72 and 48-72.
22-74 4-22-74 Sanitary sewer in Baltimore Rd. per Ord. 6-73.
27-74 5-13-74 Sanitary sewer in W. Fair Ave. per Ord. 21-73.
41-74 8-26-74 Street improvement in E. Chestnut St. from Della Ave. to Ewing St. per Ord. 44-73.
42-74 8-26-74 Sanitary sewer in Beck's Knob Rd. from the existing manhole in Beck's Rd. trunk sewer north to W. Fair Ave.
50-74 10-28-74 Water line in Pleasantville Rd. from present corporation line to Tiki Lane.
52-74 11-25-74 Frederick St. from Sheridan Dr. to McLain Blvd.
10-76 2-9-76 Sanitary sewer in Meadowview Addition along the old service road from Woodland Ave. eastwardly to the corporation line.

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20-76 3-8-76 Sanitary sewer along Fetters Run.
48-76 10-25-76 Sanitary sewer in Meadowview Addition along old service road from Logan St. to Lane St.
4-77 1-24-77 Ewing Run Interceptor sanitary sewer from Tiki Lane Shopping Center to Rainbow Dr.
17-77 4-11-77 Curbs, gutters and paving of East Fair Ave. from Sheridan Dr. to McLain Blvd.
41-77 9-12-77 Sanitary sewer on W. Chestnut St. from Gay to Concord Sts.
51-77 11-14-77 Water line in Meadowview Ave. from Kinzler to Lane Sts.
52-77 11-14-77 Water lines on Sheridan Dr. from Beechwood to Rainbow Drs. and on Rainbow Dr. from Sheridan Dr. to Ewing Run.
22-78 8-28-78 Curbs, gutters and asphalt paving on Eastwood Ave. from Sixth Ave. to Frederick St.
9-79 1-22-79 Curbs, gutters and asphalt paving on Eastwood Ave. from Sixth- Ave. to King St.
52-79 9-10-79 Amends Ord. 2- 74.
68-79 12-10-79 Sanitary sewer in Rainbow Dr. from Independence Blvd. 1940 ft. east.
69-79 12-10-79 Curbs, gutters and asphalt paving on Cleveland Ave. from S. Broad to Udell St.
52-80 10-27-80 Curbs, gutters and asphalt paving on Shasta Dr. from Fair Ave. to Grove St.

- 30-81 6-22-81 Sanitary sewer in Lane St. from access road to Terry St.
- 34-81 6-22-81 Water line in Rainbow Dr. from Independence Blvd. to Pleasantville Rd.
- 4-82 2-8-82 Waterline in Lane St. from Old Service Rd. to Terry St. and in Terry St. from Lane to Logan St.
- 5-82 2-8-82 Sanitary sewer in Sells Rd. from manhole in Sells Rd. to Marietta Rd., then 35 ft. west of manhole #4.
- 29-83 8-22-83 Curbs, gutters, asphalt and sidewalks on Oakwood Ave. between Sixth Ave. and Allen St.
- 37-84 9-24-84 Curbs, gutters and asphalt paving on Third St. from Eyman Ave. south 423 ft. to the south terminus.
- 42-84 10-8-84 Revised assessments for sanitary sewer extension in Rainbow Drive.
- 18-19 11-4-19 Anchor Avenue to Magna Avenue in the Rock Mill Corporate Park, Phase 2.

CODIFIED ORDINANCES OF LANCASTER

PART ONE - ADMINISTRATIVE CODE

TITLE ONE - General Provisions

- Chap. 101. Codified Ordinances.
- Chap. 103. Wards and Boundaries.
- Chap. 105. Numbering of Streets and Buildings.
- Chap. 107. Official Standards.
- Chap. 109. Open Meetings.
- Chap. 110. Ethics.

TITLE THREE - Legislative

- Chap. 111. Rules of Council.
- Chap. 113. Clerk of Council.
- Chap. 115. Ordinances and Resolutions.

TITLE FIVE - Administrative

- Chap. 121. Mayor.
- Chap. 123. Director of Law.
- Chap. 125. Auditor.
- Chap. 127. Treasurer.
- Chap. 129. Department of Safety-Service.
- Chap. 130. Safety Service Board.
- Chap. 131. Police Department.
- Chap. 133. Fire Department.
- Chap. 134. Building Department.
- Chap. 135. City Engineer.
- Chap. 137. Utility Services Committee.
- Chap. 139. Public Transit Board.
- Chap. 140. Port Authority.
- Chap. 141. Fairfield County Combined General Health District.
- Chap. 143. Historic Lancaster Commission. (Repealed)
- Chap. 145. Employees Generally.

TITLE SEVEN - Judicial

- Chap. 161. Municipal Court.

TITLE NINE - Taxation

- Chap. 181. Income Tax.
- Chap. 182. Municipal Income Tax Effective January 1, 2016.
- Chap. 183. Municipal Income Tax Effective January 1, 2018.
- Chap. 185. Lodging Tax.
- Chap. 187. Motor Vehicle License Tax.

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- Chap. 110. Ethics.

CHAPTER 101

Codified Ordinances

- 101.01 Designation; citation; headings.**
- 101.02 General definitions.**
- 101.03 Rules of construction.**
- 101.04 Revivor; effect of amendment or repeal.**
- 101.05 Construction of section references.**
- 101.06 Conflicting provisions.**
- 101.07 Separability.**
- 101.08 Citation and settlement in lieu of prosecution for certain offenses.**
- 101.99 General penalty.**

CROSS REFERENCES

See sectional histories for similar State law

Codification in book form - see Ohio R.C. 731.23

Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.20

Statute of limitations on prosecutions - see Ohio R.C. 1905.33

Ordinances and resolutions - see ADM. Ch. 115

Attempts, aider or abettor - see GEN. OFF. 501.01 et seq.

Anything of value defined - see GEN. OFF. 537.01

101.01 DESIGNATION; CITATION; HEADINGS.

(a) All ordinances of a permanent and general nature of the Municipality as revised, codified, rearranged, renumbered and consolidated into component codes, titles, chapters and sections shall be known and designated as the Codified Ordinances of Lancaster, Ohio, 1977 for which designation "Codified Ordinances" may be substituted. Code, title, chapter and section headings do not constitute any part of the law as contained in the Codified Ordinances.

(ORC 1.01)

(b) All references to codes, titles, chapters and sections are to such components of the Codified Ordinances unless otherwise specified. Any component code may be referred to and cited by its name, such as the "Traffic Code". Sections may be referred to and cited by the designation "Section" followed by the number, such as "Section 101.01".

101.02 GENERAL DEFINITIONS.

As used in the Codified Ordinances, unless another definition is provided or the context otherwise requires:

(a) "And" may be read "or", and "or" may be read "and", if the sense requires it.

(ORC 1.02(F))

(b) "Another" when used to designate the owner of property which is the subject of an offense, includes not only natural persons but also every other owner of property.

(ORC 1.02(B))

(c) "Bond" includes an undertaking and "undertaking" includes a bond.

(ORC 1.02(D), (E))

(d) "Council" means the legislative authority of the Municipality.

(e) "County" means Fairfield County, Ohio.

(f) "Keeper" or "proprietor" includes all persons, whether acting by themselves or as a servant, agent or employee.

(g) "Land" or "real estate" includes rights and easements of an incorporeal nature.

(ORC 701.01(F))

(h) "Municipality" or City means the City of Lancaster, Ohio.

(i) "Oath" includes affirmation and "swear" includes affirm.

(ORC 1.59(B))

(j) "Owner", when applied to property, includes any part owner, joint owner or tenant in common of the whole or part of such property.

(k) "Person" includes an individual, corporation, business trust, estate, trust, partnership and association.

(ORC 1.59(C))

(l) "Premises", as applied to property, includes land and buildings.

(m) "Property" means real and personal property.

(ORC 1.59(E))

"Personal property" includes all property except real.

"Real property" includes lands, tenements and hereditaments.

(n) "Public authority" includes boards of education; the Municipal, County, State or Federal government, its officers or an agency thereof; or any duly authorized public official.

(o) "Public place" includes any street, sidewalk, park, cemetery, school yard, body of water or watercourse, public conveyance, or any other place for the sale of merchandise, public accommodation or amusement.

(p) "Registered mail" includes certified mail and "certified mail" includes registered mail.

(ORC 1.02(G))

(q) "Rule" includes regulation. (ORC 1.59(F))

(r) "Sidewalk" means that portion of the street between the curb line and the adjacent property line intended for the use of pedestrians.

(s) "This State" or "the State" means the State of Ohio.

(ORC 1.59(G))

(t) "Street" includes alleys, avenues, boulevards, lanes, roads, highways, viaducts and all other public thoroughfares within the Municipality.

(u) "Tenant" or "occupant", as applied to premises, includes any person holding a written or oral lease, or who actually occupies the whole or any part of such premises, alone or with others.

(v) "Whoever" includes all persons, natural and artificial; partners; principals, agents and employees; and all officials, public or private.

(ORC 1.02(A))

(w) "Written" or "in writing" includes any representation of words, letters, symbols or figures. This provision does not affect any law

relating to signatures.

(ORC 1.59(J))

101.03 RULES OF CONSTRUCTION.

(a) General Rule. All words and phrases shall be construed and understood according to the common and approved usage of the language, but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in the law shall be construed and understood according to such peculiar and appropriate meaning.

(b) As used in the Codified Ordinances, unless the context otherwise requires:

(1) Tense. Words in the present tense include the future tense.

(2) Gender. Words in the masculine gender include the feminine and neuter genders.

(3) Plural. Words in the plural number include the singular number, and words in the singular number include the plural number.

(ORC 1.10)

(c) Calendar - Computation of Time. The time within which an act is required by law to be done shall be computed by excluding the first and including the last day, except that when the last day falls on Sunday or a legal holiday, then the act may be done on the next succeeding day which is not a Sunday or a legal holiday.

When a public office, in which an act required by law is to be performed, is closed to the public for the entire day which constitutes the last day for doing such act or before its usual closing time on such day, then such act may be performed on the next succeeding day which is not a Sunday or a legal holiday. If any legal holiday falls on Sunday, the next succeeding day is a legal holiday.

(ORC 1.14)

When legislation is to take effect or become operative from and after a day named, no part of that day shall be included.

(ORC 1.15)

In all cases where the law shall require any act to be done in a reasonable time or reasonable notice to be given, such reasonable time or notice shall mean such time only as may be necessary for the prompt performance of such duty or compliance with such notice.

(d) Authority. When the law requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

(e) Joint Authority. All words purporting to give joint authority to three or more municipal officers or other persons shall be construed as giving such authority to a majority of such officers or other persons, unless it shall be otherwise expressly declared in the law giving the authority or inconsistent with State statute or Charter provisions.

(f) Exceptions. The rules of construction shall not apply to any law which shall contain any express provision excluding such construction, or when the subject matter or context of such law may be repugnant thereto.

101.04 REVIVOR; EFFECT OF AMENDMENT OR REPEAL.

(a) When a law which repealed a former law is repealed, the former law is not thereby revived.

(ORC 1.19)

(b) When a provision of the Codified Ordinances is repealed or amended, such repeal or amendment does not affect pending actions, prosecutions or proceedings, civil or criminal. When the repeal or amendment relates to the remedy, it does not affect pending actions, prosecutions or proceedings, unless so expressed, nor does any repeal or amendment affect causes of such action, prosecution or proceeding, existing at the time of such amendment or repeal, unless otherwise expressly provided in the amending or repealing law.

(ORC 1.20)

(c) When a provision of the Codified Ordinances is repealed, such repeal does not:

(1) Affect any rights or liabilities which exist, have accrued or have been incurred by virtue of such repealed provision;

(2) Affect an action or proceeding for the enforcement of any rights or liabilities existing or arising thereunder;

(3) Relieve any person from punishment for an act committed in violation of such repealed provision;

(4) Affect an indictment or prosecution for a violation of such repealed provision.

For the purposes of this section, such repealed provision shall continue in full force and effect notwithstanding such repeal, provided this does not affect the limitation of actions, prosecutions or proceedings imposed by any State statute.

(ORC 1.21)

101.05 CONSTRUCTION OF SECTION REFERENCES.

When reference is made to any section or group of sections of the Codified Ordinances, such reference shall extend to and include any amendment of or supplement to the section or group of sections so referred to or any section or sections hereafter enacted in lieu thereof; and unless otherwise provided, whenever a reference to a section or group of sections is made in any amendment or supplement to any section of the Codified Ordinances hereafter enacted, such reference shall be deemed to refer to the section or sections as the same shall then stand or as thereafter amended.

Whenever in a penalty section reference is made to a violation of a section or an inclusive group of sections, such reference shall be construed to mean a violation of any provision of the section or sections included in such reference.

References in the Codified Ordinances to action taken or authorized under designated sections of the Codified Ordinances include, in every case, action taken or authorized under the applicable legislative provision which is superseded by the Codified Ordinances.

(ORC 1.23)

101.06 CONFLICTING PROVISIONS.

If the provisions of different codes, chapters or sections of the Codified Ordinances conflict with or contravene each other, the provisions bearing the latest passage date shall prevail. If the conflicting provisions bear the same passage date, the conflict shall be construed so as to be consistent with the meaning or legal effect of the questions of the subject matter taken as a whole.

101.07 SEPARABILITY.

Each section of the Codified Ordinances and every part of each section is an independent section and part of a section, and the holding of any section or a part thereof to be unconstitutional, void or ineffective for any cause does not affect the validity or constitutionality of any other section or part thereof.

(ORC 1.13)

101.08 CITATION AND SETTLEMENT IN LIEU OF PROSECUTION FOR CERTAIN OFFENSES.

(a) Whenever a person is observed violating certain provisions of this code as specified in this section, or there is reasonable suspicion to believe that such a violation has occurred and that a particular person is responsible, the City may, in lieu of filing a criminal complaint in court, issue to the alleged violator a citation which shall:

- (1) Advise said person that the same has violated a specified ordinance.
- (2) Direct said person to make payment in an amount applicable to said alleged violation as set forth in this section as settlement of said claim;
- (3) Advise said person, where applicable, to cease and/or abate said violation forthwith and to refrain from like violations in the future;
- (4) Inform said person that, upon failure to so settle the claim and to cease and/or abate said violations, a complaint will be filed in the Lancaster Municipal Court of Fairfield County.

(b) Except as provided below, citations as provided herein shall be personally served upon the person responsible for the violation, his agent, representative, independent contractor or employee. In the event the owner, occupant, contractor or other person responsible for the violation cannot be located the citation may be served by posting a copy at the property, structure or vehicle where the violation has occurred and sending a copy by United States first class mail to the last known address of such person.

(c) Any person served with a citation for violations of the following provisions of Lancaster Codified Ordinance may settle and compromise the matter in respect of such ordinance violation by ceasing and/or abating said violation and paying the sum as follows:

- (1) For subsection (c)(2)A.1. through 10. fifty dollars (\$50.00) if paid within ten (10) days of service of the citation, or seventy-five dollars (\$75.00)
- (2) For subsection (c)(2)A.11., twenty five dollars (\$25.00) if paid within ten (10) days of service of the citation; or fifty dollars (\$50.00) if paid after (10 days of service of the citation; and two hundred fifty dollars (\$250.00) for Section 351.18 if paid after such ten (10) day period but before filing of a complaint in the Lancaster Municipal Court for all first offenses but within twenty (20) days. An extension of time to abate/cease may be granted in writing by the code enforcement officer where it is deemed reasonable under the circumstances.

A. GENERAL CODE VIOLATIONS

1. Dog at Large, LCO 505.01(c)
2. Failure to License Dog, LCO 505.03
3. High Grass, LCO 565.02
4. Advertising on Public Property LCO 541.09
5. Temporary Signs LCO 1317.03
6. Fire lane Parking, LCO 331.46 (c)
7. Open Burning LCO 1540.02
8. Obstructed Exits, LFC 1027.3
9. Junk Motor Vehicle, LCO 343.02
10. Lancaster Fire Code Sections as adopted in LCO 1303.01(a)
11. Parking & Loading Zones LCO 351 & 353

B. Appeal Process – All appeals for these violations will be to Fairfield County Municipal Court.

C. Unsatisfied Violations - For violations where the fine is not paid and/or the violation is not cured the administrative violation shall be transferred to the Lancaster City Prosecutor to void administrative violation and proceed with filing criminal violation.

(d) Payment of the citation shall be made at the Lancaster Police Department, or by United States mail.

(e) In the event that payment is not made within the time prescribed and the violation cured, a complaint will be filed in the Lancaster Municipal Court.

(f) The issuance of a citation under this section shall not be deemed a waiver of the power of the City of Lancaster to suspend, revoke or refuse to renew any license or permit for cause.

(g) The following City personnel shall have the authority to issue citations under this section: Fire Department Chief or his designee, Police Department Chief or his designee, code enforcement officers, zoning/building inspector, and such other persons as designated by the Mayor.

(Ord. 33-08. Passed 10-6-08.)

101.99 GENERAL PENALTY.

Whenever, in the Codified Ordinances or in any ordinance of the Municipality, any act is prohibited or is made or declared to be unlawful or an offense or a misdemeanor, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is otherwise provided, whoever violates any such provision shall be punished by a fine not exceeding fifty dollars (\$50.00). A separate offense shall be deemed committed on each day during or on which a continuing violation occurs.

CHAPTER 103

Wards and Boundaries

- 103.01 Wards established.**
- 103.02 First Ward.**
- 103.03 Second Ward.**
- 103.04 Third Ward.**
- 103.05 Fourth Ward.**
- 103.06 Fifth Ward.**

103.07 Sixth Ward.

CROSS REFERENCES

Division into wards - see Ohio R.C. 731.06

Voting precincts - see Ohio R.C. 3501.18

103.01 WARDS ESTABLISHED.

In order to achieve substantially equal population in each ward within the City, ward boundaries are hereby established as follows: (Ord. 9-14. Passed 6-23-14.)

103.02 FIRST WARD.

Beginning at the intersection of the western boundary of the City and the centerline of Memorial Drive; thence continuing in a southeasterly course along the centerline of Memorial Drive to the center of the Hocking River; thence following the Hocking River in a westerly course to the intersection with the railroad tracks; thence following the railroad tracks in a southeasterly course to the centerline of Brumfield Road; thence in a southerly course along said centerline continuing along the centerline of Maud Avenue to Cedar Hill Road (SR 188); thence in a easterly course to the parcel line between lots 138 and 139 of Cedar Hill Subdivision (Parcels 0536161000 and 0536161100 respectively and recorded in Plat Book 2, Page 18); thence in a southerly direction along said parcel line projected to Hunter's Run; thence following Hunter's Run in a southwesterly course to the northerly right of way line of Cincinnati-Zanesville Rd (US 22) also the City boundary; thence following the City boundary back to the point of beginning.

(Ord. 9-14. Passed 6-23-14.)

103.03 SECOND WARD.

Beginning at the City's Northern boundary at State Route 158 and following it East and South to North High Street; thence continuing South on High Street to West Fair Avenue; thence proceeding West on West Fair Avenue to Columbus Street; thence South on Columbus Street to Wheeling Street; thence West on Wheeling Street to the Hocking River; thence North following the Hocking River to N. Pierce Avenue; thence continuing North on Pierce Avenue to the centerline of Memorial Drive; thence in a northwesterly course along the centerline of Memorial Drive to the western City boundary; thence following the City boundary line around until it intersects with State Route 158.

(Ord. 9-14. Passed 6-23-14.)

103.04 THIRD WARD.

Beginning at the intersection of the City boundary line and North High Street and following this boundary line to Sheridan Drive; thence proceeding South on Sheridan Drive to Pleasantville Road and Cherry Street; thence South on Cherry Street to Wheeling Street; thence West on Wheeling Street to Columbus Street; thence continuing North on Columbus Street to Fair Avenue; thence East on Fair Avenue to High Street; thence North on High Street to the intersection of the City boundary. (Ord. 9-14. Passed 6-23-14.)

103.05 FOURTH WARD.

Beginning at the intersection of the City boundary with Sheridan Drive between Fair Avenue and Wetsell Avenue; thence continuing North along the City boundary following it completely around until the Southern leg intersects with Marietta Road; thence continuing West on Marietta Road to Sells Road; thence continuing South on Sells Road to Main Street; thence continuing West on Main Street to Cherry Street; thence continuing North on Cherry Street to Sheridan Drive; thence continuing North on Sheridan Drive to the City boundary intersecting with Sheridan Drive between Fair Avenue and Wetsell Avenue.

(Ord. 9-14. Passed 6-23-14.)

103.06 FIFTH WARD.

Beginning at the Southern boundary of the City at Stump Hollow Road and State Route 793; thence continuing West and North following the City boundary to South Broad Street; thence following South Broad Street North to Clark Street to its Western terminus; thence Northwest to the eastern terminus of Spring Street; thence following Spring Street to Maher Avenue; thence North to the Northern terminus of Maher Avenue; thence following a line from the Northern terminus of Maher Avenue to the intersection of Hunter's Run and the Hocking River; thence North along the Hocking River to Wheeling Street; thence East on Wheeling Street to Cherry Street; thence continuing Southeast on Cherry Street to East Main Street; thence following East Main Street to Sells Road; thence continuing North on Sells Road to Marietta Road; thence continuing East on Marietta Road to the City boundary line; thence following the City boundary line around to its intersection with Southern boundary of the City at Stump Hollow Road and State Route 793. (Ord. 9-14. Passed 6-23-14.)

103.07 SIXTH WARD.

Beginning at the City boundary at Hamburg Road and continuing West along the boundary to Boving Road; thence continuing North along the City boundary line to U.S. Route 22 at the intersection with Hunters Run; thence continuing North along Hunters Run to Cedar Hill Road (SR 188); thence continuing West on Cedar Hill Road to Maud Avenue; thence continuing North on Maud Avenue to Brumfield Avenue; thence continuing North on Brumfield Avenue to the railroad tracks; thence following the railroad tracks in a northwesterly direction to the intersection with the Hocking River; thence east and south along the Hocking River to the intersection of the Hocking River and Hunters Run; thence following a line South to the Northern terminus of Maher Avenue; thence continuing South on Maher Avenue to Spring Street; thence East on Spring Street to its terminus; thence following a line from the terminus of Spring Street to the Western terminus of West Clark Street; thence East on West Clark Street to South Broad Street; thence South on Broad Street to Hamburg Road; thence South on Hamburg Road to its intersection with the City boundary.

(Ord. 9-14. Passed 6-23-14.)

CHAPTER 105

Numbering of Streets and Buildings

105.01 Plan of street numbering.

- 105.02 Numbering of buildings required.**
- 105.03 Plan of building numbering.**

CROSS REFERENCES

Power to regulate building numbering - see Ohio R. C. 715.26
Street names in new subdivisions - see P. & Z. 1111.03(b)

105.01 PLAN OF STREET NUMBERING.

All streets crossing or terminating in Main Street shall be numbered north and south from Main Street; and all streets terminating north or south of Main Street shall be numbered by beginning at the termination nearest Main Street and numbering north or south according as the streets to be numbered may be located north or south as aforesaid. All streets crossing or terminating in Broad Street shall be numbered east and west, beginning at Broad Street; and all streets terminating east or west of Broad Street shall be numbered by beginning at the termination nearest Broad Street and numbering east or west according as the street to be numbered may be located, east or west as aforesaid.

(1939 R.O., 1:02.)

105.02 NUMBERING OF BUILDINGS REQUIRED.

All the residences, business houses, shops and manufacturing establishments in the City shall be numbered as herein provided. The numbering shall begin at the intersection of Main and Broad Streets and extend north, south, east and west, as provided.

(1939 R. O., 1:02.)

105.03 PLAN OF BUILDING NUMBERING.

One hundred numbers shall be assigned to each block or square and when there are regular squares or blocks laid out on one side of the street and not on the opposite side, the blocks regularly laid out shall control the numbering on both sides of the street.

Not more than twenty feet shall be assigned to one number, and the numbers shall be assigned as follows: the even numbers to the east and south sides of the streets, and the odd numbers to the north and west sides of the streets.

(1939 R.O., 1:02.)

CHAPTER 107

Official Standards

107.01 Official song.

CROSS REFERENCES

State standard of time - see Ohio R.C. 1.04
State legal holidays - see Ohio R.C. 1.14, 5.20 et seq.

107.01 OFFICIAL SONG .

The song "Lancaster Town Of My Dreams", composed by Betty Smith, is hereby declared to be the official song of the City.

(Ord. 11-75. Passed 3-10-75.)

CHAPTER 109

Open Meetings

- 109.01 Purpose.**
- 109.02 Definitions.**
- 109.03 Notice of regular and organizational meetings.**
- 109.04 Notice of special meetings.**
- 109.05 Notice to news media of special meetings.**
- 109.06 Notification of discussion of specific types of public business.**
- 109.07 General provisions.**

CROSS REFERENCES

Open meetings - see Ohio R.C. 121.22

109.01 PURPOSE.

Pursuant to Ohio R.C. 121.22(F) Council hereby adopts the following rules for the purposes of:

- (a) Establishing a reasonable method for any person to determine the time and place of all regularly scheduled meetings and the time, place and purpose of all special meetings;
- (b) Making provisions for giving advance notice of special meetings to the news media that have requested notification;
- (c) Making provisions for persons to request and obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed.

These rules apply to each municipal body, as defined below and are in addition to any applicable legal requirements as to notices to members of a municipal body or to others in connection with specific meetings or specific subject matters.

(Ord. 6-76. Passed 1-19-76.)

109.02 DEFINITIONS.

As used in them chapter:

- (a) "Clerk" means Clerk of Council.
- (b) "Day" means calendar day.
- (c) "Meeting" means any prearranged discussion of the public business of the municipal body by a majority of the members of the municipal body.
- (d) "Municipal body" means each of the following:
 - Council;
 - Board of Control;
 - Board of Trustees of Public Affairs;
 - Other bodies as are determined to be covered by this chapter, or, even if not covered, that Council wants the rules to apply to. Such other bodies include Assessment Equalization Boards, Planning Commission, Board of Zoning Appeals, Civil Service Commission, Architectural Review Board, etc.,
 - and committees of the above municipal bodies comprising members of such bodies if such committees
- (1) are comprised of a majority of the members of the main municipal body, or
- (2) are decision-making committees.
- (e) "Oral notification" means notification given orally either in person or by telephone, directly to the person for whom such notification is intended, or by leaving an oral message for such person at the address, or if by telephone at the telephone number, of such person as shown on the records kept by the Clerk under these rules.
- (f) "Post" means to post in an area accessible to the public during the usual business hours at the office of the Clerk and at the following locations:
 - Bulletin board in hallway of first floor of City Hall.
 - A notice identifying the locations at which notifications will be posted pursuant to these rules shall be published by the Clerk within ten calendar days after the adoption of these rules.
- (g) "Published" means published once in a newspaper having a general circulation in the Municipality, as defined in Ohio R.C. 7.12, except that no portion of such newspaper need be printed in the Municipality. If at the time of any such publication there is no such newspaper of general circulation, then such publication shall be in a newspaper then determined by the Clerk to have the largest circulation in the Municipality.
- (h) "Special meeting" means a meeting which is neither a regular meeting nor an adjournment of a regular (or special) meeting to another time or day to consider items specifically stated on the original agenda of such regular (or special) meeting.
- (i) "Written notification" means notification in writing mailed, telegraphed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under these rules, or in any way delivered to such person. If mailed, such notification shall be mailed by first class mail, deposited in a U.S. Postal Service mailbox no later than the second day preceding the day of the meeting to which such notification refers, provided that at least one regular mail delivery day falls between the day of mailing and the day of such meeting.

(Ord. 6-76. Passed 1-19-76.)

109.03 NOTICE OF REGULAR AND ORGANIZATIONAL MEETINGS.

(a) The Clerk shall post a statement of the time(s) and place(s) of regular meetings of each municipal body for each calendar year not later than the second day preceding the day of the first regular meeting (other than the organizational meeting) of the calendar year of that municipal body. The Clerk shall check at reasonable intervals to ensure that such statement remains so posted during such calendar year. If at any time during the calendar year the time or place of regular meetings, or of any regular meeting, is changed on a permanent or temporary basis, a statement of the time or place of such regular meetings shall be posted by the Clerk at least twenty-four hours before the time of the first changed regular meeting.

(b) The Clerk shall post a statement of the time and place of any organizational meeting of a municipal body at least twenty-four hours before the time of such organizational meeting.

(c) Upon the adjournment of any regular or special meeting to another day, the Clerk shall promptly post notice of the time and place of such adjourned meeting.

(Ord. 6-76. Passed 1-19-76.)

109.04 NOTICE OF SPECIAL MEETINGS.

(a) Except in the case of a special meeting referred to in Section 109.05(d), the Clerk shall, no later than twenty-four hours before the time of a special meeting of a municipal body, post a statement of the time, place and purposes of such special meeting.

(b) The statement under this notice of special meetings section and the notifications under the notice to news media of special meetings section shall state such specific or general purpose or purposes then known to the Clerk to be intended to be considered at such special meeting and may state, as an additional general purpose, that any other business as may properly come before such municipal body at such meeting may be considered and acted upon.

(Ord. 6-76. Passed 1-19-76.)

109.05 NOTICE TO NEWS MEDIA OF SPECIAL MEETINGS.

(a) Any news medium organization that desires to be given advance notification of special meetings of a municipal body shall file with the Clerk a written request therefor on a standard form to be provided by the Clerk.

Except in the event of an emergency requiring immediate official action as referred to in subsection (d) hereof, a special meeting shall not be held unless at least twenty-four hours advance notice of the time, place and purposes of such special meeting is given to the news media that have requested such advance notification in accordance with subsection (b) hereof.

(b) News media requests for such advance notification of special meetings shall specify: the municipal body that is the subject of such request; the name of the medium; the name and address of the person to whom written notifications to the medium may be mailed, telegraphed or delivered; the names, addresses and telephone numbers (including addresses and telephone numbers at which notifications

may be given either during or outside of business hours) of at least two persons to either one of whom oral notifications to the medium may be given; and at least one telephone number which the request identifies as being manned, and which can be called at any hour for the purpose of giving oral notification to such medium.

Any such request shall be effective for one year from the date of filing with the Clerk or until the Clerk receives written notice from such medium canceling or modifying such request, whichever is earlier. Each requesting news medium shall be informed of such period of effectiveness at the time it files its request. Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the City, the municipal body that is the subject of such request, and the Clerk.

(c) The Clerk shall give such oral notification or written notification, or both, as the Clerk determines, to the news media that have requested such advance notification in accordance with subsection (b) hereof, of the time, place and purposes of each special meeting, at least twenty-four hours prior to the time of such special meeting.

(d) In the event of an emergency requiring immediate official action, a special meeting may be held without giving twenty-four hours advance notification thereof to the requesting news media. The persons calling such meeting, or any one or more of such persons or the Clerk on their behalf, shall immediately give oral notification or written notification, or both, as the person or persons giving such notification determine, of the time, place and purposes of such special meeting to such news media that have requested such advance notification in accordance with subsection (b) hereof. The minutes or the call, or both, of any such special meeting shall state the general nature of the emergency requiring immediate official action.

(Ord. 6-76. Passed 1-19-76.)

109.06 NOTIFICATION OF DISCUSSION OF SPECIFIC TYPES OF PUBLIC BUSINESS.

(a) Any person, upon written request and as provided herein, may obtain reasonable advance notification of all meetings at which any specific type of public business is scheduled to be discussed.

Such person may file a written request with the Clerk specifying: the person's name, and the address(es) and telephone number(s) at or through which the person can be reached during and outside of business hours; the specific type of public business the discussion of which the person is requesting advance notification; the municipal body that is the subject of such request; and the number of calendar months, not to exceed twelve, which the request covers. Such request may be canceled by request from such person to the Clerk.

Each such written request shall be accompanied by stamped self-addressed envelopes sufficient in number to cover the number of regular meetings during the time period covered by the request and an estimated number of four special meetings. The Clerk shall notify in writing the requesting person when the supply of envelopes is running out, and if the person desires notification after such supply has run out such person must deliver to the Clerk an additional reasonable number of stamped self-addressed envelopes as a condition to receiving further notifications.

Such requests may be modified or extended only by filing a complete new request with the Clerk. A request shall not be deemed to be made unless it is complete in all respects, and such request may be conclusively relied on by the City, municipal body that is the subject of such request, and the Clerk.

(b) The contents of written notification under this section may be a copy of the agenda of the meeting. Written notification may be accomplished by giving advance written notification, by copies of the agendas, of all meetings of the municipal body that is the subject of such request.

(Ord. 6-76. Passed 1-19-76.)

109.07 GENERAL PROVISIONS.

(a) Any person may visit or telephone the office of the Clerk during that office's regular office hours to determine, based on information available at that office: the time and place of regular meetings; the time, place and purposes of any then known special meetings; and whether the available agenda of any such future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting.

(b) Any notification provided herein to be given by the Clerk may be given by any person acting in behalf of or under the authority of the Clerk. It is further determined that the chairman of each municipal body, other than Council, shall act on behalf of the Clerk and it shall be the obligation of such chairman to perform these duties enumerated herein regarding notices.

(c) A reasonable attempt at notification shall constitute notification in compliance with these rules.

(d) A certificate by the Clerk as to compliance with these rules shall be conclusive upon this City and the municipal body involved.

(e) The Clerk shall maintain a record of the date and manner, and time if pertinent under these rules, of all actions taken with regard to notices and notifications Sections 109.04, 109.05 and 109.06 of these rules, and shall retain copies of proofs of publication of any notifications or notices published thereunder.

(f) To better insure compliance with these rules as to notice and notifications, it shall be the responsibility of the chairman or secretary of a municipal body other than Council, or the person or persons calling the meetings, to timely advise the Clerk of future meetings, and the subject matters to be discussed thereat, of such municipal body.

(Ord. 6-76. Passed 1-19-76.)

CHAPTER 110

Ethics

110.01 Definitions.

110.02 Representing private client before public agency.

110.03 Disclosing confidential information.

110.04 Participating in licensing or rate making.

110.05 Using influence of office to secure value.

110.06 Soliciting or accepting thing of value.

110.07 Exerting improper influence over public official.

110.08 Receiving improper compensation.

110.99 Penalty.

110.01 DEFINITIONS.

As used in this chapter:

- (a) "Compensation" means money, thing of value, or financial benefit. "Compensation" does not include reimbursement for actual and necessary expenses incurred in the performance of official duties.
- (b) "Public official or employee" means any person who is elected or appointed to an office of the City or is an employee of any public agency. "Public official or employee" does not include a person elected or appointed to the office of precinct, ward or district committee member under Ohio R.C. 3517.03, any presidential elector or delegate to a national convention. "Public Official or employee" does not include a person who is a teacher, instructor, professor any other kind of educator whose position does not involve the performance of, or authority to perform, administrative supervisory functions.
- (c) "Public agency" means Mayor's Court, any department, division, institution, board, commission, authority, bureau or other instrumentality of the City. "Public agency" does not include a department, division, institution, board, commission, authority or other instrumentality of the State or a county, municipal corporation, township or other governmental entity that functions exclusively for cultural, educational, historical, humanitarian, advisory or research purposes; does not expend more than ten thousand dollars (\$10,000) per calendar year, excluding salaries and wages of employees; and whose members are uncompensated.
- (d) "Immediate family" means a spouse residing in the person's household and any dependent child.
- (e) "Income" includes gross income as defined and used in the "Internal Revenue Code of 1954", 68A Stat[3,] 26 U.S.C. 1, as now or hereafter amended, interest and dividends on obligations or securities of any state or of any political subdivision or authority thereof, and interests and dividends on obligations of any authority, commission or instrumentality of the United States.
- (f) "Appropriate ethics commission" means the Ohio Ethics Commission.
- (g) "Anything of value" has the same meaning as provided in Ohio R.C. 1.03 and includes, but is not limited to, a contribution as defined in Ohio R.C. 3517.01.

(Ord. 57-97. Passed 9-8-97.)

110.02 REPRESENTING PRIVATE CLIENT BEFORE PUBLIC AGENCY.

(a) No present or former public official or employee shall, during his public employment or service or for twelve months thereafter, represent a client or act in a representative capacity for any person on any matter in which he personally participated as a public official or employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or other substantial exercise of administrative discretion.

(b) As used in this section, "matter" includes any case, proceeding, application, determination, issue or question, but does not include the proposal, consideration or enactment of statutes, rules, ordinances, resolutions or charter or constitutional amendments.

(c) As used in this section, "represent" includes any formal or informal appearance before, or any written or oral communication with, any public agency on behalf of any person.

(d) Nothing contained in this section shall prohibit, during such period, a former public official or employee from being retained or employed to represent, assist or act in a representative capacity for the public agency by which he was employed or on which he served.

(e) This section shall not be construed to prohibit the performance of ministerial functions, including, but not limited to, the filing or amendment of tax returns, applications for permits and licenses, incorporation papers and other similar documents.

(Ord. 57-97. Passed 9-8-97.)

110.03 DISCLOSING CONFIDENTIAL INFORMATION.

No present or former public official or employee shall disclose or use, without appropriate authorization, any information acquired by him in the course of his official duties which is confidential because of statutory provisions, or which has been clearly designated to him as confidential when such confidential designation is warranted because of the status of the proceedings or the circumstances under which the information was received and preserving its confidentiality is necessary to the proper conduct of government business.

(Ord. 57-97. Passed 9-8-97.)

110.04 PARTICIPATING IN LICENSING OR RATE MAKING.

(a) No public official or employee shall participate within the scope of his duties as a public official or employee, except through ministerial functions as defined in the preceding section, in any license or rate-making proceeding that directly affects the license or rates of any person, partnership, trust, business trust, corporation or association in which the public official or employee or his immediate family owns or control more than five percent (5%).

(b) No public official or employee shall participate within the scope of his duties as a public official or employee, except through ministerial functions as defined in the preceding section, in any license or rate-making proceeding that directly affects the license or rates of any person to whom the public official or employee or his immediate family, or a partnership, trust, business trust, corporation or association of which he or his immediate family owns or controls more than five percent (5%) has sold goods or services totaling more than one thousand dollars (\$1,000) during the preceding year, unless the public official or employee has filed a written statement acknowledging such sale with the Clerk of Council and the statement is entered in Council records.

(c) This section shall not be construed to require the disclosure of clients of attorneys or persons licensed as psychologists or school psychologists, or patients of persons certified to practice medicine or surgery.

(Ord. 57-97. Passed 9-8-97.)

110.05 USING INFLUENCE OF OFFICE TO SECURE VALUE.

No public official or employee shall use or authorize the use of the authority or influence of his office or employment to secure anything of value or the promise or offer of anything of value that is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

(Ord. 57-97. Passed 9-8-97.)

110.06 SOLICITING OR ACCEPTING THING OF VALUE.

No public official or employee shall solicit or accept anything of value that is of such a character as to manifest a substantial and improper influence upon him with respect to his duties.

(Ord. 57-97. Passed 9-8-97.)

110.07 EXERTING IMPROPER INFLUENCE OVER PUBLIC OFFICIAL.

No person shall promise or give to a public official or employee anything of value that is of such character as to manifest a substantial and improper influence upon him with respect to his duties.

(Ord. 57-97. Passed 9-8-97.)

110.08 RECEIVING IMPROPER COMPENSATION.

(a) Except as provided in subsection (b) hereof, no person who is elected or appointed to an office of or employed by the City shall receive or agree to receive directly or indirectly compensation other than from the agency with which he serves for any service rendered by him personally in any case, proceeding, application or other matter which is before any department, board, commission or other instrumentality of the City.

(b) A public official who is appointed to a nonelective office or a public employee shall be exempt from subsection (a) hereof if both of the following apply:

- (1) The department of the City to which the official or employee wants to sell the goods or services, or before which the matter involves the rendering of his services is pending, is a department other than the one which he serves; and
- (2) Prior to rendering the personal services or agreeing to sell the goods or services, he files a statement with the Ohio Ethics Commission, with the department he serves, and with the department before which the matter is pending or that is purchasing or has agreed to purchase goods or services. The required statement shall contain the official's or employee's name and home address, the name and mailing address of the department with which he serves and before which the matter is pending or that is purchasing or has agreed to purchase goods or services, and a brief description of the pending matter and of the personal services to be rendered or the goods or services to be purchased. The statement shall also contain the public official's or employee's declaration that he disqualifies himself for a period of two years from any participation as such public official or employee in any matter involving any public official or employee or the department before which the present matter is pending or to which goods or services are to be sold. The two year period shall run from the date of the most recently filed statement regarding the agency before which the matter was pending or to which the goods or services were to be sold. No person shall be required to file statements under this section with the same department regarding a particular matter more than once in a calendar year.

(c) No public official or employee who files a statement or is required to file a statement under subsection (b) hereof shall knowingly fail to disqualify himself from any participation as a public official or employee of the department with which he serves in any matter involving any official or employee of the department before which a matter for which he rendered personal services was pending or of a department that purchased or agreed to purchase goods or services.

(Ord. 57-97. Passed 9-8-97.)

110.99 PENALTY.

Whoever violates this chapter is guilty of a first degree misdemeanor.

(Ord. 57-97. Passed 9-8-97.)

TITLE THREE - Legislative

Chap. 111. Rules of Council.

Chap. 113. Clerk of Council.

Chap. 115. Ordinances and Resolutions.

CHAPTER 111

Rules of Council

- 111.01 Time of regular meetings.**
- 111.02 Special meetings.**
- 111.03 Calling to order; preliminaries; presiding officer.**
- 111.04 Quorum.**
- 111.05 Permission to leave chamber.**
- 111.06 President Pro Tempore and Clerk of Council.**
- 111.06.1 Standing committees and boards and commissions.**
- 111.07 Order of business.**
- 111.08 Exception to order of business.**
- 111.09 Committee or official's reports.**
- 111.10 Speaking.**
- 111.10.1 Voters and taxpayers addressing Council.**
- 111.11 Motions.**
- 111.12 Division of the question.**
- 111.13 Writing out motion.**
- 111.14 Reference of motion to committee.**
- 111.15 Motion to adjourn.**
- 111.16 Motions considered during debate.**
- 111.17 Motion to take from the table.**

- 111.18 Motion to reconsider.
- 111.19 Previous question.
- 111.20 Voting.
- 111.21 Introduction of ordinances.
- 111.22 Limitations on reference.
- 111.23 Action of Council; procedure.
- 111.24 Resolutions and expenditure of money.
- 111.25 Appeal from decision of the chair.
- 111.26 Undebatable motions.
- 111.26.1 Debatable motions.
- 111.27 Calling member to order.
- 111.28 Change in rules.
- 111.29 Action upon failure of committee to report.
- 111.30 Suspension of rules.
- 111.31 Chief of Police to preserve order and compel attendance.
- 111.32 Power to compel attendance.
- 111.33 Refusal to attend special meetings.
- 111.34 Use of Robert's Rules of Order.
- 111.35 Changing rules.
- 111.36 Smoking prohibited at all meetings.
- 111.37 Providing Council members with ordinance books. (Repealed)
- 111.38 Schedule of Council.

CROSS REFERENCES

- Adoption of ordinances and resolutions - see Ohio R.C. 715.03, 731.17
- General powers - see Ohio R.C. 715.03, 731.01, 731.05, 731.47
- To establish sewerage rates - see Ohio R. C. 729.49
- Composition - see Ohio R. C. 731.01, 731.06
- Qualifications - see Ohio R. C. 731.02, 731.44
- Election and term - see Ohio R. C. 731.03, 733.09
- Election of officers - see Ohio R. C. 731.04
- President pro tempore - see Ohio R. C. 731.04, 733.08
- Powers as to salaries and bonds - see Ohio R. C. 731.07 et seq., 731.49 et seq.
- Vacancy - see Ohio R. C. 731.43
- Quorum - see Ohio R.C. 731.44
- Regular and special meetings - see Ohio R.C. 731.44, 731.46
- Rules; journal; expulsion of members - see Ohio R. C. 731.45
- Contract restriction - see Ohio R. C. 731.48
- Failure to take oath or give bond - see Ohio R. C. 731.49
- Mayor and directors to attend meetings - see Ohio R. C. 733.06
- President of Council - see Ohio R. C. 733.07 et seq.
- President to preside with no vote except for a tie - see Ohio R. C. 733.09
- Mayor's reports - see Ohio R. C. 733.32, 733.41
- Misconduct - see Ohio R. C. 733.72 et seq.
- Contract interest - see Ohio R. C. 733.78

111.01 TIME OF REGULAR MEETINGS.

Regular meetings of Council shall be held at the designated Council Chambers on the second and fourth Mondays of each month, at 7:00 p.m. or at such time as maybe ordered by Council. Council shall adopt at the first regular meeting of each year a schedule of regular meetings for the calendar year by resolution.

(Ord. 14-16. Passed 4-11-16.)

111.02 SPECIAL MEETINGS.

Special meetings of Council may be called by the Mayor or any three members of Council upon written request delivered to the Clerk of Council. No business shall be transacted at any special meeting of Council, except the particular business for the transaction of which such special meeting may be called and the notice to be served on each member requiring his/her attendance at such special meeting shall contain a statement of the business for the transaction of which such special meeting may be called.

(Ord. 14-16. Passed 4-11-16.)

111.03 CALLING TO ORDER; PRELIMINARIES; PRESIDING OFFICER.

The President or, in his/her absence, the President pro tempore shall take the chair at the hour to which Council shall have adjourned at the preceding session, shall immediately call the members to order, and shall direct the Clerk to call the roll. He/she shall then cause the journal of the preceding session to be read and disposed of, unless otherwise ordered by Council. In the absence of the President and President pro tempore, if a quorum shall be present, Council shall appoint one of its members President pro tempore for that meeting, or until the appearance of the President or President pro tempore. If a quorum is not present, the members may by a majority vote take a recess for a period not exceeding one hour. The President pro tempore retains his/her right to vote and enter into discussion and debate, even when chairing a session.

(Ord. 14-16. Passed 4-11-16.)

111.04 QUORUM.

A majority of the members of Council shall constitute a quorum.
(Ord. 14-16. Passed 4-11-16.)

111.05 PERMISSION TO LEAVE CHAMBER.

No member shall leave the Council chamber while Council is in session, without permission being granted by the presiding officer.
(Ord. 14-16. Passed 4-11-16.)

111.06 PRESIDENT PRO TEMPORE AND CLERK OF COUNCIL.

Not later than January 5th of each year in a new term of Council, Council shall hold an Organizational Meeting for the purposes of appointing a President pro tempore and a Clerk of Council. Any Council member may make a motion in this meeting to appoint individuals to these positions. Any such motion must be seconded and passed by a majority vote of Council.
(Ord. 14-16. Passed 4-11-16.)

111.06.1 STANDING COMMITTEES AND BOARDS AND COMMISSIONS.

The President pro tempore in the first regular meeting of the new term of Council shall submit proposed committee assignments, proposed committee chairman, and proposed appointments to boards and commissions to Council for consideration and approval. Confirmation of these appointments is required by a majority of Council. Any Council member can move to strike out one or more names and offer alternate nominations. Any such motion must be seconded and passed by a majority vote of Council. Upon motion, second, and majority confirmation, Council may change such appointments during the term.

It shall be the duty of Council not later than the first regular meeting of the new term to appoint standing committees on each of the following subjects:

- (a) Code Enforcement & Zoning Committee
(Certified Building Department, Code Enforcement, & Engineering)
- (b) Economic Development Committee
(Annexations, CDBG Program & Economic Development) [Chamber of Commerce, CIC, etc.]
- (c) Finance Committee
(Auditor, Treasure, Income & City Budget)
- (d) Law Committee
(General Legal Issues, Law Director's Office, Municipal Court, Clerk of Court, Council, Council Rules, Council Clerk, Mayor's Office & Service-Safety Director)
- (e) IT/Telecom
(Information technology and communications)
- (f) Public Works Committee
(LDOT, Transit, & Cemetery)
- (g) Safety Committee
(Police & Fire)
- (h) Service Committee
(Gas, IT/Telecom, Utilities Collection, Parks and Recreation, Olivedale & Sanitation)
- (i) Water/Water Pollution Control Committee
(Water, Wastewater, & Storm Water)
(Ord. 40-17. Passed 12-11-17.)

111.07 ORDER OF BUSINESS.

The business of all regular meetings of Council shall be transacted in the following order:

- (a) Prayer
- (b) Call to Order
- (c) Pledge of Allegiance
- (d) Roll Call
- (e) Reading and disposing of the Journal
- (f) Reports of City Officials
- (g) Reading of Communications
- (h) Reading of Petitions and Memorials
- (i) Permission of voters and taxpayers to address Council
- (j) Report of Standing Committees
- (k) Reports of Special Committees
- (l) Scheduled Public Hearings
- (m) Resolutions
- (n) Ordinances
- (o) Unfinished Business and formal presentations of information
- (p) New Business
- (q) Announcement of Scheduled Meetings
- (r) Reading of Bills
- (s) Adjournment

(Ord. 14-16. Passed 4-11-16.)

111.08 EXCEPTION TO ORDER OF BUSINESS.

After reading and disposing of the Journal it shall be the duty of the President to proceed with the order of business adopted in Section 111.07. The President may, however, at any time permit a member to introduce an ordinance, resolution, motion or order out of the regular order for the same, if there is no objection on the part of a majority vote of Council.
(Ord. 14-16. Passed 4-11-16.)

111.09 COMMITTEE OR OFFICIAL'S REPORTS.

Any subject matter having been referred to any committee of Council or City officer shall be reported upon, in writing, by such committee or officer, and at least a majority of each and any committee to which a subject has been referred shall report thereon. Such report shall, in every instance be accompanied by the original papers upon which such report is based and be signed by such members thereof as concur therein, and the same shall be read by the Clerk, or at the Clerk's desk by the member making the report, without motion.

(Ord. 14-16. Passed 4-11-16.)

111.10 SPEAKING.

In all cases the member who shall first rise and address the chair shall speak first. However, when two or more members shall rise at once, the President shall name the member who is first to speak. No member shall be allowed to speak except from his/her own desk. No member shall speak more than twice on the same subject, nor longer than five minutes without leave, and no member shall speak more than once on the same motion until every member desiring to speak on that motion shall have had an opportunity to do so. Any member, while discussing a question, may read from books, papers or documents, any matter pertinent to the subject under consideration without asking leave.

(Ord. 14-16. Passed 4-11-16.)

111.10.1 VOTERS AND TAXPAYERS ADDRESSING COUNCIL.

In order to ensure that the amount of time allowed for voters and taxpayers to address Council is fair to all in attendance, it shall be the duty of the President of Council to enforce a 5 minute rule. No person speaking during the voter and taxpayer time shall be permitted to speak for longer than 5 minutes and no person shall receive permission under this agenda item to speak more than once per Council meeting.

(Ord. 14-16. Passed 4-11-16.)

111.11 MOTIONS.

When a motion is made and seconded, it shall be stated by the President before any debate shall be in order. Every such motion and all amendments thereto, if any, may be withdrawn by the movers thereof at any time before decision, if a majority of the members then present shall agree thereto.

(Ord. 14-16. Passed 4-11-16.)

111.12 DIVISION OF THE QUESTION.

Any member may call for a division of the question, or the President may direct the same; and the same in either case shall be divided if it comprehends questions so distinct that one being taken away, the other will stand an entire question for decision.

(Ord. 14-16. Passed 4-11-16.)

111.13 WRITING OUT MOTION.

When required by any member, every motion or proposition shall be reduced to writing before action is taken thereon.

(Ord. 14-16. Passed 4-11-16.)

111.14 REFERENCE OF MOTION TO COMMITTEE.

When a motion is made for reference of any subject to a standing committee, and it is moved to substitute therefor a select committee, the question of reference to a standing committee shall be first put.

(Ord. 14-16. Passed 4-11-16.)

111.15 MOTION TO ADJOURN.

A motion to adjourn shall always be in order, unless Council is engaged in voting; but it being decided in the negative, shall not again be entertained until some motion, call or order takes place.

(Ord. 14-16. Passed 4-11-16.)

111.16 MOTIONS CONSIDERED DURING DEBATE .

When a question or proposition is before Council, or under debate, no motion shall be received except the following:

- (a) To adjourn.
- (b) To lay on the table.
- (c) For the previous question.
- (d) To postpone to a day certain.
- (e) To amend.
- (f) To commit.
- (g) To postpone indefinitely.

(Ord. 14-16. Passed 4-11-16.)

111.17 MOTION TO TAKE FROM THE TABLE.

A motion to take from the table shall be in order when that order of business is being transacted in which such matter to be taken up was laid upon the table, and such motion shall be decided without debate; provided that the mover may be permitted to briefly state his/her reason for the motion.

(Ord. 14-16. Passed 4-11-16.)

111.18 MOTION TO RE CONSIDER.

Any member who voted on the prevailing side may move a reconsideration of any such action of Council, provided, that the motion be made not later than the next regular meeting after such action was taken. A motion to reconsider shall be in order any time, except when a motion on some other subject is pending. A motion to reconsider being laid upon the table, may be taken up and acted upon at any time when Council is engaged in transacting miscellaneous business. No motion to reconsider shall be made more than once on any matter or subject, and the same number of votes shall be required to reconsider any action of Council as is required to pass or adopt the same.

(Ord. 14-16. Passed 4-11-16.)

111.19 PREVIOUS QUESTION.

When the previous question shall be moved and seconded by another, it shall be put in these words: "Shall the main question now be

put?" Until decided, this shall preclude all further debate, and all amendments and motions, except one motion to adjourn and one motion to lay on the table, but shall not preclude pending amendments from being put in their order before the main question. If a call for previous question is not sustained, the subject under consideration shall not thereby be postponed, but the business shall proceed as if no such call had been made.

(Ord. 14-16. Passed 4-11-16.)

111.20 VOTING.

When demanded by any member and seconded by another, the yeas and nays shall be taken on the adoption of any ordinance, resolution, or any question or proposition submitted to Council. In taking the yeas and nays the Clerk shall call the names of the members in alphabetical order, and the President shall announce the result of such vote. The Clerk may be required to read the vote taken upon the demand of any member.

(Ord. 14-16. Passed 4-11-16.)

111.21 INTRODUCTION OF ORDINANCES.

Ordinances shall be introduced by members of Council with their names endorsed thereon.

(Ord. 14-16. Passed 4-11-16.)

111.22 LIMITATIONS ON REFERENCE.

After an ordinance or resolution has been once referred to a standing or special committee and report made thereof to Council, the same may be again referred, but after ordinances have been read the third time and put on their passage, it shall not again be referred, except under instructions from Council, which instructions shall embody substantially the amendment or amendments proposed.

(Ord. 14-16. Passed 4-11-16.)

111.23 ACTION OF COUNCIL; PROCEDURE.

The action of Council shall be by ordinance or resolution and on the passage of every ordinance or resolution the vote shall be taken by yeas and nays and entered on the Journal. However, this shall not apply to the ordering of an election, or direction by Council to any board or officer to furnish Council with information as to the affairs of any department or office. No ordinance or resolution granting a franchise, or creating a right, or involving the expenditure of money, or the levying of a tax, or for the purchase, lease, sale or transfer of property, shall be passed, unless the same shall have been read on three different days, and with respect to any such ordinance or resolution, there shall be no authority to dispense with this rule, except by three-fourths vote of all the members elected thereto. No ordinance shall be passed by Council without the concurrence of a majority of all members elected thereto. Ordinances for third reading shall not be considered or acted on in connection with other matters, and a separate roll call and vote shall be had on the passage of each and every ordinance.

(Ord. 14-16. Passed 4-11-16.)

111.24 RESOLUTIONS AND EXPENDITURE OF MONEY.

Resolutions shall be offered by any member of Council present, with his/her name endorsed thereon, and may be referred to the proper committee. No contract, agreement or other subject involving the expenditure of money shall be entered into, nor shall any ordinance, resolution or order for the appropriation or expenditure of money be passed by Council unless the City Auditor shall have first certified that the money required for the contract, agreement or other obligation, or to pay the appropriation or expenditure is in the Treasury to the credit of the fund in which it is to be drawn, and not appropriated for any other purpose.

(Ord. 14-16. Passed 4-11-16.)

111.25 APPEAL FROM DECISION OF THE CHAIR.

An appeal to Council from the decision of the chair may be taken by any member, if duly seconded, and the question shall be: "Shall the decision of the chair be sustained?"

(Ord. 14-16. Passed 4-11-16.)

111.26 UNDEBATABLE MOTIONS.

The following motions are not debatable:

- (a) To adjourn.
- (b) To lay on the table.
- (c) To take from the table.
- (d) For the previous question.
- (e) Question of order.

(Ord. 14-16. Passed 4-11-16.)

111.26.1 DEBATABLE MOTIONS.

The following motion(s) are debatable:

- (a) Motion to suspend rules

This section does not prohibit any other motions from being debated which are otherwise permitted by ordinance or Roberts Rules of Order.

(Ord. 14-16. Passed 4-11-16.)

111.27 CALLING MEMBER TO ORDER.

If any member, in speaking or otherwise shall violate any rule of Council, the President shall, or any member may, call him to order. If such member shall be called to order while speaking, he/she shall immediately take his/her seat. The question of order shall be decided without debate, and if the decision shall be in favor of the member called to order while speaking, he/she shall be at liberty to proceed with his/her speech without leave of Council.

(Ord. 14-16. Passed 4-11-16.)

111.28 CHANGE IN RULES.

Any proposed amendment or addition to the rules of Council may shall be first referred to the standing committee on Law Rules, which shall report them at the next regular meeting of Council.

(Ord. 14-16. Passed 4-11-16.)

111.29 ACTION UPON FAILURE OF COMMITTEE TO REPORT.

If any matter is referred to any standing or special committee of Council, and the same is not reported upon by the committee at the next regular meeting of Council, Council may by a majority vote thereof take each matter so referred from such committee and act upon such matter without report, at the meeting following the failure to report, unless upon proper excuse an extension of time is granted such committee.

(Ord. 14-16. Passed 4-11-16.)

111.30 SUSPENSION OF RULES.

These rules, or any one of them, may be temporarily suspended at any meeting of Council by a three fourths (3/4) vote of all members, and vote on such suspension, in such cases, shall be taken by yeas and nays and entered on the Journal.

(Ord. 14-16. Passed 4-11-16.)

111.31 CHIEF OF POLICE TO PRESERVE ORDER AND COMPEL ATTENDANCE.

Under the direction of the presiding officer of Council, the Chief of Police shall preserve order and decorum, and, by order of Council, shall compel the attendance of absent members as may be prescribed by ordinance.

(Ord. 14-16. Passed 4-11-16.)

111.32 POWER TO COMPEL ATTENDANCE.

At any special meeting of Council, the hour of meeting having arrived and three members being present, they shall have power to compel the attendance of absent members by summons, and it shall be the duty of the Chief of Police or other proper officer to punctually execute such summons.

(Ord. 14-16. Passed 4-11-16.)

111.33 REFUSAL TO ATTEND SPECIAL MEETINGS.

Any member of Council who shall refuse to appear forthwith when summoned, unless he/she is sick or has sufficient excuse to be accepted by Council, shall be liable to expulsion or such other penalty as Council may prescribe.

(Ord. 14-16. Passed 4-11-16.)

111.34 USE OF ROBERT'S RULES OF ORDER.

In the absence of any rule upon any matter of business, Council shall be governed by Robert's Rules of Order.

(Ord. 14-16. Passed 4-11-16.)

111.35 CHANGING RULES.

These rules shall not be altered, amended or repealed except by a majority vote of all members of Council.

(Ord. 14-16. Passed 4-11-16.)

111.36 SMOKING PROHIBITED AT ALL MEETINGS.

Smoking of cigarettes, E-cigarettes, pipes and cigars and the use of all tobacco products shall be prohibited at all meetings of the Lancaster City Council including caucus.

(Ord. 14-16. Passed 4-11-16.)

111.37 PROVIDING COUNCIL MEMBERS WITH ORDINANCE BOOKS. (REPEALED)

EDITOR'S NOTE: Former Section 111.37 was repealed by Ordinance 6-11.

111.38 SCHEDULE OF COUNCIL.

An announcement shall be made at each regularly scheduled meeting of Council notifying those in attendance of meetings currently scheduled for the next thirty days. These shall include but are not limited to Regular Council Sessions, Special Council Sessions, Public Hearings, and Committee Meetings. The Clerk shall be responsible for posting these advance notifications for the public. The postings shall include the meeting date, meeting time, meeting place, and a brief description of the purpose of the meeting.

(Ord. 14-16. Passed 4-11-16.)

CHAPTER 113

Clerk of Council

113.01 Fees for serving notices.

CROSS REFERENCES

Selection and duties of Clerk - see Ohio R. C. 731.04

Clerk to call roll at Council meetings - see ADM. 111.03

Clerk to record voting - see ADM. 111.20

113.01 FEES FOR SERVING NOTICES.

The Clerk of Council shall be paid, in addition to his salary, an allowance of one dollar and twenty-two cents (\$1.22) for each notice served for all public improvements within the City. If service of notice is made by certified or registered mail, the Clerk shall pay the costs thereof out of the one dollar and twenty-two cents (\$1.22) allowance for postage fees; however, the Auditor and Treasurer shall advance fifty percent of such postage costs in order that the Clerk does not have to expend large sums of money himself. Any compensation paid to the Clerk under this section shall be added to the cost of the proposed improvement and assessed against the property as part of the cost of such improvement.

(Ord. 37-71. Passed 7-12-71.)

CHAPTER 115

Ordinances and Resolutions

115.01 Collective bargaining agreements approved.

CROSS REFERENCES

Newspaper publication - see Ohio R. C. 7.12, 701.04, 731.21 et seq.
Zoning ordinances - see Ohio R. C. 713.12; P. & Z. 1125.01
Adoption and style - see Ohio R. C. 715.03, 731.17 et seq.
Subject and amendment - see Ohio R. C. 731.19
Authentication and recording - see Ohio R. C. 731.20
Publication, times required - see Ohio R. C. 731.22
Publication in book form - see Ohio R. C. 731.23
Adoption of technical codes - see Ohio R. C. 731.231
Certification as to publication - see Ohio R. C. 731.24 et seq.
Mayor's veto - see Ohio R. C. 731.27
Initiative and referendum - see Ohio R. C. 731.28 et seq.
Emergency measures - see Ohio R. C. 731.30
Certified copies as evidence - see Ohio R. C. 731.42
Contract restrictions - see Ohio R. C. 715.68, 731.48
Approval by Board of Control - see Ohio R. C. 733.21 et seq.
Contract interest - see Ohio R.C. 733.78, 735.09, 737.03
Department of Public Safety contracts - see Ohio R. C. 733.22 et seq., 737.02 et seq.
Department of Public Service contracts - see Ohio R. C. 733.22 et seq., 735.05 et seq.
Competitive bidding - see Ohio R. C. 735.05
Contract alterations or modifications - see Ohio R. C. 735.07
Contract procedure - see Ohio R. C. 735.09
Codified Ordinances - see ADM. Ch. 101
Introduction of ordinances and procedure - see ADM. 111.21 et seq.

115.01 COLLECTIVE BARGAINING AGREEMENTS APPROVED.

Notwithstanding the terms and provisions of the 1982 initiative ordinance, as interpreted by the Fifth District Court of Appeals, all collective bargaining agreements, and amendments thereto, with City employee unions, shall not be binding upon the City until approved by Council, in accordance with the Ohio Collective Bargaining Act of 1983, specifically Ohio R.C. 4117.10.

(Ord. 36-88. Passed 12-5-88.)

TITLE FIVE - Administrative

Chap. 121. Mayor.
Chap. 123. Director of Law.
Chap. 125. Auditor.
Chap. 127. Treasurer.
Chap. 129. Department of Safety-Service.
Chap. 130. Safety Service Board.
Chap. 131. Police Department.
Chap. 133. Fire Department.
Chap. 134. Building Department.
Chap. 135. City Engineer.
Chap. 137. Utility Services Committee.
Chap. 139. Public Transit Board.
Chap. 140. Port Authority.
Chap. 141. Fairfield County Combined General Health District.
Chap. 143. Historic Lancaster Commission. (Repealed)
Chap. 145. Employees Generally.

CHAPTER 121

Mayor

121.01 Control of income tax.

121.02 Appointment and removal of Income Tax Commissioner.

CROSS REFERENCES

Veto power - see Ohio R.C. 731.27
Election and term - see Ohio R.C. 733.02
General powers and duties - see Ohio R.C. 733.03, 733.30 et seq.
Appointment of municipal officers - see Ohio R.C. 733.04
Meetings with department directors - see Ohio R.C. 733.05
Attending Council meetings; recommendations - see Ohio R.C. 733.06
Council President as acting Mayor - see Ohio R.C. 733.07
Vacancy in office of Mayor - see Ohio R.C. 733.08
Power to fill vacancies - see Ohio R.C. 733.31
Reports to Council - see Ohio R.C. 733.32
Protest of excessive expenditures - see Ohio R.C. 733.33
Charges against delinquent officers - see Ohio R.C. 733.34 et seq.

Disposition of fines and other moneys - see Ohio R.C. 733.40
Annual report to Council - see Ohio R.C. 733.41
Approval of Mayor's bond - see Ohio R.C. 733.70

121.01 CONTROL OF INCOME TAX.

The City Income Tax Department is hereby established as a subdepartment of the Mayor's office, and the City Income Tax Commission shall be subject to the direction and control of the Mayor.

(Ord. 37-76. Passed 8-9-76.)

121.02 APPOINTMENT AND REMOVAL OF INCOME TAX COMMISSIONER.

The Income Tax Commissioner shall be appointed by the Mayor and may be removed at the pleasure and discretion of the Mayor. The Tax Commissioner shall be vested with all power and authority as provided in Ohio R.C. 733.85.

(Ord. 41-91. Passed 9-23-91.)

CHAPTER 123

Director of Law

123.01 Law Director as full-time position.

123.02 Annual report.

CROSS REFERENCES

Election, term and qualifications - see Ohio R.C. 733.49 et seq.
Powers and duties generally - see Ohio R. C. 733.51 et seq.
Duties as to suits - see Ohio R. C. 733.53
To give opinions - see Ohio R. C. 733.54
To pay over moneys - see Ohio R. C. 733.55
Application for injunction - see Ohio R. C. 733.56
Specific performance - see Ohio R. C 733.57
Writ of mandamus - see Ohio R C. 733.58
Suit by taxpayer - see Ohio R. C. 733.59
Annual report to Council - see Ohio R. C. 733.62
Preparing bonds - see Ohio R. C. 733.70

123.01 LAW DIRECTOR AS FULL-TIME POSITION.

There is hereby provided a full-time position for Law Director of the City of Lancaster, with offices at City Hall.

(Ord. 52-98. Passed 9-28-98.)

123.02 ANNUAL REPORT.

An annual report by the Law Director outlining the business of the office, the moneys collected during the year preceding, and such other matters as the Law Director deems proper to promote the good government and welfare of the City, shall be filed with the City Council by January 31st of each year.

(Ord. 5-11. Passed 4-25-11.)

CHAPTER 125

Auditor

125.01 Treasury investment.

125.02 Federal Revenue Sharing Trust Fund.

125.03 BUSTR Financial Assurance Fund.

CROSS REFERENCES

Uniform Bond Law - see Ohio R. C. Ch. 133
Uniform Depository Act - see Ohio R. C. Ch. 135
Treasury Investment Account - see Ohio R. C. 731.56 et seq.
Election, term and qualifications - see Ohio R. C. 733.10
Books and accounts - see Ohio R. C. 733.11
Auditing accounts - see Ohio R. C. 733.12
Overdrawing appropriation, proof of claims - see Ohio R. C. 733.13
Detailed statements and receipts - see Ohio R. C. 733.14
Duty as to receiving bids - see Ohio R. C. 733.18
Deputy Auditor see Ohio R. C. 733.19
Seal - see Ohio R. C. 733.20
Appropriation and expenditure - see Ohio R. C. 5705.41
Council expenditure of money - see ADM. 111.24

125.01 TREASURY INVESTMENT.

The Treasury Investment Committee shall decide whether to invest funds in bank savings accounts or government obligations,

depending upon the best rate of return.
(Ord. 107-67. Passed 12-26-67.)

125.02 FEDERAL REVENUE SHARING TRUST FUND.

There is established a Federal General Revenue Sharing Trust Fund in order to receive moneys paid under the State and Local Fiscal Assistance Act of 1972.

(Ord. 55-72. Passed 11-27-72.)

125.03 BUSTR FINANCIAL ASSURANCE FUND.

The BUSTR Financial Assurance Fund is created for the sole purpose of taking corrective action and for compensating third parties for bodily injury or property damage caused by accidental releases arising from the operation of petroleum underground storage tanks.

(Ord. 8- 10. Passed 5-24-10.)

CHAPTER 127

Treasurer

EDITOR'S NOTE: There are no sections in Chapter 127. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Loss of funds, release of liability - see Ohio R. C. 131.18 et seq.
Uniform Depository Act - see Ohio R.C. Ch. 135
Election, term and qualifications - see Ohio R. C. 733.42
Accounts - see Ohio R. C. 733.43
Powers and duties - see Ohio R. C. 733.44
Quarterly account and annual report - see Ohio R. C. 733.45
Receipt and disbursement of funds - see Ohio R. C. 733.46
Duty to deliver money and property - see Ohio R. C. 733.47

CHAPTER 129

Department of Safety-Service

EDITOR'S NOTE: Ordinance 95-45 provided for the merger of the Departments of Public Service and Public Safety in the City of Lancaster. Such departments are under the direction of the Safety-Service Director who fulfills any duty required of the Director of Public Service or the Director of Public Safety.

129.01 Co-operative purchasing with State.

129.02 Service-Safety Director residency.

CROSS REFERENCES

Departments of Public Service - see Ohio R. C. 735.01 et seq.
Departments of Public Safety - see Ohio R. C. 737.01 et seq.
Traffic control area designation, sign erection, powers of the Safety Director - see TRAF. 303.03 et seq.
Provisions concerning streets, utilities and public services - see Part Nine - Streets and Public Services Code

129.01 CO-OPERATIVE PURCHASING WITH STATE.

(a) The Service-Safety Director hereby requests authority in the name of the City of Lancaster, Ohio to participate in the Ohio Department of Transportation contracts for the purchase of machinery, materials, supplies or other articles which the Department has entered into pursuant to Ohio R.C. 5513.01(B).

(b) The Service-Safety Director is hereby authorized to agree in the name of the City of Lancaster, Ohio to be bound by all terms and conditions as the Director of Transportation prescribes.

(c) The Service-Safety Director is hereby authorized to agree in the name of the City of Lancaster, Ohio to directly pay the vendor, under each such contract of the Ohio Department of Transportation in which the City participates, for items it receives pursuant to the contract.

(d) The City of Lancaster, Ohio agrees to hold the Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising out of participation in a contract pursuant to Ohio R.C. 5513.01(B).

(Ord. 9-95. Passed 3-13-95.)

129.02 SERVICE-SAFETY DIRECTOR RESIDENCY.

The City of Lancaster, pursuant to the statutory authorization set forth in Ohio Revised Code Sections 735.01 and 737.01 and in the interest of seeking the most qualified candidate for the position of Service-Safety Director, hereby waives the City of Lancaster, Ohio residency requirement and authorizes a Fairfield County, Ohio residency requirement.

(Ord. 28-15. Passed 12-7-15.)

CHAPTER 130

Safety Service Board

130.01 Creation, composition and duties.

130.01 CREATION, COMPOSITION AND DUTIES.

(a) There is hereby established a Safety Service Board which shall consist of the Mayor, Police Chief, Fire Chief, Service-Safety Director, Chairman of the Council Safety Committee, two medical doctors who shall be appointed by other members of the Board and a member of the City Health Board as appointed by the Mayor. All members of the Board shall serve for a term of three years.

(b) The Safety Service Board shall recommend an ordinance for Council with respect to the issuing of licenses in the City for ambulance services, private police services, paramedic services and shall also recommend further regulations for those services. (Ord. 14-89. Passed 3-13-89.)

CHAPTER 131

Police Department

- 131.01 Fee for copies of records. (Repealed)**
- 131.02 Gasoline allowance for Police Chief. (Repealed)**
- 131.03 Pick-up of contributions to Disability and Pension Fund. (Repealed)**
- 131.04 Acceptance of property received through Federal participation.**
- 131.05 Appointee age limitation waiver.**
- 131.06 Reserve Police Unit.**
- 131.06.1 Volunteer Peace Officers' Dependents Fund.**
- 131.07 Donation of unclaimed property.**

CROSS REFERENCES

Reductions, suspensions and removals - see Ohio R. C. 124.34 et seq., 737.12
Police Chief suspension - see Ohio R. C. 124.34, 124.40
Age and promotions - see Ohio R. C. 124.31, 124.41, 124.44
Executive head - see Ohio R. C. 737.02
Police protection contracts - see Ohio R. C. 737.04
Chief of Police - see Ohio R. C. 737.06
Emergency patrolmen - see Ohio R. C. 737.10
Civil service application - see Ohio R. C. 737.11
General duties - see Ohio R. C. 737.11
Classification - see Ohio R. C. 737.13
Recovered property and disposition - see Ohio R. C. 737.29 et seq.
Compliance with police order - see TRAF. 303.07
Impounding vehicles - see TRAF. Ch. 305
Alarm systems - see GEN. OFF. Ch. 503
Impersonating an officer - see GEN. OFF. 525.03
False reports to law officers - see GEN. OFF. 509.07
Reports of wounds inflicted by deadly weapons - see GEN. OFF. 525.05

131.01 FEE FOR COPIES OF RECORDS.(REPEALED)

(EDITOR'S NOTE: Former Section 131.01 was repealed by Ordinance 6-21, passed February 22, 2021.)

131.02 GASOLINE ALLOWANCE FOR POLICE CHIEF. (REPEALED)

(EDITOR'S NOTE: Former Section 131.02 was repealed by Ordinance 6-21, passed February 22, 2021.)

131.03 PICK-UP OF CONTRIBUTIONS TO DISABILITY AND PENSION FUND. (REPEALED)

(EDITOR'S NOTE: Former Section 131.03 was repealed by Ordinance 6-21, passed February 22, 2021.)

131.04 ACCEPTANCE OF PROPERTY RECEIVED THROUGH FEDERAL PARTICIPATION.

(a) The Mayor is hereby authorized and directed to accept money, real estate property, vessels, vehicles, aircraft, office equipment, computers and other property from the United States Government in accordance with the Comprehensive Drug Penalty Act of 1984. However, any acceptance of real estate by the Mayor shall be subject to subsequent approval by ordinance of Council.

(b) The Mayor is hereby directed to place all such money received into the City General Fund and all other items outlined in subsection (a) hereof which will be assigned by Council in the ordinance approving the acceptance. (Ord. 12-16. Passed 3-28-16.)

131.05 APPOINTEE AGE LIMITATION WAIVER.

The limitation imposed by Ohio R. C. 124.41 which disqualifies all persons age thirty-five or over from initial hiring by and appointment to the Police Department is hereby waived. (Ord. 12-16. Passed 3-28-16.)

131.06 RESERVE POLICE UNIT.

(a) There is hereby established a reserve unit within the Police Department of the City, the members of which shall be appointed by the Service-Safety Director.

(b) Appointment to the Lancaster Police Department Reserve Unit shall not confer employee status upon any person for any reason; and members of the Reserve Unit are not subject to Ohio R.C. Chapter 124, the Rules and Regulations of the Lancaster Civil Service Commission or to any provisions of the laws of the Codified Ordinances of the City pertaining to Civil Service.

(c) The objective of the Reserve Unit shall be to complement, not supplement or replace, full-time regular officers in the performance of police work within the jurisdictional limits of the City.

(d) Members of the Reserve Unit shall have all police powers, but shall perform only such duties assigned to them by the Chief of

Police and shall act only when in uniform as prescribed by the Chief of Police.

(e) Reserve Officers are subject to the same standards of conduct; and rules, regulations, policies, procedures, directives and training requirements applicable to other officers of the City Police Department.

(f) Reserve officers shall be under the general control of the Chief of Police, or the Chief's designee who shall report to the Chief of Police, regarding their activities and training.

(g) Reserve officers shall be certified by the Ohio Peace Officers Training Council and that each Reserve Officer shall totally pay for such certification. However, if the individual reserve officer totally pays for such certification for the sole purpose of serving as a reserve officer for the Lancaster Police Department, the City shall reimburse fifty percent (50%) of such certification cost after the reserve officer has served one continuous year with the Lancaster Police Department and shall reimburse the remaining fifty percent (50%) after the reserve officer has served two continuous years with the Lancaster Police Department.

(h) Reserve officers will be commissioned persons and shall consist of civilian volunteers who will serve a minimum number of hours per month, as established by the Chief of Police, without compensation.

(i) Reserve officers uniform parts, equipment and service weapons shall be the same as those required of regular officers of the Lancaster Police Department and reserve officers shall receive an annual equipment allowance, to help offset the costs of those required uniform parts and equipment, equal to that of regular patrol officers of the Police Department. However, the service weapon and police badges shall be issued by the Lancaster Police Department and will remain the property of the City.

(j) The strength of the Reserve Unit shall not exceed twenty-five percent (25%) of the authorized strength of regular full-time patrol officers of the Lancaster Police Department.

(k) Reserve officer selection criteria will be similar to that used for full-time officers with the exception that mandatory written tests are not required.

(Ord. 12-16. Passed 3-28-16.)

131.06.1 VOLUNTEER PEACE OFFICERS' DEPENDENTS FUND.

(a) There is hereby established a Volunteer Peace Officers' Dependents Fund pursuant to Ohio Revised Code Chapter 143 to assist dependents of volunteer peace officers killed in the line of duty and to assist volunteer peace officers that become totally and permanently disabled as a result of a line of duty injury. The Fund will be administered by the Ohio Department of Commerce.

(b) The Lancaster Police Department Reserve Unit, created by Lancaster Codified Ordinance 131.06, is subject to membership and participation in the Volunteer Peace Officers' Dependents Fund pursuant to the definition of "Volunteer peace officer" as set forth in Ohio Revised Code Chapter 143.01(C).

(c) There is hereby created a Volunteer Peace Officers' Dependents Fund Board in the City of Lancaster to administer any claims from the benefit fund pursuant to Ohio Revised Code Chapter 143. Board members shall serve without compensation. The five member Board must consist of the following volunteer members:

(1) Two members elected by the legislative authority of the city;

(2) Two members elected by the volunteer police officers; and

(3) One member elected by the four other members. This member must be a elector of the City of Lancaster, but not a public employee, member of the legislative authority, or officer of the Lancaster Police Department.

(d) The term of office of a board member begins the first day of January and is one year. The election of board members in (c)(1) and (c)(2) above shall be held each year not earlier than the first day of November and not later than the second Monday in December. The election of the board member referenced in (c)(3) above shall be held each year on or before the thirty-first day of December. The secretary of the board shall give notice of the election of the board members referenced in (c)(2) above by posting it in a conspicuous place at the Lancaster Police Department. Between 9 a.m. and 9 p.m. on the day designated, each person eligible to vote shall send in writing the name of two persons eligible to be elected as their choices. The board shall count and record the votes and the two persons receiving the highest number of votes are elected. A tie vote may be decided by lot or in any other way agreed on by the persons for whom the tie vote was cast.

(e) The board shall select a chairperson and a secretary from among its members. The board may adopt rules as necessary for handling and processing claims and benefits in compliance with the requirements set forth in Ohio Revised Code Chapter 143.

(f) The secretary shall keep a complete record of the board's proceedings which shall be maintained as a permanent file. The secretary shall submit the following to the director of commerce:

(1) The name and address of each board member and who elected the member;

(2) The names of the chairperson and secretary;

(3) A certificate indicating the current assessed property valuation of the City of Lancaster.

(g) The board shall meet not later than five days after receipt of a claim for benefits and determine the validity of the claim and compensation of the claim pursuant to the guidelines and requirements of Ohio Revised Code Chapter 143.

(h) The legislative authority shall provide sufficient meeting space and supplies for the board to carry out its duties and provide monetary contributions to the Fund as directed by Ohio Revised Code Chapter 143.

(Ord. 12-16. Passed 3-28-16.)

131.07 DONATION OF UNCLAIMED PROPERTY.

Council hereby authorizes the Chief of Police to donate or contribute property in the possession of the Police Department, that remains unclaimed for ninety (90) days or more, to one or more public agencies and/or nonprofit organizations pursuant to Ohio R.C. 737.32.

(Ord. 27-17. Passed 9-11-17.)

CHAPTER 133

Fire Department

133.01 Authorizing runs outside the City.

133.02 Authorizing contracts.

133.03 Charges.

133.04 Disposition of funds.

133.05 When runs may be made.

133.06 Defense and liability of paramedics.

- 133.07 Power to subpoena witnesses and documents.**
133.08 Pick-up of contributions to Disability and Pension Fund. (Repealed)
133.09 Appointee age limitation.
133.10 Emergency medical and/or ambulance service; charges.

CROSS REFERENCES

Reductions, suspensions and removals - see Ohio R.C. 124.34 et seq., 737.12
Fire Chief suspension - see Ohio R.C. 124.34, 124.40
Age and promotions - see Ohio R. C. 124.31, 124.42, 124.45 et seq.
Schooling, buildings and equipment - see Ohio R. C. 715.05, 737.23 et seq.
Fire protection contracts - see Ohio R. C. 717.02, 717.021
Executive head - see Ohio R. C. 737.02
Civil service application - see Ohio R. C. 737.11
General duties - see Ohio R. C. 737.11
Classification - see Ohio R. C. 737.13
False fire alarm - see GEN. OFF. 509.07
False reports - see GEN. OFF. 509.06
Fire prevention - see Part Fifteen - Fire Prevention Code

133.01 AUTHORIZING RUNS OUTSIDE THE CITY.

The Fire Department of the City is authorized to make runs outside the corporate limits into any fire district, city, village or township which has a contract with the City as hereinafter provided, and to make runs to industries, individual properties and institutions which have a contract with the City as hereinafter provided, when the interest of the City would not be jeopardized thereby. However, no more than approximately one-half the equipment and force of the Fire Department shall be sent out at any one time so as to be available for City use.

(Ord. 37-52. Passed 5-26-52.)

133.02 AUTHORIZING CONTRACTS.

The Safety-Service Director is authorized to enter into a contract with any fire district, township, city, village, individual person, group of persons, firm, corporation or institution, which desires such fire protection, in accordance with Ohio R. C. 717.02.

(Ord. 37-52. Passed 5-26-52.)

133.03 CHARGES.

Such contracts shall provide that the contracting party shall pay the City the following charges: fifty dollars (\$50.00) for any run made by the Fire Department for each piece of apparatus answering a call; five dollars (\$5.00) per mile traveled by the Department to the fire; fifty dollars (\$50.00) per hour or part thereof after the first hour; one hundred twenty dollars (\$120.00) for entering into such contract except when such contract is a mutual protection contract, where the contracting party has fire equipment to aid the City. Such mutual protection contracts may provide for the City to pay any amount to any contracting party furnishing equipment to the City, not to exceed the above stated charges.

(Ord. 8-81. Passed 2-9-81; Ord. 27-93. Passed 6-14-93.)

133.04 DISPOSITION OF FUNDS.

All money received by the City on any such contract shall be placed to the credit of the General Fund, except as otherwise provided by Ohio R. C. 717.02.

(Ord. 37-52. Passed 5-26-52.)

133.05 WHEN RUNS MAY BE MADE.

The Fire Department shall not answer any call or make any run outside the corporate limits unless the City is under contract to do so, except in an extreme emergency the Fire Chief or Acting Fire Chief may send aid to neighboring municipalities, and then only when, in the opinion of the Chief or Acting Chief, it would not be harmful to the City to answer such calls.

(Ord. 37-52. Passed 5-26-52.)

133.06 DEFENSE AND LIABILITY OF PARAMEDICS.

Any claim or suit brought against any member of the Fire Department or any physician or nurse instructing members of the Fire Department, arising from or because of any action or inaction by such member in the scope of his employment as a member of an emergency squad or other emergency unit on a medical assignment operated by the Fire Department and subsequent to the effective date hereof, shall be defended by the City Attorney until the final termination of the proceedings therein. The City shall save such member of the Fire Department and any physician or nurse instructing such member harmless from personal liability or any judgment resulting from such claim or suit defended by the City Attorney.

(Ord. 7-76. Passed 1-19-76.)

133.07 POWER TO SUBPOENA WITNESSES AND DOCUMENTS.

(a) The Chief of the Fire Department and the Chief of the Fire Prevention Bureau of the City may summon and compel the attendance of witnesses to testify in relation to any matter which is a proper subject of inquiry and investigation, and may require the production of any book, paper or document.

(Ord. 25-82. Passed 5-24-82.)

(b) Failure to cooperate, comply or produce the necessary documents requested, or refusal to testify or disobey the order of the investigating officer, shall be contemptuous behavior. Such contemptuous behavior shall be a first degree misdemeanor.

(Ord. 33-8. Passed 11-14-88.)

133.08 PICK-UP OF CONTRIBUTIONS TO DISABILITY AND PENSION FUND.(REPEALED)

(EDITOR'S NOTE: Former Section 133.08 was repealed by Ordinance 5-21, passed February 22, 2021.)

133.09 APPOINTEE AGE LIMITATION.

No person shall be eligible to receive an original appointment as firefighter unless the person has reached the age of eighteen (18). No person shall be eligible to receive an original appointment on and after the person's thirty-sixth (36) birthday. Any person who was originally appointed as a full-time firefighter in another political subdivision in Ohio prior to the age of thirty-six (36) shall qualify for subsequent appointment with the City of Lancaster, so long as the person is otherwise eligible.

(Ord. 10-21. Passed 4-12-21.)

133.10 EMERGENCY MEDICAL AND/OR AMBULANCE SERVICE; CHARGES.

The Service-Safety Director, or his or her designate, is authorized to review, consider, and recommend a schedule of levels and/or types of services and charges or fees therefor to be billed to the benefitting party, insurance carrier, or other responsible third party for the use of the City's emergency medical and/or ambulance services. Such schedule of charges shall be approved by City Council on a periodic basis as needed.

(Ord. 54-97. Passed 8-25-97.)

CHAPTER 134

Building Department

134.01 Established; authority.

134.01 ESTABLISHED; AUTHORITY.

(a) The Certified Building Department is hereby established.

(b) The department shall have full authority to enforce all laws, statutes and regulations as provided and authorized in the Ohio Revised Code and the Ohio Administrative Code pursuant to the Certification approved by the Ohio Board of Building Standards.

(Ord. 29-03. Passed 8-11-03.)

CHAPTER 135

City Engineer

135.01 General duties of City Engineer.

135.02 Ascertaining boundaries.

135.03 Keeping records of surveys.

CROSS REFERENCES

To approve plats; inspections of streets and acceptance - see Ohio R. C. 711.08, 711.191

To devise and form plan of sewerage - see Ohio R. C. 729.31 et seq.

Civil engineer - see Ohio R. C. 733.80

General duties - see Ohio R. C. 735.32

Assistants - see Ohio R. C. 735.33

Construction of subdivision improvements - see P. & Z. Ch. 1109

Issuance of zoning certificate - see P. & Z. 1127.01 et seq.

135.01 GENERAL DUTIES OF CITY ENGINEER.

The City Engineer, when directed by Council or any committee thereof, shall ascertain the grades proper of any street, avenue or alley in the City, and shall prepare profiles, descriptions and plats thereof. He shall project and lay before Council plans and improvements of streets and all public works which may be in contemplation by the City with an estimated cost thereof. He shall give directions during the progress of all improvements on streets, alleys, pavements, gutters, drains, sewers, bridges and forks. He shall cause all such improvements to be made in conformity with the line, grade and plan adopted, and upon completion thereof he shall inspect the work and report thereon to Council. He shall, under the direction of Council, make surveys of streets, avenues and alleys, and of lots and lands adjoining and abutting thereon, executing maps and plats thereof, showing the number of feet front of each lot and tract of land, and the names of the owners thereof. He shall make for the City all necessary plats, profiles, measurements, computations, estimates and assessments and shall perform generally all such services appropriate to his office as may at any time be required by Council.

(1939 R.O., 9 :03)

135.02 ASCERTAINING BOUNDARIES.

It shall be the duty of the City Engineer, upon the application of any person about to enclose his lot with a fence, or about to erect a house or other building, to ascertain the correct lines and boundaries of such lot and stake same. The person making such application shall pay for such services, to the City Engineer, the entire cost thereof. The charge of such services shall be in accordance with, and not more than, the prevailing schedule of fees for surveying as has been approved by the Ohio Society of Professional Engineers and in effect for the City.

(1939 R.O., 9 :03)

135.03 KEEPING RECORD OF SURVEYS.

The City Engineer shall keep a record of all his surveys, grades and levels, which record he shall carefully preserve. At the expiration of his term of office he shall deliver the same to his successor.

(1939 R.O., 9 :03)

CHAPTER 137

Utility Services Committee

- 137.01 Establishment and composition.**
- 137.02 Extension of utility services to nonresidents.**
- 137.03 Rules; report on nonresidential user.**
- 137.04 Gas and water tap fees outside City.**
- 137.05 Delinquent utility bills.**
- 137.06 New customer deposit.**

137.01 ESTABLISHMENT AND COMPOSITION.

There hereby is established a Utility Services Committee which shall be composed of the City Engineer, the Safety-Service Director, the Superintendents of the Water Department, Gas Department, Water Pollution Control Department, Sanitation Department and Utility Department, and the Chairman of Council's Service Committee. The Safety-Service Director shall be the Chairman of the Committee. (Ord. 120-65. Passed 12-27-65; Ord. 2-92. Passed 2-10-92.)

137.02 EXTENSION OF UTILITY SERVICES TO NONRESIDENTS.

The Utility Services Committee shall evaluate all requests for municipally owned utility services to be rendered outside the City. Where adequate facilities are readily available, the Committee shall determine whether the City shall grant such utility services to nonresident users. Where an appropriation of funds would be necessary to extend or expand utility services to nonresident users, the Utility Services Committee shall make recommendations to Council regarding the advisability of such extensions or expansion.

(Ord. 120-65. Passed 12-27-65.)

137.03 RULES; REPORT ON NONRESIDENTIAL USER.

The Utility Services Committee may adopt its own rules governing its meetings and procedures. It shall, however, submit a written report to Council in all cases where municipally owned utility services are granted to a residential user located outside the City.

(Ord. 120-65. Passed 12-27-65.)

137.04 GAS AND WATER TAP FEES OUTSIDE CITY.

There hereby is established a fee for tapping gas and water mains, outside the City, which shall be fifty percent (50%) higher than the tap fee inside the City. Outside the City taps may be approved under the following special circumstances:

- (a) Such fees shall apply only in areas immediately adjacent to the City which could annex to the City but have not done so.
- (b) Such fees shall apply only to tapping water and gas mains which extend through or near such adjacent but nonannexed areas and which serve other areas within the corporation limits.
- (c) Gas fees shall not apply to gas mains in rural areas except in such cases where annexation might be practical.
- (d) It is expressly provided that there is no intention of extending gas or water lines or permitting extension of such lines for the purpose of serving nonannexed areas.

(Ord. 48-80. Passed 10-13-80.)

137.05 DELINQUENT UTILITY BILLS.

(a) The Director of the Utilities Collection Office is hereby directed to commence shut off procedures, in accordance with State law, whenever a utility account is delinquent, after the due date as it appears on the customer's statement.

(Ord. 34-82. Passed 9-27-82.)

(b) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of five percent (5%) of the amount of the rates or charges due shall be attached thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill.

(Ord. 61-05. Passed 10-17-05.)

137.06 NEW CUSTOMER DEPOSIT .

All new residential customers who apply only for water, sewer and sanitation service shall deposit twenty dollars (\$20.00). All deposits shall be retained for one year or until good credit has been established. At that time, the deposit and six percent (6%) interest shall be refunded.

(Ord. 9-81. Passed 2-23-81.)

CHAPTER 139

Public Transit Board

- 139.01 Composition.**
- 139.02 Duties.**

139.01 COMPOSITION.

- (a) The Public Transit Technical Advisory Council shall consist of 7 members approved by the Mayor, as follows:
 - (1) One person from the business community;
 - (2) One person from the disabled or elderly population;
 - (3) One person from a rural minority group;
 - (4) One person from the human service community;
 - (5) One person from the local transportation community;
 - (6) One interested citizen; and

(7) Service-Safety Director

(b) Terms shall be for a staggered two year term with a-d serving as initial one year term, e-g serving a two year term and thereafter each member serves two years.

(Ord. 15-11. Passed 11-14-11.)

139.02 DUTIES.

The Transit Advisory Committee should provide information gathered through surveys, community meetings, or during the feasibility study if one was conducted, to consider public transportation benefits, the different transportation system types, and the various costs and make recommendations to the Transit Administration, Mayor, and, City Council.

(Ord. 15-11. Passed 11-14-11.)

CHAPTER 140

Port Authority

140.01 Created.

140.02 Territorial limits.

140.03 Board of Directors.

140.04 Appointment of original Board.

140.05 Notice of meetings.

140.06 Dissolving Port Authority.

CROSS REFERENCES

State provisions - see Ohio R.C. 4582.21 to 4582.99

140.01 CREATED.

A port authority to be designated and known as the "Lancaster Port Authority" (the "Port Authority") is hereby created pursuant to the Act.

(Ord. 86-05. Passed 12-12-05.)

140.02 TERRITORIAL LIMITS.

The Port Authority shall have territorial limits coterminous with the boundaries of the City as they now or hereafter exist. The Port Authority shall be a body corporate and politic and shall have the powers and jurisdiction now or hereafter given to it by the Act. The exercise of those powers and jurisdiction by the Port Authority are deemed to be essential government functions of the State of Ohio.

(Ord. 86-05. Passed 12-12-05.)

140.03 BOARD OF DIRECTORS.

(a) The Port Authority shall be governed by a five member Board of Directors each of whom shall serve for a term of four years, provided that such Board initially shall be composed of members having terms of office commencing on the effective date of their appointment and expiring as follows: one member shall have a term of office expiring one year after their appointment; one member shall have a term of office expiring two years after his or her appointment; one member shall have a term of office expiring three years after his or her appointment; and two members shall have a term of office expiring four years after his or her appointment. A majority of the members of the Board of Directors shall be qualified electors of, or shall have their businesses or places of employment in, the City for a period of at least three years preceding their appointment. All of the members of the Board of Directors shall be appointed by the Mayor with the advice and consent of this Council. Upon the resignation or removal of a member of the Board of Directors, or the expiration of the term of office of a member of the Board of Directors, a new member of the Board of Directors shall be appointed by the Mayor with the advice and consent of this Council. Any person appointed to fill a vacancy on the Board of Directors shall be appointed to only the unexpired term of that vacancy. Any member of the Board of Directors may be eligible for reappointment to the Board of Directors.

(b) Each member of the Board of Directors shall serve without compensation, but expenses incurred by any member of the Board of Directors may be paid or reimbursed as the Board of Directors may determine. No person appointed to the Board of Directors shall hold any other public office except that of notary public, member of the State militia or member of a reserve component of the United States Armed Forces.

(c) Any member of the Board of Directors may be removed by the Mayor with the advice and consent of this Council for misfeasance, nonfeasance, or malfeasance in office. No member of the Board of Directors shall be interested in the profits or emoluments of any contract, job, work or service of the Port Authority. Any member of the Board of Directors who is so interested in such profits or emoluments shall be deemed guilty of malfeasance.

(Ord. 86-05. Passed 12-12-05.)

140.04 APPOINTMENT OF ORIGINAL BOARD.

Having confirmed that a majority of the individuals named below have been qualified electors of, or have had their businesses or places of employment in, the City for a period of three years, this Council hereby consents to the Mayors appointment of the following individuals, for the following terms, to the Board of Directors of the Port Authority:

<u>Member</u>	<u>Term</u>
Ron Burris	January 1, 2006 through December 31, 2006
Zack Deleon	January 1, 2006 through December 31, 2007
Howard Alspaugh	January 1, 2006 through December 31, 2008
Rick Wilkins	January 1, 2006 through December 31, 2009
Carol Mackey	January 1, 2006 through December 31, 2009

(Ord. 86-05. Passed 12-12-05.)

140.05 NOTICE OF MEETINGS.

The Clerk of this Council, after consultation with the individuals named in Section 140.04, shall give notice of the time and place of the organizational meeting of the Board of Directors in the manner established for giving notice of regular meetings of this Council. The Clerk shall also give notice, at least twenty-four hours prior to the meeting, of the time, place and purpose of the organizational meeting of the Board of Directors to any news media to which notice of special meetings of this Council is required to be given.
(Ord. 86-05. Passed 12-12-05.)

140.06 DISSOLVING PORT AUTHORITY.

Subject to compliance with the Act, the Port Authority may be dissolved at any time the passage of an ordinance by this Council.
(Ord. 86-05. Passed 12-12-05.)

CHAPTER 141

Fairfield County Combined General Health District

141.01 Authority, rules and regulation.

141.02 Septic tank permit issuance.

CROSS REFERENCES

Union with general health district - see Ohio R. C. 3709.07
Contracts with other cities or health districts - see Ohio R. C. 3709.08 et seq.
President pro tempore and meetings - see Ohio R. C. 3709.12
Appointment of Health Commissioner and nurses - see Ohio R. C. 3709.14 et seq.
Orders, regulations and emergency measures - see Ohio R.C. 3709.20
Privy vaults - see S. & P. S. Ch. 914

141.01 AUTHORITY, RULES AND REGULATION.

(a) The Fairfield County Combined General Health District is vested with authority to exercise all the powers and is required to perform all the duties prescribed by law relating to such boards of health.

(b) Power is also granted to the Fairfield County Combined General Health District to make and pass all such orders and regulations as they shall from time to time deem necessary and proper for the public health and for the prevention of disease. Such orders and regulations, when adopted by the Board of the Fairfield County Combined General Health District, shall have all the force and effect of ordinances of the City.

(Ord. 12-02. Passed 4-22-02.)

141.02 SEPTIC TANK PERMIT ISSUANCE.

The Fairfield County Combined General Health District, its designee, and any code official designated by the Mayor are hereby empowered and authorized to issue permits for septic tanks in accordance with ordinances now in effect. Notwithstanding present ordinances, the Engineering Department shall not issue any permits for septic tanks.

(Ord. 12-02. Passed 4-22-02.)

CHAPTER 143

Historic Lancaster Commission (Repealed)

EDITOR'S NOTE: Former Chapter 143 was repealed by Ordinance 52-08, passed November 10, 2008.

CHAPTER 145

Employees Generally

EDITOR'S NOTE: Salary provisions are not codified herein since they are subject to frequent change. See the current collective bargaining unit agreements, annual pay ordinances and the City Employee Handbook.

145.01 Withholding of contributions to PERS by elected officials.

CROSS REFERENCES

Welfare - see Ohio Const., Art. II, Sec. 34
Worker's compensation - see Ohio Const., Art. II, Sec. 35; Ohio R.C. Ch. 4123
Wages and hours on public works - see Ohio Const., Art. II, Sec. 37; Ohio R.C. Ch. 4115
All officers to take oath - see Ohio Const., Art. XV, Sec. 7; Ohio R.C. 3.22, 733.68
Failure to give bond - see Ohio R.C. 3.30, 731.49 et seq.
Civil Service Law - see Ohio R.C. Ch. 124
Reinstatement after military service - see Ohio R.C. 124.29
Public Employees Retirement System - see Ohio R.C. Ch. 145
Council to fix bonds and salaries - see Ohio R.C. 731.04, 731.08
Executive power - see Ohio R.C. 733.01
Conduct and delinquent charges - see Ohio R.C. 733.34 et seq., 733.72 et seq.
Officers' qualifications and oaths - see Ohio R.C. 733.68
Bond of municipal officers - see Ohio R.C. 733.69
Approval of bonds - see Ohio R.C. 733.70
Certain facts shall not invalidate bond - see Ohio R.C. 733.71
Contract interest - see Ohio R.C. 733.78
Strikes by public employees - see Ohio R.C. Ch. 4117
Council approval of collective bargaining agreements - see ADM. 115.01

145.01 WITHHOLDING OF CONTRIBUTIONS TO PERS BY ELECTED OFFICIALS.

(a) Effective 12:01 a.m., January 1, 1985, the full amount of the statutorily required contributions to the Public Employees Retirement System of Ohio shall be paid by elected officials and withheld from the gross pay of each elected official of the City of Lancaster.

(b) The above-described withholding by the City commencing January 1, 1985, is and shall be designated as public employee contributions and such contributions made by each elected official of the City shall be paid into the fund by the City.

(c) No person subject to this withholding shall have the option of choosing to receive the statutorily required contributions to the Public Employees Retirement System of Ohio directly instead of having them paid to the system by the City.

(d) The City Auditor is hereby directed, in reporting contributions and making remittance to the Public Employees Retirement System of Ohio, to implement all procedures necessary in the administration of the pay of all elected officials of the City to effect the above-described withholding of the statutorily required contributions to the Public Employees Retirement System of Ohio so as to enable them to obtain the resulting Federal and State tax deferments and other attendant benefits. (Ord. 2-01. Passed 2-12-01.)

TITLE SEVEN - Judicial

Chap. 161. Municipal Court.

CHAPTER 161

Municipal Court

EDITOR'S NOTE: The provisions of Ohio R.C. 1901.01 established a Municipal Court for the City of Lancaster, which Court, pursuant to Ohio R. C. 1901.02, has territorial jurisdiction within the City of Lancaster and within Fairfield County. The powers, duties and proceedings of the Court are as established in Ohio R. C. Chapter 1901. Ohio R.C. 1901.25 provides that the Municipal Court may provide by rule how jurors shall be chosen. Jurors' fees in any criminal case involving the violation of a City ordinance shall be paid out of the City Treasury. The Municipal Court, pursuant to Ohio R.C. 1901.26(A), may establish a schedule of fees and costs to be taxed in any action or proceeding, whether civil or criminal.

161.01 Probation Officer.

161.02 Name changed.

CROSS REFERENCES

Peace and search warrants - see Ohio R.C. Ch. 2933

Detection and arrest - see Ohio R.C. Ch. 2935

Preliminary examination; bail - see Ohio R.C. Ch. 2937

Trial - see Ohio R.C. Ch. 2938, Ch. 2945

Notification to Director of liquor law convictions - see Ohio R.C. 4301.991

Record of traffic violations - see Ohio R.C. 4513.37

161.01 PROBATION OFFICER.

The position of Probation Officer is hereby established. Such officer shall work under the supervision of the Judge of the Municipal Court.

(Ord. 8-72. Passed 2-14-72.)

161.02 NAME CHANGED.

The name of the Lancaster Municipal Court is hereby changed to the Fairfield County Municipal Court.

(Ord. 9-82. Passed 3-8-82; Ord. 64-98. Passed 12-14-98.)

TITLE NINE - Taxation

Chap. 181. Income Tax.

Chap. 182. Municipal Income Tax Effective January 1, 2016.

Chap. 183. Municipal Income Tax Effective January 1, 2018.

Chap. 185. Lodging Tax.

Chap. 187. Motor Vehicle License Tax.

CHAPTER 181

Income Tax

Effective for taxable years through taxable year 2015.

181.01 Purpose; levy.

181.02 Definitions.

181.03 Imposition of tax.

181.04 Imposition of tax for parks and recreation.

181.041 Imposition of tax for fire and police.

181.043 Imposition of tax for operations of fire services.

181.05 Effective period.

181.06 Return and payment of tax.

181.07 Collection at source.

181.08 Declarations.

181.09 Duties of the Administrator.

181.10 Investigative powers of the Administrator; penalty for divulging confidential information.

181.11 Interest, penalties and late charges.

181.12 Collection of unpaid taxes and refunds of overpayments.

181.13 Violations; penalty.

- 181.14 Board of Appeal.**
- 181.15 Allocation of funds.**
- 181.16 Relief provisions.**
- 181.17 Saving clause.**
- 181.18 Collection of tax after termination of chapter.**
- 181.19 Municipal contracts.**
- 181.20 Registration of tenants, contractors and employees.**
- 181.21 Return check or ACH Clearing House charge.**
- 181.22 Performance withholding incentive for industrial and advanced technology jobs.**
- 181.23 Performance withholding incentive for historic district jobs.**

CROSS REFERENCES

Power to levy - see Ohio Const., Art. XII, §8
 Payroll deductions - see Ohio R.C. 9.42
 Municipal income taxes - see Ohio R.C. Ch. 718
 City Income Tax Department control - see ADM. 121.01

181.01 PURPOSE; LEVY.

To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Lancaster, Ohio, there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(Ord. 38-00. Passed 11-27-00.)

181.02 DEFINITIONS.

As used in this chapter, the following words shall have the meaning ascribed to them in this section, except as and if the context clearly indicates or requires a different meaning.

- (a) ADMINISTRATOR – The individual designated by the ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance, also commonly referred to as Tax Commissioner.
- (b) ASSOCIATION – A partnership, limited liability partnership, limited liability company, Chapter S corporation as defined in the federal tax code, or any other form of unincorporated entity, owned by two or more persons.
- (c) BOARD OF APPEAL – The Board created by and constituted as provided in Section 181.14.
- (d) BUSINESS – An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership association, corporation or any other entity.
- (e) CORPORATION – A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency, but not including Chapter S Corporations.
- (f) EMPLOYEE – One who works for wages, salary, commission or other type of compensation in the service of an employer.
- (g) EMPLOYER – An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.
- (h) FISCAL YEAR – An accounting period of twelve (12) months or less ending on any day other than December 31st.
- (i) GROSS RECEIPTS – The total income from any source whatsoever.

(Ord. 38-00. Passed 11-27-00.)

- (j) NET PROFITS – A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary reasonable and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this chapter, federal, state, and other taxes based on income; exclusive of the amount of Ohio Franchise tax computed on the net worth basis, and in the case of a partnership without deduction of salaries paid to partners and otherwise adjusted to the requirements of this chapter. Net profits shall include ordinary gain from recaptured depreciation. A R.E.I.T. shall be taxed as an entity on net profits before deduction of distributions to owners/members. In the case of income of a sole proprietor, and pass-through or other non-wage income earned after December 31, 2000 that is subject to self-employment tax, there shall be no deduction of the one-half self-employment tax.

(Ord. 40-01. Passed 12-10-01.)

- (k) NON-RESIDENT – An individual domiciled outside the City of Lancaster, Ohio.
- (l) NON-RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity not having an office or place of business within the City of Lancaster, Ohio.
- (m) OWNER – A partner of a partnership, shareholder of an S corporation, member of a limited liability company or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.
- (n) PERSON – Every natural person, partnership, fiduciary, association or corporation. Whenever used in any clause prescribing and imposing a penalty, the term “person” as applied to any unincorporated entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (o) PLACE OF BUSINESS – Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (p) RESIDENT – An individual domiciled in the City of Lancaster, Ohio.
- (q) RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity having an office or place of business within the City of Lancaster, Ohio.
- (r) TAXABLE INCOME – Wages, salaries and other compensation paid by an employer or employers before any deductions and/or

the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.

- (s) TAXABLE YEAR – The calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this ordinance and, in the case of a return for a fractional part of a year, the period for which such return is required to be made.
- (t) TAXING MUNICIPALITY – Any municipal corporation levying a municipal income tax on salaries, wages, commissions and other compensation earned by individuals and on the net profits earned from the operation of a business, profession or other activity.
- (u) TAXPAYER – A person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 38-00. Passed 11-27-00.)

181.03 IMPOSITION OF TAX.

(a) Subject to the provisions of Section 181.17, an annual tax for the purposes specified in Section 181.01, hereof shall be imposed on and after July 1, 1989, at the rate of 1.75 percent per annum upon the following:

- (1) On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by residents of the City of Lancaster, Ohio, including income from lottery winnings and prize money in the amount of more than \$5,000 won on or after January 1, 2001. On all income received as gambling winnings from gaming, wagering and other games of chance and reported on Internal Revenue Service Form W-2G, Form 5754 and/or any other form required by the Internal Revenue Service that reports winnings from gambling and prizes after September 30, 2012.

(Ord. 11-12. Passed 10-15-12.)

- (2) On all salaries, wages, commissions and other compensation earned during the effective period of the ordinance by nonresidents for work done or services performed or rendered in the City of Lancaster, Ohio, subject to the 12-day occasional entry provision outline in subsection (e)(2) below.

(Ord. 22-05. Passed 5-9-05.)

- (3) A. On the portion attributable to the City of Lancaster, Ohio, of the net profits earned during the effective period of this chapter of all resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Lancaster, Ohio.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident association or other unincorporated business entity not attributable to the City of Lancaster, Ohio, and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief Provisions of Section 181.16 hereof.

- (4) A. On the portion attributable to the City of Lancaster, Ohio of the net profits earned during the effective period of this chapter of all non-resident associations, unincorporated businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in the City of Lancaster, Ohio, whether or not such association or unincorporated business entity has an office or place of business in the City of Lancaster, Ohio. For sole proprietors, this shall be subject to the 12-day occasional entry provision outlined in subsection (e)(2) below.

B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a non-resident association or unincorporated business entity not attributable to the City of Lancaster, Ohio and not levied against such unincorporated business entity. Provided, however, that the liability of an individual partner or owner taxable hereunder on income attributable to another taxing municipality shall be subject to the Relief Provisions of Section 181.16 hereof.

- (5) On the portion attributable to the City of Lancaster, Ohio of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City of Lancaster, Ohio, whether or not such corporations have an office or place of business in the City of Lancaster, Ohio.

(b) The portion of the net profits attributable to the City of Lancaster, Ohio of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City of Lancaster, Ohio shall be determined as provided in Section 718.02 of the Revised Code of Ohio and in accordance with the rules and regulations adopted by the Administrator pursuant to this chapter.

(c) Net Operating Loss.

- (1) The portion of a net operating loss sustained in any taxable year starting prior to January 1, 2001, allocable to the City of Lancaster, Ohio may be applied against the portion of the profit of succeeding years allocable to the City of Lancaster, Ohio until exhausted but in no event for more than five (5) taxable years. The portion of a net operating loss sustained in any taxable year starting after December 31, 2000 but prior to January 1, 2004, allocable to the City of Lancaster, Ohio may be carried forward for not more than one (1) taxable year. The portion of a net operating loss sustained in any taxable year starting after December 31, 2003, allocable to the City of Lancaster, Ohio may not be carried forward. No portion of a net operating loss may be carried back against net profit of any prior year.

(Ord. 73-03. Passed 12-22-03.)

- (2) Effective for taxable years starting after December 31, 2000, the net loss from an unincorporated business activity may not be used to offset other taxable income, salaries, wages, commissions or other compensation earned. If a taxpayer is engaged in two or more taxable business activities to be included on the same tax return, the net loss allocable to

Lancaster from one unincorporated business activity may be used to offset the net profit of another unincorporated business activity for purposes of arriving at overall net profit.

- (3) The portion of a net operating loss sustained shall be allocated to the City of Lancaster, Ohio in the same manner as provided herein for allocating net profits to the City of Lancaster, Ohio.
 - (4) The Administrator may provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.
- (d) Consolidated Returns.
- (1) Filing of a consolidated return from any affiliated group of corporations subject to Lancaster income tax is permitted if that affiliated group filed for the same tax reporting period a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. Once a consolidated return has been filed with Lancaster, that same approach must be used in all subsequent tax years for as long as a federal consolidated return continues to be filed.
 - (2) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City of Lancaster, Ohio, constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City of Lancaster, Ohio. If the Administrator finds net profits are not properly allocated to the City of Lancaster, Ohio, by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to the City of Lancaster, Ohio.
- (e) Exceptions.
- (1) The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Section 718.01 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said Section. It is also provided that this tax shall not be levied upon poor relief, unemployment insurance benefits, supplemental unemployment benefits, old age pensions or similar payments received from local, state or federal governments or charitable or religious organizations, worker's compensation insurance and social security benefits. The tax provided for herein shall not be levied upon the earnings of any person under sixteen (16) years of age, whether a resident or nonresident.
 - (2) A. For tax years starting January 1, 2001 or later, a non-resident individual (if the non-resident is an employee, the principal place of employment of the non-resident's employer must be outside of Lancaster) who works in Lancaster on 12 or fewer days per year shall be considered an occasional entrant and shall not be subject to Lancaster's municipal income tax for those 12 (or fewer) days. For purposes of this 12-day calculation, any portion of a day worked in Lancaster shall be counted as one day worked in Lancaster.
B. If a non-resident individual works in Lancaster on 13 or more days per year, where a day is as defined in subsection (e)(2)A., no such exception shall apply.
 - (3) The 12-day occasional entry provision does not apply to professional entertainers or professional athletes, or to promoters of professional entertainment or sporting events and their employees.

(Ord. 38-00. Passed 11-27-00.)

181.04 IMPOSITION OF TAX FOR PARKS AND RECREATION.

To provide funds for the purposes of operating, maintaining, repairing and providing capital facilities for municipal park and recreational activities and facilities, there should be and is hereby levied an annual tax, in addition to the tax levied by Section 181.03, and any other section imposing a tax on earnings and income, for the period January 1, 2008 through December 31, 2012 upon those classes of earnings and income set forth in Section 181.03 at the rate of one and one-half tenths of one percent (0.15%).

(Ord. 32-07. Passed 5-21-07.)

181.041 IMPOSITION OF TAX FOR FIRE AND POLICE.

Of the total imposed tax of 1.6%, forty-five hundredths of one percent (0.45%) is to provide funds for the purpose of operating, maintaining, repairing and providing capital facilities for the Fire and Police Departments of the City.

(Ord. 38-00. Passed 11-27-00.)

181.043 IMPOSITION OF TAX FOR OPERATIONS OF FIRE SERVICES.

To provide funds for the purpose of providing fire services within the City and acquiring equipment for such services and paying principal and interest on securities issued and public obligations incurred to finance such equipment, there is levied an additional tax of one and one-half tenths of one percent (.15%) upon those classes of salaries, wages, commissions, net profits and other compensation set forth in Section 181.03 effective July 1, 2005.

(Ord. 22-05. Passed 5-9-05.)

181.05 EFFECTIVE PERIOD.

The tax imposed by this chapter, as amended, shall be levied, collected and paid upon the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities. The tax imposed by Sections 181.03 and 181.041 shall remain in effect until repealed. The tax imposed by Section 181.04 shall remain in effect through December 31, 2012.

(Ord. 32-07. Passed 5-21-07.)

181.06 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30th of the year following the effective date of this ordinance up to and including the year 2000, and on or before April 15th of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period if the tax period starts on or before January 1, 2001 and within three and one half (3.5) months from the end of such fiscal year or period if the tax period starts after January 1, 2001.

(b) The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator, or on a generic form in conformity with subsection (f) below, setting forth:

- (1) A. The aggregate amount of salaries, wages, commissions and other compensation earned; and
- B. The gross income from a business, profession or other activity less allowable expenses incurred in the acquisition of such gross income;
- C. Such income shall include only income earned during the year, or portion thereof, covered by the return and subject to the tax imposed by this ordinance;
- (2) A. The amount of tax imposed by this chapter on income reported;
- B. Any credits to which the taxpayer may be entitled under the provisions of Sections 181.07, 181.08 and 181.16; and
- (3) The taxpayer shall provide such other pertinent statements, information returns or other information as the Administrator may require, including a copy of the taxpayer's Federal Income Tax Return or Returns.

(c) Any taxpayer that has requested an extension for filing a federal income tax return may request an extension of time for filing a Lancaster income tax return. The taxpayer may make the request by filing with the Lancaster Income Tax Department a copy of the taxpayer's request for a federal filing extension or such other form of request as approved by the Administrator. The request for city extension shall be filed not later than the last day for filing the Lancaster income tax return. Lancaster shall grant such a request for extension for a period equal to the period of the federal extension request. The taxpayer's request for a Lancaster extension shall be denied if the taxpayer fails to timely file the request, or if the taxpayer owes Lancaster any delinquent income tax or any penalty, interest, late fee, assessment, or other charge for late payment or nonpayment of income tax, or if the taxpayer has failed to file any required income tax return, report, or other related document for a prior tax period. The granting of an extension for filing a Lancaster income tax return does not extend the last date for paying the tax. Penalty and interest provisions of Section 181.11 shall apply.

(d) (1) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the balance of the tax due, if any, after deducting:

- A. The amount of the City of Lancaster, Ohio income tax deducted or withheld at the source pursuant to Section 181.07 hereof;
- B. Such portion of the tax as has been paid on declaration by the taxpayer pursuant to Section 181.08 hereof;
- C. Any credit allowable under the provisions of Section 181.16 hereof.

(Ord. 38-00. Passed 11-27-00.)

- (2) Should the return, or the records of the Administrator, indicate overpayment of the tax to which the City of Lancaster, Ohio is entitled under the provisions of this chapter, such overpayment shall first be applied against any existing liability and the balance, if any, at the election of the taxpayer communicated to the Administrator, shall be refunded or transferred against any subsequent liability. Provided, however, that overpayments of less than five dollars (\$5.00) or less shall not be refunded. No refund shall be made to any taxpayer until he has complied with all provisions of this chapter and has furnished all information, documentation or substantiation required by the Administrator. No refunds will be allowed for Lancaster residents on income received, accrued or paid for vacation days, sick days, holidays, personal days, or any other paid days off. No refunds will be allowed for nonresidents for vacation days, sick days (including third party sick pay), holidays, or personal days, but shall be allowed for performance of duties outside the City of Lancaster.

(Ord. 82-05. Passed 12-12-05.)

(e) Amended Returns. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.12 and 181.16. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting, apportionment of net profits or elect to file a consolidated return after the original due date of the filing. Changing filing status (i.e. separate vs. consolidated) is prohibited.

Within three (3) months from the final determination of any tax liability affecting the taxpayer's Lancaster tax liability, such taxpayer shall make and file an amended Lancaster return showing income subject to the City of Lancaster, Ohio, tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

Within thirty (30) days of receiving a tax refund from another municipality or village for which credit has been taken in whole or in part on a taxpayer's Lancaster return, such taxpayer shall make and file an amended Lancaster return and pay any additional tax shown thereon.

(Ord. 12-12. Passed 10-15-12.)

(f) Generic Forms. The City of Lancaster will accept a generic form for its annual tax return, declaration, estimated payment, quarterly withholding statement, or annual reconciliation of tax withheld. However, to be acceptable the form must contain all the information required on the form supplied by the City of Lancaster, and must be in a similar format that will allow processing of the generic forms without changing Lancaster's existing procedures for processing forms. Determination as to whether a generic form meets these criteria shall be the responsibility of the Administrator.

(Ord. 38-00. Passed 11-27-00.)

181.07 COLLECTION AT SOURCE.

- (a) (1) Each employer within or doing business within the City of Lancaster, Ohio who employs one or more persons on a salary, wage, commission or other compensation basis shall, at the time of payment thereof, deduct the tax of 1.6 percent from the gross salaries, wages, commissions or other compensation earned by Lancaster residents regardless of where such compensation was earned and shall deduct the tax of 1.6 percent from the salaries, wages, commissions or other compensation earned within the City of Lancaster, Ohio by non-residents;

(Ord. 73-03. Passed 12-22-03.)

- (2) On or before the last day of February following any calendar year such employer shall file with the Administrator an information return (annual reconciliation of tax withheld) for each employee from whom Lancaster Income Tax has been, or should have been withheld, showing the name, address, and social security number of the employee, the total amount of compensation paid during the year and the amount of Lancaster Income Tax withheld, as well as other municipal taxes withheld from such employee. No extension of time to file shall be allowed.
 - (3) On or before the last day of February following any calendar year, in addition to the above wage reporting requirements, any person or business entity paying money to an individual or independent contractor for work done or services performed in Lancaster shall report such to the Administrator by providing copies of federal form 1099.
- (b) Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to the City of Lancaster, Ohio as a Trustee for the benefit of the City of Lancaster, Ohio and any such tax collection by such employer from his employees shall, until the same is paid to the City of Lancaster, Ohio be deemed a trust fund in the hand of such employer. Every employer or officer of a corporation is deemed to be a Trustee for the City of Lancaster in collecting and holding the tax required under this ordinance to be withheld. The officer or employee having control or supervision of, or charged with the responsibility of, filing the report and making payment is personally liable for failure to file the report or pay the tax due as required by this section. The dissolution of a corporation or other cessation of business does not discharge an officer's or employee's liability for prior failure of the corporation to file returns or pay tax due.
- (c) (1) Beginning January 1, 2001 a non-resident employer with no principal place of employment situated in Lancaster is not required to withhold Lancaster municipal income tax from remuneration paid to employees of the employer until the collective tax liability of the employees initially exceeds \$150.00.
 - (2) When the collective tax liability exceeds \$150.00, the employer is required to begin withholding the appropriate municipal income tax for Lancaster on behalf of all employees doing business in Lancaster, and the withheld tax shall be remitted to Lancaster in accordance with subsections (a) and (b) hereof.
 - (3) Once the collective tax liability has exceeded \$150.00, the employer must withhold municipal income tax for Lancaster for subsequent years, even if the liability in subsequent years does not exceed \$150.00. However, if the withholding tax liability for each of three (3) consecutive years (subsequent to the year in which the employer became liable for withholding such income tax for Lancaster) does not exceed \$150.00, the employer will be considered as not having performed work in Lancaster in regard to future withholding tax liability, and will again be subject to subsection (c)(1).

(Ord. 38-00. Passed 11-27-00.)

181.08 DECLARATIONS.

(a) Subject to safe harbor provisions established by the Administrator, every person who anticipates any taxable income which is not subject to Section 181.07 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages, from which the tax will be withheld and remitted to the City of Lancaster, Ohio, in accordance with Section 181.07 hereof, such person need not file a declaration.

(Ord. 38-00. Passed 11-27-00.)

- (b) (1) Such declaration shall be filed on or before April 15th each year during the life of this chapter.
- (2) Those taxpayers reporting on a fiscal year basis shall file a declaration within three and one-half months after the beginning of each fiscal year or period.

(Ord. 40-01. Passed 12-10-01.)

- (c) (1) Such declaration shall be filed on a form furnished by, or obtainable from, the Administrator, or other generic form in conformity with Section 181.06(f). Credit shall be taken for Lancaster Income Tax to be withheld, if any, from any portion of such income. In addition, credit may be taken for tax payable to other taxing municipalities in accordance with the provisions of Section 181.16 hereof.
- (2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.
- (d) The taxpayer making the declaration shall, at the time of the filing thereof, pay to the Administrator at least one-fourth (1/4) of the estimated annual tax due after deducting:
 - (1) Any portion of such tax to be deducted or withheld at the source pursuant to Section 181.07 hereof;
 - (2) Any credits allowable under the provisions of Section 181.16 hereof; and
 - (3) Any overpayment of previous year's tax liability which the taxpayer has not elected to have refunded.

At least a similar amount shall be paid on or before the last day of July, October and January after the beginning of taxpayer's taxable year, provided that in case an amended declaration has been duly filed, or the taxpayer is taxable for a portion of the year only, the unpaid balance shall be paid in equal installments on or before the remaining payment dates.

(e) For any year for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City of Lancaster, Ohio, shall be paid therewith in accordance with the provisions of Section 181.06 hereof.

(Ord. 38-00. Passed 11-27-00.)

181.09 DUTIES OF THE ADMINISTRATOR.

- (a) (1) It shall be the duty of the Administrator to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.
- (2) It shall be the duty of the Administrator to enforce payment of all taxes owing the City of Lancaster, Ohio, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration

and/or make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

(b) Said Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest, penalties and late fees on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owned by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount including penalty, interest and late fee to become payable on demand and the provisions of Section 181.12 and 181.13 shall apply.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due the City of Lancaster, Ohio, from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest, penalties and late fees, if any.

(Ord. 38-00. Passed 11-27-00.)

181.10 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

(a) The Administrator, or an authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

(c) The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 181.13 hereof.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six (6) months or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City of Lancaster, Ohio, who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date of his return is filed, or the withholding taxes are paid.

(Ord. 38-00. Passed 11-27-00.)

181.11 INTEREST, PENALTIES AND LATE CHARGES.

(a) All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and remaining unpaid after they become due shall bear interest at the rate of one percent (1%) per month or fraction thereof.

(b) In addition to interest as provided in subsection (a) hereof, penalties based on the unpaid tax are hereby imposed as follows:

- (1) For failure to pay taxes due other than taxes withheld: one percent (1%) per month or fraction thereof.
- (2) For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof.

(c) In the case of taxpayers who fail to file tax returns when due as required by this chapter, the following late filing charges will apply:

LATE CHARGE WHEN COMPLETE TAX RETURN IS FILED

\$25.00	Not more than thirty (30) days late
\$50.00	More than thirty (30) but not more than one hundred and twenty (120) days late
\$100.00	More than one hundred and twenty (120) days late

(d) Effective for 1998, for any information return required by Section 181.07(a)(4) that is not submitted on or before January 31, or by the end of February if a timely written request is made to the Administrator for a thirty (30) day extension, and effective for the information returns of the years 1999 and later that are required by Section 181.07(a)(4) and are not submitted on or before the end of February, there shall be assessed a late filing charge of \$25.00 effective the first day of the month following the due date and increased

\$25.00 on the first day of each month thereafter that they remain in violation to a maximum of \$100.00.

(e) Effective for tax years 2001 and later, for failure to provide forms 1099 as required by Section 181.07(a)(5), there shall be assessed a late filing charge of \$10.00 effective on the first day of the month following the due date and increased by \$10.00 on the first day of each month thereafter that the violation continues to a maximum of \$50.00.

(f) Exceptions. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator: and provided further that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and additional tax is paid within three (3) months after the final determination of the federal tax liability.

(g) The Administrator is hereby given the authority to abate any of the penalties and late charges imposed by this Section upon formal request of the taxpayer. Such abatement is authorized whether in full or in part. The Administrator may promulgate reasonable rules and regulations governing the abatement of penalties and late fees.

(Ord. 38-00. Passed 11-27-00.)

181.12 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter shall be collectible by the City of Lancaster Tax Department or its authorized agent, together with any interest and penalties and reasonable administrative costs thereon, by suit, as other debts of like amount are recoverable. No additional assessment shall be made after three (3) years from the time the tax was due or the return was filed, whichever is later; provided, however, there shall be no period of limitation on an additional assessment in a case of a return that omits gross income in excess of twenty-five percent (25%) of that required to be reported or in the case of filing a false or fraudulent return with intent to evade the tax, or in the case of failure to file a return.

(b) "Reasonable administrative cost" associated with the delinquent tax collection includes, but is not limited to, fees no less than twenty-five percent (25%) of the total delinquent amount, including the tax amount, interest and penalty of any post judgement account assigned to a collection agency, and no greater than thirty-five percent (35%) of the total delinquent account including tax amount, interest and penalties of any prejudgement account assigned to a collection agency.

(c) In those cases in which the Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitations, the period within which an additional assessment may be made by the Tax Administrator shall be extended one (1) year from the time of the final determination of the federal tax liability.

(d) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

(e) After the time period allowed for a refund of the tax or withholding paid to another municipality, a nonrefundable credit shall be allowed against tax or withholding erroneously paid or withheld to another municipality equal to the tax or withholding paid with respect to such income or wages.

(1) If the tax rate is less than the tax rate paid or withheld on such income or wages, the credit described in subsection (c) hereof shall be calculated using the tax rate in effect.

(2) Nothing in this section permits any credit carry forward.

(f) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment, with the following exception: No interest shall be allowed on any overpayment that is refunded within ninety (90) days after the final filing date of the annual return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of tax for any taxable year shall be treated as having been paid before the date on which the tax return for that year was due without regard to any extension of time for filing that return. The interest shall be paid at the rate of interest prescribed by Ohio Revised Code 5703.47.

(g) Amounts of less than five dollars (\$5.00) or less shall not be collected or refunded.

(Ord. 21-09. Passed 10-26-09.)

181.13 VIOLATIONS; PENALTY.

(a) Any person who shall:

- (1) Willfully fail, neglect or refuse to make any return or declaration required by this section; or
- (2) Make any incomplete, false or fraudulent return; or
- (3) Fail, neglect, or refuse to pay the tax, penalties or interest imposed by this section; or
- (4) Willfully fail, neglect, or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
- (5) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, papers, records and federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Administrator and to produce his books, records, papers or federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or
- (7) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
- (8) Fail to comply with the provisions of this section or any order or subpoena of the Administrator authorized hereby; or
- (9) Give to an employer false information as to his true name, correct social security number and residence address, or fail to

- promptly notify an employer of any change in residence address and date thereof; or
- (10) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Lancaster tax withheld, or to knowingly give the Administrator false information; or
 - (11) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties, interest or late fee imposed by this chapter;
- shall be guilty of an unclassified misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six (6) months or both, for each offense.

(b) All prosecutions under this Section must be commenced within three (3) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.

(c) The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, return or declaration, from filing such form, or from paying the tax.

(d) The prosecution of any individual for violating any subsection of Section 181.13 does not prevent the City of Lancaster, Ohio from pursuing the obtainment of any tax, penalties, interest or late fee owed to the City.

(Ord. 38-00. Passed 11-27-00.)

181.14 BOARD OF APPEAL.

(a) A Board of Appeal consisting of a chairperson and two other individuals, all three to be appointed by the Mayor of the City of Lancaster, Ohio, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearings requested by a taxpayer before the Board are not meetings of a public body subject to Section 121.22 of the Ohio Revised Code. The provisions of Section 181.10 hereof with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board of Appeal. Records of the Board of Appeal are not public records available for inspection under Section 149.43 of the Ohio Revised Code.

(b) Any person who is aggrieved by a decision of the Administrator and who has filed with Lancaster the required returns and other documents pertaining to the Lancaster tax obligation at issue in the decision may appeal therefrom to the Board of Appeal within thirty (30) days from the issuing of such decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such decision, or any part thereof.

(c) The Board of Appeal shall schedule a hearing within forty-five (45) days after receiving a valid request, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an Attorney at Law, Certified Public Accountant or other representative.

(d) The Board shall make a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.

(Ord. 38-00. Passed 11-27-00.)

181.15 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be deposited in the Income Tax Receipts Funds and shall be used, disbursed and transferred as follows:

- (a) For the period January 1, 2008 through December 21, 2012, such part of those funds as shall bear the same ratio as one and one-half tenth of one percent (.15%) bears to the total rate of tax imposed by this chapter, as amended, shall be used for the purposes stated in Section 181.04.
- (b) For the period beginning July 1, 2005, and continuing thereafter, such part of those funds as shall bear the same ratio to the total tax collected as one and one-half tenth of one percent (.15%) bears to the total rate of tax imposed by this chapter shall be used for the purpose stated in Section 181.043.
- (c) For the period beginning July 1, 2005, and continuing thereafter, such part of those funds as shall bear the same ratio as four and one-half tenths of one percent (.45%) bears to the total rate of tax imposed by this chapter shall be used for the purpose stated in Section 181.041.
- (d) For the period beginning January 1, 2005, and continuing thereafter, the balance of those funds shall be used for the following purposes and in the respective percentages:

General Fund	96%
Parks Bond Retirement Fund	1%
Cemetery Fund	1%
Capital Improvement Fund	2%

(Ord. 32-07. Passed 5-21-07.)

181.16 RELIEF PROVISIONS.

- (a) Every individual taxpayer who resides in the City who earned, received, accrued or in any other way had set aside unto him net

profits, salaries, wages, commissions, other compensation, or other personal service compensation for work done or services performed or rendered outside the City, if it is established with supporting documentation that said income is subject to municipal income tax in another municipality and that said tax has been paid to that other municipality on the same income taxable under this chapter, shall be allowed a credit against the tax imposed by this chapter of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed one percent (1%) of the income subject to the tax of another municipality. The credit will not be allowed for any amount of taxes erroneously paid to another municipality, including but not limited to taxes that another municipality would refund if properly applied for.

(b) Subsection (a) hereof will not apply and the credit provided therein will not be allowed unless the same is claimed in a timely return or form acceptable to and filed with the Lancaster Income Tax Department, and the taxpayer presents evidence of the payment of the same to another municipality. In the event that a taxpayer fails, neglects, or refuses to file such a timely return or form, he shall not be entitled to such credit and shall be liable for the full amount of the tax levied by this chapter together with such interest and penalties as are prescribed in this chapter.

(Ord. 32-02. Passed 8-26-02.)

181.17 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the Council of the City of Lancaster, Ohio, that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 38-00. Passed 11-27-00.)

181.18 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed according to the law, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provision of this chapter are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.12 and 181.13 hereof.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 181.06 and 181.07 as though the same were continuing.

(Ord. 38-00. Passed 11-27-00.)

181.19 MUNICIPAL CONTRACTS.

Effective January 1, 2001 no contract on behalf of the City of Lancaster for works or improvements of the City of Lancaster shall be binding or valid unless such contract contains the following provisions:

Said _____ hereby further agrees to withhold Lancaster income tax due or payable under the provisions of the Lancaster Income Tax Ordinance for wages, salaries, commissions and other compensation paid to its employees and further agrees that any of its subcontractors shall be required to withhold and pay such Lancaster income taxes due under the Ordinance for services performed under this contract.

(Ord. 38-00. Passed 11-27-00.)

181.20 REGISTRATION OF TENANTS, CONTRACTORS AND EMPLOYEES.

(a) Effective October 1, 2009 and every year thereafter on or before October 1st, all owners of rental property who rent to tenants of houses, commercial property, industrial property, apartments, rooms, boarding houses and other rental accommodations shall file with the Tax Administrator a report showing the full first and last name, address, last four digits of social security number and telephone number, if available, of each such tenant who presently occupies an apartment, room, house or commercial property or other rental accommodation within the City, unless the tenant(s) is responsible for their own City water utility payment. Said report must also provide the date a tenant vacates an apartment, room, house, commercial property or other rental accommodation located within the City and a forwarding address, if available.

(1) Each owner or the duly designated agent thereof, shall incur a penalty of five dollars (\$5.00) per month per tenant, up to a maximum of one thousand dollars (\$1, 000.00), for failure to comply with subsection (a) hereof.

(b) All employers, contractors or subcontractors who do work in the City shall register with the Tax Administrator. The Tax Administrator may request a list of all employees, subcontractors, contractors or others who may do work for them within the Municipality whose profits, wages or earnings are not presently subject to withholding of the City of Lancaster Income tax (including but not limited to 1099 MISC).

(Ord. 22-09. Passed 10-26-09.)

181.21 RETURN CHECK OR ACH CLEARING HOUSE CHARGE.

(a) When a check is written to the City, as payee, and it is returned from the bank because of insufficient funds, closed account, or other reason, the direct cause thereof being the fault of the signee of the check, there shall be a thirty-five dollar (\$35.00) charge to the

signee of the check in addition to the liability of making the check good and any other penalties assessed by law. In addition, where an ACH (Automated Clearing House) payment has been authorized as payment to the City and returned unpaid the same as above, there shall be a twenty-five dollar (\$25.00) charge to the person who authorized the ACH to be instituted.

(b) This charge shall be reviewed at least annually in order to align with prevailing charges exercised by the banking industry.

(c) Funds collected pursuant to this section shall be deposited to the General Fund.

(Ord. 23-09. Passed 10-26-09.)

181.22 PERFORMANCE WITHHOLDING INCENTIVE FOR INDUSTRIAL AND ADVANCED TECHNOLOGY JOBS.

(a) The City may offer annual performance-based cash incentives based upon a percentage of actual payroll withholdings for industrial and/or Advanced Technology Companies providing a minimum of thirty (30) new jobs and/or minimum payroll of \$1.5 Million (Z). The incentive shall be recommended by the Economic Development Director and approved by a majority approval of the Mayor, Auditor and Law Director. Approval may be provided in person, electronically, or by telephone. The period/duration (Y) will be 1 to 10 years with an incentive range (X) of 10% to 50%.

(b) The City proposes annual incentive payments based upon a percentage (the Incentive Factor) of employee annual withholdings (1.75% of wages). The City proposed an Incentive Factor of (X%) on employee withholdings (net of refunds) for (Y) years. This offer assumes and requires a minimum (Y) year production term.

(Y) Period of 1 to 10 years

(X) Range of 10% to 50%

(Z) Minimum thirty (30) new jobs and/or a minimum payroll of \$1.5 million

Year	Target Payroll	Target Withholdings	X% Payment
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
TOTAL			\$Sum of this Column

If the annual "Target Payroll" is exceeded in any given year, the annual incentive payment would increase based on the formula above. If the annual "Target Payroll" is missed in any particular year, no payment is made for that year; but does not preclude the company from receiving payments in other remaining years.(Ord. 31-14. Passed 12-22-14.)

181.23 PERFORMANCE WITHHOLDING INCENTIVE FOR HISTORIC DISTRICT JOBS.

(a) The City may offer annual performance-based cash incentives based upon a percentage of actual payroll withholding for companies currently or newly located in the Historic District providing a minimum of ten (10) new jobs and/or a minimum payroll of \$400,000.00(Z). The incentive shall be recommended by the Economic Development Director and approved by a majority approval of the Mayor, Auditor and Law Director. Approval may be provided in person, electronically, or by telephone. The period/duration (Y) will be 3 to 5 years with an incentive range (X) of 10% to 50%.

(b) The City proposes annual incentive payments based upon a percentage (the Incentive Factor) of employee annual withholdings (1.75% of wages). The City proposes an Incentive Factor of (X%) on employee withholdings (Net of refunds) for (Y) years. This offer assumes and requires a minimum (Y) year production term.

(Y) Period of 3 to 5 years

(X) Range of 10% to 50%

(Z) Minimum ten (10) new jobs and/or a minimum payroll of \$400,000.00

Year	Target Payroll	Target Withholdings	X% Payment
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
20__	\$ min. (Z)	1.75% of Z	X% of Target Withholding
TOTAL			\$ Sum of this Column

If the annual "Target Payroll" is exceeded in any given year, the annual incentive payment would increased based on the formula above. If the annual "Target Payroll" is missed in any particular year, no payment is made for that year; but does not preclude the company from receiving payments in other remaining year. (Ord. 31-14. Passed 12-22-14.)

CHAPTER 182

Municipal Income Tax Effective January 1, 2016

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CROSS REFERENCES

- Power to levy - see Ohio Const., Art. XII, §8
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718
- City Income Tax Department control - see ADM. 121.01

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

182.011 AUTHORITY TO LEVY TAX.

(A) The tax on income and the withholding tax established by this Chapter 182 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 182 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

(Ord. 17-15. Passed 11-23-15.)

182.012 PURPOSES OF TAX; RATE.

(A) To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Lancaster, Ohio, there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(B) Rate of tax is one and three-quarters percent 1.75%

(Ord. 17-15. Passed 11-23-15.)

182.013 ALLOCATION OF FUNDS.

(A) To provide funds for the purposes of operating, maintaining, repairing and providing capital facilities for municipal park and recreational activities and facilities, there should be and is hereby levied an annual tax, in addition to the tax levied by Section 182.011, and any other section imposing a tax on earnings and income, for the period January 1, 2018 through December 31, 2022 upon those classes of earnings and income set forth in Section 182.011 at the rate of one and one-half tenths of one percent (0.15%).

(Ord. 1-17. Passed 5-22-17.)

(B) Of the total imposed tax of 1.6%, forty-five hundredths of one percent (0.45%) is to provide funds for the purpose of operating, maintaining, repairing and providing capital facilities for the Fire and Police Departments of the City.

(C) To provide funds for the purpose of providing fire services within the City and acquiring equipment for such services and paying principal and interest on securities issued and public obligations incurred to finance such equipment, there is levied an additional tax of one and one-half tenths of one percent (.15%) upon those classes of salaries, wages, commissions, net profits and other compensation set forth in Section 182.011 effective July 1, 2005.

(D) For the period beginning July 1, 2005, and continuing thereafter, the balance of those funds shall be used for the following purposes and in the respective percentages:

- General Fund 96%
- Parks Bond Retirement Fund 1%
- Cemetery Fund 1%
- Law Enforcement Building Fund 2%

(Ord. 17-15. Passed 11-23-15.)

182.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX.

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130th General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 5, municipal income tax Temporary Ordinance No. 22-15 and Permanent Ordinance 17-15, effective January 1, 2016, comprehensively amends Chapter 181 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality. (Ord. 17-15. Passed 11-23-15.)

182.02 EFFECTIVE DATE.

(A) Temporary Ordinance No. 22-15 and Permanent Ordinance 17-15, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 182 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Temporary Ordinance No. 22-15 and Permanent Ordinance 17-15 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016.

(Ord. 17-15. Passed 11-23-15.)

182.03 DEFINITIONS.

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

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

As used in this chapter:

- (1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division 23(D) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:
 - (A) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (B) Add an amount equal to five percent of intangible income deducted under division (1)(A) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code;
 - (C) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (D)
 - (i) Except as provided in division (1)(D)(ii) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;
 - (ii) Division (1)(D)(i) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
 - (E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
 - (F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
 - (G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
 - (H)
 - (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
 - (ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.
 - (iii)
 - (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.
 - (b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.
 - (iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.
 - (v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.
 - (I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 182.063 of this Chapter.
 - (J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 182.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement

plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.

- (2) (A) **"ASSESSMENT"** means any of the following:
- (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
 - (ii) A full or partial denial of a refund request issued under Section 181.096 (B)(2) of this Chapter;
 - (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 182.062(B)(2) of this Chapter; or
 - (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 182.062(B)(3) of this Chapter.
 - (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 182.18 of this Chapter, and shall have **"ASSESSMENT"** written in all capital letters at the top of such finding.
- (B) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 182.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.
- (3) **"AUDIT"** means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax
- (4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".
- (5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.
- (6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.
- (7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.
- (8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.
- (9) **"DISREGARDED ENTITY"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.
- (11) **"EXEMPT INCOME"** means all of the following:
- (A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
 - (B) (i) Except as provided in division (11)(B)(ii) of this section, intangible income;
 - (ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.
 - (C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
 - (D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
 - (F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
 - (G) Alimony and child support received;
 - (H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
 - (I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.
 - (J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;

- (K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
- (L) Employee compensation that is not qualifying wages as defined in division (34) of this section;
- (M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
- (N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code
- (O) A portion of the municipal taxable income earned by individuals or a class of individuals under eighteen years of age, specifically exempting fifteen years and younger.
- (P)
 - (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 182.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 - (ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 182.052 of this Chapter
 - (iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (B)(1) of Section 182.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 182.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
 - (b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (Q)
 - (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.
 - (ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the Municipality.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 182.052 of this Chapter.
 - (iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
 - (iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (S) Income the taxation of which is prohibited by the constitution or laws of the United States.
Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (T) Any gains or losses from federal form 4797 and definitely no deduction against any other sources of income including income from W2 wages, income or losses from federal schedule C, E or F and any other type of income.
- (12) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.
- (14) **"INCOME"** means the following:
 - (A)
 - (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.
 - (ii) For the purposes of division (14)(A)(i) of this section:
 - (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating

loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;

- (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
 - (iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N) of this Section.
 - (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- (B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (C) For taxpayers that are not individuals, net profit of the taxpayer;
- (D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 182.081 of this Chapter.
- (15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Section 182.18 of this Chapter.
- (19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.
- (20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:
- (i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 182.062 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.
 - (ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
 - (b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.
 - (iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 182.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
- (B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that

nonresident municipal corporation.

- (21) **"MUNICIPALITY"** means the City of Lancaster.
- (22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (23) (A) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income.
- (B) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1) (H) of this section.
- (C) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (D) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
- (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
- (iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.
- (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
- (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
- (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.
- (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS form W-2, Wage and Tax Statement, or successor form.
- (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery
- (32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
- (B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years

provided in the resolution or ordinance or until fully utilized, whichever is earlier.

- (33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Municipal Corporation has exempted the following:
 - (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) INTENTIONALLY LEFT BLANK
 - (iv) Any amount included in wages that is exempt income.
 - (B) Municipal Corporation has not exempted the following:
 - (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages.
 - (v) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (vi) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vii) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent of the value of the taxpayer's outstanding stock;
 - (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;
 - (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty percent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.
- (37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 182.042 of this Chapter.
- (38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code. Further, multiple properties with "common expenses" must allocate expenses based on the number of properties filed.
- (41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.
- (43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not

limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

- (44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
- (A) A municipal corporation acting as the agent of another municipal corporation;
 - (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
 - (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
- (45) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15 .
- (46) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (47) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
- (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.
- (48) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.
- (49) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (50) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (Ord. 17-15. Passed 11-23-15.)

182.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

182.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

- (A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:
- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 182.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 182.03 (14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 182.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 182.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 182.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 182.062(E).
 - (iii) Section 182.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (14)(A)(iv).
 - (iv) "Pass Through Entity" is defined in Section 182.03(27).
 - (b) "Exempt Income" is defined in Section 182.03 (11) of this Chapter.

- (c) Allowable employee business expense deduction is described in (20)(B) of Section 182.03 of this Chapter, and is subject to the limitations provided in that section.
- (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 182.03 (32) of this Chapter
- (B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:
 - (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in Section 182.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 182.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 182.03(14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 182.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 182.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 182.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
 - (iii) "Pass Through Entity" is defined in Section 182.03(27).
 - (b) "Exempt Income" is defined in Section 182.03(11) of this Chapter.
 - (c) "Apportioned or situated to the Municipality as provided in Section 182.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 182.062(E).
 - (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 182.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
 - (e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 182.03(32) of this Chapter.
(Ord. 17-15. Passed 11-23-15.)

182.042 DOMICILE.

- (A) As used in this section:
 - (1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
 - (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
 - (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.
- (B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
 - (1) The individual's domicile in other taxable years;
 - (2) The location at which the individual is registered to vote;
 - (3) The address on the individual's driver's license;
 - (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
 - (5) The location and value of abodes owned or leased by the individual;
 - (6) Declarations, written or oral, made by the individual regarding the individual's residency;
 - (7) The primary location at which the individual is employed.
 - (8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;
 - (9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.
- (C) All applicable factors are provided in Ohio Revised Code Section 718.012.
(Ord. 17-15. Passed 11-23-15.)

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

- (A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.
- (B) Only the municipal corporation of residence and the City of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.
(Ord. 17-15. Passed 11-23-15.)

182.05 COLLECTION AT SOURCE.

182.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

- (A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Section 182.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.
- (b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
- (c) An employer, agent of an employer or other payer has the option to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality can be remitted to the Municipality at the same time that the federal tax withholding payment is due.
- (C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under Section 182.091 of this Chapter.
- (D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- (G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.
- (H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.
- (I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees

and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.

(K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section. (Ord. 17-15. Passed 11-23-15.)

182.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

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

- (1) "Employer" includes a person that is a related member to or of an employer.
- (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
- (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
- (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.

If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section. For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

- (B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
- (a) The employee's principal place of work is located in the Municipality.
 - (b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty days" if either of the following applies at the time the services commence:
 - (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
 - (c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 182.051 of this Chapter.
 - (d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.
- (2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
- (a) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (b) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used,

or controlled by a person other than the employee's employer;

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

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

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

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

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

(E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 182.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 182.051 of this Chapter. (Ord. 17-15. Passed 11-23-15.)

182.053 COLLECTION AT SOURCE; CASINO AND VLT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of Section 182.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

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

(Ord. 17-15. Passed 11-23-15.)

182.054 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

A. All taxes imposed by this ordinance shall be collectible, together with any interest, penalties and late fees thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal

statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

C. Amounts of Ten dollars (\$10.00) or less shall not be collected or refunded.

(Ord. 17-15. Passed 11-23-15.)

182.06 INCOME SUBJECT TO NET PROFIT TAX.

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

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

(A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

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

(i) "Net Profit" for a person other than an individual is defined in Section 182.03(23).

(ii) "Adjusted Federal Taxable Income" is defined in Section 182.03(1) of this Chapter.

(2) "Exempt Income" is defined in Section 182.03(11) of this Chapter.

(3) "Apportionment" means the apportionment as determined by Section 182.062 of this Chapter.

(4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 182.03 (32) of this Chapter.

(Ord. 17-15. Passed 11-23-15.)

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

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

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

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

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

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 182.052 of this Chapter;

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

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

(a) Separate accounting;

(b) The exclusion of one or more of the factors;

(c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;

(d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 182.19 of this Chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 182.19 of this Chapter.

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

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

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

(a) The employer;

(b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;

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

(2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed

for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

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

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

- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:
 - (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 - (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
 - (c) The property is shipped from a place within the municipal corporation to purchasers outside the municipal corporation, provided that the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.
- (2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.
- (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.
- (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
- (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

(E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.

A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.

- (F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 182.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 182.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

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

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (Ord. 17-15. Passed 11-23-15.)

182.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

(A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.

(5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

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

- (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
- (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or
- (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

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

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

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

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

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 182.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 182.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty percent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

- (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 182.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
- (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 182.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

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

- (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 182.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
- (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 182.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

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

(Ord. 17-15. Passed 11-23-15.)

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

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

(Ord. 17-15. Passed 11-23-15.)

182.065 TAX CREDITS TO FOSTER JOB RETENTION.

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

(Ord. 17-15. Passed 11-23-15.)

182.07 DECLARATION OF ESTIMATED TAX.

(A) As used in this section:

- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

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

- (a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
- (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (c) A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
- (d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the taxpayer's winnings.

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

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 182.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

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

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

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

- (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent of the tax liability for the taxable year;
- (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five percent of the tax liability for the taxable year;
- (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent of the tax liability for the taxable year;
- (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety percent of the tax liability for the taxable year.

(2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 182.091 of this Chapter.

- (a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.
- (b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 182.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
 - (a) For the first payment of estimated taxes each year, twenty-two and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety percent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
- (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
 - (1) The amount of estimated taxes that were paid equals at least ninety percent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred percent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 182.091 of this Chapter for that year.
 - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.
- (F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.
(Ord. 17-15. Passed 11-23-15.)

182.08 CREDIT FOR TAX PAID.

182.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

- (A) Limitation: Where a resident of the City of Lancaster is subject to a municipal tax or joint economic development district tax (JEDD), on or measured by income, in another municipality or JEDD either located within or without the State of Ohio, he shall receive credit of the tax paid, not to exceed one percent (1.0%) against the tax imposed by this chapter, of the earnings taxed by such municipality or JEDD with the exception of the City of Lancaster residents shall receive a credit of not to exceed one and three-quarter percent (1.75%) of the earnings taxed by the City of Lancaster against the tax imposed by this chapter.
 - (1) Credits to residents: Resident individuals of the City of Lancaster who are required to pay and do pay a tax to another municipality or joint economic development district tax (JEDD) on qualifying wages, commissions or other compensation, for work done or services performed in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality or JEDD but not to exceed one percent (1.0%) of such income earned and taxed by the other municipality or JEDD. Credit for taxes paid to the City of Lancaster shall not exceed one and three-quarter (1.75%) of the income taxed by the City of Lancaster.
 - (2) Method of applying for credit: No credit will be given unless the taxpayer claims such credit on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.
- (B) A statement satisfactory to the Administrator from the taxing authority of the municipality for which the taxes are paid, that a City of Lancaster resident or his employer is paying the tax shall be considered as fulfilling the filing requirements of this Article.
- (C) If tax or withholding is paid to a municipal corporation on taxable income, and if a second municipal corporation imposes a tax on that taxable income after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such taxable income, equal to the tax or withholding paid to the first municipal corporation with respect to such taxable income. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit shall be calculated using the tax rate in effect in the second municipal corporation.
- (D) A refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss relating to a nonqualified deferred compensation plan sustained by a taxpayer during the taxable year. A "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan. The amount of credit shall be equal to the product of the qualifying loss and the qualifying tax

rate. With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan. In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan. The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to the insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

- (1) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (F) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
- (2) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(Ord. 17-15. Passed 11-23-15.)

182.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

- (1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
 - (2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
 - (3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.
- (B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
 - (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
 - (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.
- (D) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (Ord. 17-15. Passed 11-23-15.)

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

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in

another municipal corporation, pursuant to Section 182.081 of this Chapter. (Ord. 17-15. Passed 11-23-15.)

182.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 182.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in Section 182.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 182.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 182.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 17-15. Passed 11-23-15.)

182.09 ANNUAL RETURN.

182.091 RETURN AND PAYMENT OF TAX.

(A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under Section 182.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, 16 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

(4) No return is needed if an individual is retired with no earned income.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 and with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income

tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

- (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
- (b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
- (c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.
- (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (3) With respect to taxpayers to whom Section 182.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 182.092 of this Chapter, the provision in Section 182.092 of this Chapter prevails.
- (H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars (\$10.00) or less.
- (2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.
- (I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 182.051 of this Chapter.
- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.
- (J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 182.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.
- (L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.
- (M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.
- (N) (1) As used in this division, "worksite location" has the same meaning as in Section 182.052 of this chapter.
- (2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:
- (a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because

the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

- (b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

- (c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person. (Ord. 17-15. Passed 11-23-15.)

182.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE.

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B) (3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (Ord. 17-15. Passed 11-23-15.)

182.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying

wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax. (Ord. 17-15. Passed 11-23-15.)

182.094 EXTENSION OF TIME TO FILE.

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (Ord. 17-15. Passed 11-23-15.)

182.095 AMENDED RETURNS.

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Section 182.19 of this Chapter has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of Section 182.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C) (2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Section 182.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

(2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened. (Ord. 17-15. Passed 11-23-15.)

182.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing,

and / or disallowance of undocumented credits or losses.

- (2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
 - (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 182.18 of this Chapter.
- (C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:
- (1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.
 - (2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.
 - (3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.
- (D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 182.10 of this Chapter.
- (E) As used in this section, "withholding tax" has the same meaning as in Section 182.10 of this Chapter.
- (Ord. 17-15. Passed 11-23-15.)

182.10 PENALTY, INTEREST, FEES, AND CHARGES.

- (A) As used in this section:
- (1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.
 - (2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.
 - (3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.
 - (4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.
 - (5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.
 - (6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.
 - (7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.
 - (8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.
 - (9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.
- (B) (1) This section shall apply to the following:
- (a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;
 - (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality..
- (C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.
- (1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
 - (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely

paid shall be imposed.

(3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.

(4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.

(D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.

(E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.

(F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.

(G) The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.

(Ord. 17-15. Passed 11-23-15.)

182.11 AUDIT.

(A) At or before the commencement of an audit, as defined in Section 182.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.

(B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.

(C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.

A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

(D) A taxpayer may record, electronically or otherwise, the audit examination.

(E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.

(F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.

(Ord. 17-15. Passed 11-23-15.)

182.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Ord. 17-15. Passed 11-23-15.)

182.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

182.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

(A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

(B) Appoint agents and prescribe their powers and duties;

(C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;

(D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;

(E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

- (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 182.062 of this Chapter;
- (G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (H) Destroy any or all returns or other tax documents in the manner authorized by law;
- (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 182.051 of this Chapter.
(Ord. 17-15. Passed 11-23-15.)

182.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

- (A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.
- (B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:
 - (1) Compromise a claim;
 - (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.
- (C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.
- (D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.
- (E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
 - (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.
- (F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.
(Ord. 17-15. Passed 11-23-15.)

182.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

- (A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.
- (B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.
- (C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.
- (D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.
(Ord. 17-15. Passed 11-23-15.)

182.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

- (A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.
- (B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section

182.10 of this Chapter, in addition to any applicable penalty described in Section 182.99 of this Chapter.

- (2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 182.10 of this Chapter.
- (3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 182.99 of this Chapter for a violation of 182.15 of this Chapter and any other penalties that may be imposed by the Tax Administrator by law.

(Ord. 17-15. Passed 11-23-15.)

182.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(Ord. 17-15. Passed 11-23-15.)

182.15 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator.

(Ord. 17-15. Passed 11-23-15.)

182.16 OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.

- (2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.

- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;

- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;

- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;

- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

- (5) The effective date of any change in the taxpayer's material facts or circumstances;

- (6) The effective date of the expiration of the opinion, if specified in the opinion.

(D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

- (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of Section 182.15 of this Chapter 182.

(E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:

- (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;

- (2) It is the duty of the taxpayer to be aware of such changes.

(F) A Tax Administrator may refuse to offer an opinion on any request received under this section.

(G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.

(H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.

(I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.

(J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.

(Ord. 17-15. Passed 11-23-15.)

182.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

- (A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.
- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
- (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.
- (B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty percent, as determined by voting rights, of the addressee's business.
- (2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

(Ord. 17-15. Passed 11-23-15.)

182.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

- (A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.
- (2) The Local Board of Tax Review shall consist of three members.
The three members of the Local Board of Tax Review may be domiciled in the Municipality, but the appointing authority may consider membership from individuals who are not domiciled within the Municipality.
Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.
- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.
- (4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.
- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.
- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.
- (B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time

of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

(Ord. 17-15. Passed 11-23-15.)

182.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 182.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five percent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 182.096 of this Chapter.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 182.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 182.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
- (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(Ord. 17-15. Passed 11-23-15.)

182.20 ADOPTION OF RULES.

(A) Pursuant to Section 718.30 of the Revised Code, the Municipality, pursuant to this Chapter, grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the Municipality.

(B) All rules adopted under this section shall be published and posted on the internet.

(Ord. 17-15. Passed 11-23-15.)

182.21 REGISTRATION OF TENANTS, CONTRACTORS AND EMPLOYEES.

(a) Effective October 1, 2009 and every year thereafter on or before October 1st, all owners of rental property who rent to tenants of houses, commercial property, industrial property, apartments, rooms boarding houses and other rental accommodations shall file with the Tax Administrator a report showing the full first and last name, address, last four digits of social security number and telephone number, if available, of each such tenant who presently occupies an apartment room, house or commercial property or other rental accommodation within the City, unless the tenant(s) is responsible for their own City water utility payment. Said report must also provide the date a tenant vacates an apartment, room, house, commercial property or other rental accommodation located within the City and a forwarding address, if available.

(1) Each owner or the duly designated agent thereof, shall incur a penalty of five dollars (\$5.00) per month per tenant, up to a maximum of one thousand dollars (\$1,000.00), for failure to comply with Section (a) above.

(b) All employers, contractors or subcontractors who do work in the City shall register with the Tax Administrator. The Tax Administrator may request a list of all employees, subcontractors, contractors or others who may do work for them within the Municipality whose profits, wages or earnings are not presently subject to withholding of the City of Lancaster Income Tax (including but not limited to 1099-MISC).

(Ord. 17-15. Passed 11-23-15.)

182.22 MUNICIPAL CONTRACTS.

Effective January 1, 2001 no contract on behalf of the City of Lancaster for works or improvements of the City of Lancaster shall be binding or valid unless such contract contains the following provisions: Said hereby further agrees to withhold Lancaster income tax due or payable under the provisions of the Lancaster Income Tax Ordinance for wages, salaries, commissions and other compensation paid to its employees and further agrees that any of its subcontractors shall be required to withhold and pay such Lancaster income taxes due under the Ordinance for services performed under this contract.

(Ord. 17-15. Passed 11-23-15.)

182.23 TAXPAYERS' RIGHTS AND RESPONSIBILITIES.

"Taxpayers' rights and responsibilities" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Revised Code and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. Of the Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(a) The municipal corporation shall maintain a local board of tax review to hear appeals of the taxpayer.

(b) Civil actions to recover municipal incomes taxes, penalties and interest have time limits.

(c) Taxpayer has a prescribed manner to request refunds from the tax administrator.

(d) Taxpayer has a required responsibility to allow examination of their books, papers, records, and federal and state income tax returns by the tax administrator.

(e) At or before the commencement of an audit, the tax administrator shall inform and provide the taxpayer with certain information regarding the audit.

(f) A taxpayer has certain recourse if aggrieved by an action or omission of the tax administrator, their employee or an employee of the municipal corporation.

(g) The taxpayer may request an 'opinion of the tax administrator' with respect to prospective municipal income tax liability.

(h) The taxpayer or the tax administrator may appeal a final determination.

(Ord. 17-15. Passed 11-23-15.)

182.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 182.054 and 182.99 herein.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 182.091 and 182.051 as though the same were continuing. (Ord. 17-15. Passed 11-23-15.)

182.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

(Ord. 17-15. Passed 11-23-15.)

182.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 182.15 of this Chapter, division (A) of Section 182.14 of this Chapter, or Section 182.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 182.14 of this Chapter constitutes a separate offense.
(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 182.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.
- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 182.03 (29), include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

(Ord. 17-15. Passed 11-23-15.)

CHAPTER 183

Municipal Income Tax Effective January 1, 2018

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CROSS REFERENCES

- Power to levy - see Ohio Const., Art. XII, §8
- Payroll deductions - see Ohio R.C. 9.42
- Municipal income taxes - see Ohio R.C. Ch. 718
- City Income Tax Department control - see ADM. 121.01

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

183.011 AUTHORITY TO LEVY TAX.

(A) The tax on income and the withholding tax established by this Chapter 183 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 183 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

(B) The tax is an annual tax levied on the income of every person residing in or earning or receiving income in the municipal corporation, and shall be measured by municipal taxable income. The Municipality shall tax income at a uniform rate. The tax is levied on Municipal Taxable Income, as defined herein.

(Ord. 25-20. Passed 11-23-20.)

183.012 PURPOSES OF TAX; RATE.

(A) To provide funds for the purpose of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the City of Lancaster, Ohio, there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

(B) Rate of tax is two and thirty hundredths percent (2.30%) for taxable years that begin on or after January 1, 2023, the rate of tax is

two and twenty hundredths percent (2.20%) for taxable years that begin on or after January 1, 2021 and before January 1, 2023, and the rate of tax is one and seventy-five hundredths percent (1.75%) for taxable years that begin before January 1, 2021. (Ord. 51-21. Passed 12-13-21.)

183.013 ALLOCATION OF FUNDS.

(A) To provide funds for the purposes of operating, maintaining, repairing, and providing capital facilities for municipal park and recreational activities and facilities, there shall be and is hereby levied an annual tax, in addition to the tax levied by Section 183.012, and any other section imposing a tax on earnings and income, for the period January 1, 2018 through December 31, 2022 upon those classes of earnings and income set forth in Section 183.012 at the rate of fifteen hundredths of one percent (0.15%). To provide funds for the purposes of operating, maintaining, repairing, and providing capital facilities for municipal park and recreational activities and facilities and paying principal and interest on bonds and notes issued for such purposes on and after January 1, 2023, there shall be and is hereby levied an annual tax, in addition to the tax levied by Section 183.012, and any other section imposing a tax on earnings and income, a continuing tax upon those classes of earnings and income set forth in Section 183.012 at the rate of twenty-five hundredths of one percent (0.25%).

(B) Of the remaining total imposed tax at the rate of two and five hundredths percent (2.05%), nine tenths of one percent (0.9%) is to provide funds for the purpose of operating, maintaining, repairing and providing capital facilities for the Fire and Police Departments of the City.

(C) Of the remaining total imposed tax at the rate of one and fifteen hundredths percent (1.15%), fifteen hundredths of one percent (0.15%) is, effective July 1, 2005, to provide funds for the purpose of providing fire services within the City and acquiring equipment for such services and paying principal and interest on securities issued and public obligations incurred to finance such equipment.

(D) Of the remaining total imposed tax at the rate of one percent (1.0%) for the period beginning January 1, 2021, and continuing thereafter, such tax shall be used for the following purposes and in the respective percentages:

General Fund 0.93%

Parks Improvement Fund 0.01%

Cemetery Fund 0.01 %

City Capital Improvement Fund 0.05%

(Ord. 46-21. Passed 12-13-21; Ord. 51-21. Passed 12-13-21.)

183.014 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX.

(A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 49, passed by the 132nd General Assembly, and signed by Governor Kasich requiring municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.

(B) As mandated by H.B. 49, municipal income tax Temporary Ordinance No. 3-18, effective January 1, 2018, comprehensively amends Chapter 182 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

(Ord. 25-20. Passed 11-23-20.)

183.02 EFFECTIVE DATE.

(A) Temporary Ordinance No. 3-18, effective January 1, 2018, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2018. All provisions of this Chapter 183 apply to taxable years beginning 2018 and succeeding taxable years.

(B) Temporary Ordinance No. 3-18 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, and Chapter 182 for taxable years 2016 and 2017 but rather amends Chapter 181 and 182 effective January 1, 2018. For municipal taxable years beginning before January 1, 2018, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as those chapters and those ordinances and resolutions existed before January 1, 2018.

(C) Permanent Ordinance No. 27-20, effective January 1, 2021, applies to municipal tax years beginning on or after January 1, 2021. Temporary Ordinance No. 17-21 effective January 1, 2023, applies to municipal tax years beginning on or after January 1, 2023.

(Ord. 51-21. Passed 12-13-21.)

183.03 DEFINITIONS.

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. Except as provided in Section 183.25 of the Codified Ordinances, if a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

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

Except as otherwise provided in Section 183.25 of the Codified Ordinances, as used in this chapter:

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

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

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

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

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

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

- (E) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income;
- (F) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income;
- (G) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Ohio Revised Code;
- (H) (i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.
The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
- (ii) No person shall use the deduction allowed by division (1)(H) of this section to offset qualifying wages.
- (iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section.
- (b) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section.
- (iv) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (1)(H) of this section.
- (v) Nothing in division (1)(H)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward.
- (I) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 183.063 of this Chapter.
- (J) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 183.063 of this Chapter.
If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (47)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(D) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.
Nothing in division (1) of this section shall be construed as allowing the taxpayer to add or deduct any amount more than once or shall be construed as allowing any taxpayer to deduct any amount paid to or accrued for purposes of federal self-employment tax.
- (2) (A) "**ASSESSMENT**" means any of the following:
 - (i) A written finding by the Tax Administrator that a person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;
 - (ii) A full or partial denial of a refund request issued under Section 183.096 (B)(2) of this Chapter;
 - (iii) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 183.062(B)(2) of this Chapter; or
 - (iv) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 183.062(B)(3) of this Chapter.
 - (v) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 183.18 of this Chapter, and shall have "**ASSESSMENT**" written in all capital letters at the top of such finding.
- (B) "**ASSESSMENT**" does not include notice(s) denying a request for refund issued under Section 183.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.
- (3) "**AUDIT**" means the examination of a person or the inspection of the books, records, memoranda, or accounts of a person, ordered to appear before the Tax Administrator, for the purpose of determining liability for a municipal income tax

- (4) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".
- (5) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.
- (6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in section 3772.01 of the Ohio Revised Code.
- (7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to section 5703.056 of the Ohio Revised Code.
- (8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.
- (9) **"DISREGARDED ENTITY"** means a single member limited liability company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.
- (10) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.
- (11) **"EXEMPT INCOME"** means all of the following:
 - (A) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
 - (B) (i) Except as provided in division (11)(B)(ii) of this section, intangible income;
(ii) A municipal corporation that taxed any type of intangible income on March 29, 1988, pursuant to Section 3 of S.B. 238 of the 116th general assembly, may continue to tax that type of income if a majority of the electors of the municipal corporation voting on the question of whether to permit the taxation of that type of intangible income after 1988 voted in favor thereof at an election held on November 8, 1988.
 - (C) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code.
 - (D) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (E) Compensation paid under section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.
 - (F) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
 - (G) Alimony and child support received;
 - (H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
 - (I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.
 - (J) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
 - (K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
 - (L) Employee compensation that is not qualifying wages as defined in division (34) of this section;
 - (M) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile, tax on such income shall be payable only to the municipal corporation of residence or domicile.
 - (N) An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code
 - (O) A portion of the municipal taxable income earned by individuals or a class of individuals under eighteen years of age, specifically exempting fifteen years and younger.
 - (P) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, qualifying wages described in division (B)(1) or (E) of Section 183.052 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 - (ii) The exemption provided in division (11)(P)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.
 - (iii) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 183.052 of this Chapter
 - (iv) The exemption provided in division (11)(P)(i) of this section does not apply to qualifying wages if both of the following conditions apply:
 - (a) For qualifying wages described in division (B)(1) of Section 183.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 183.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the

municipal corporation in which the employer's fixed location is located;

- (b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.
- (Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the Municipality on not more than twenty days in a taxable year.
 - (ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:
 - (a) The individual's base of operation is located in the Municipality.
 - (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 183.052 of this Chapter.
 - (iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.
 - (iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.
- (R) Compensation paid to a person for personal services performed for a political subdivision on property owned by the political subdivision, regardless of whether the compensation is received by an employee of the subdivision or another person performing services for the subdivision under a contract with the subdivision, if the property on which services are performed is annexed to a municipal corporation pursuant to section 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the person is subject to such taxation because of residence. If the compensation is subject to taxation because of residence, municipal income tax shall be payable only to the municipal corporation of residence.
- (S) Income the taxation of which is prohibited by the constitution or laws of the United States.

Any item of income that is exempt income of a pass-through entity under division (11) of this section is exempt income of each owner of the pass-through entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.
- (T) Any gains or losses from federal form 4797 and definitely no deduction against any other sources of income including income from W2 wages, income or losses from federal schedule C, E or F and any other type of income.
- (12) **"FORM 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (13) **"GENERIC FORM"** means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or other payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.
- (14) **"INCOME"** means the following:
 - (A) (i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (23)(D) of this section.
 - (ii) For the purposes of division (14)(A)(i) of this section:
 - (a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (14)(A)(iv) of this section;
 - (b) The resident's distributive share of the net profit of each pass-through entity owned directly or indirectly by the resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior taxable year and applied to reduce the entity's net profit for the current taxable year.
 - (iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' distributive shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division 11(N) of this Section.
 - (iv) Any amount of a net operating loss used to reduce a taxpayer's net profit for a taxable year shall reduce the amount of net operating loss that may be carried forward to any subsequent year for use by that taxpayer. In no event shall the cumulative deductions for all taxable years with respect to a taxpayer's net operating loss exceed the original amount of that net operating loss available to that taxpayer.
- (B) In the case of nonresidents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the nonresident for work done, services performed or rendered, or activities conducted in the Municipality, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.
- (C) For taxpayers that are not individuals, net profit of the taxpayer;
- (D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 183.081 of this Chapter.

- (15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.
- (16) **"INTERNAL REVENUE CODE"** means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (17) **"LIMITED LIABILITY COMPANY"** means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (18) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Section 183.18 of this Chapter.
- (19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.
- (20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:
- (i) For a person other than an individual, income apportioned or situated to the Municipality under Section 183.062 of this Chapter, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.
 - (ii) (a) For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
 - (b) For an individual who is a resident of a qualified municipal corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the qualified municipal corporation from the qualified municipal corporation's tax on or before December 31, 2013. If a qualified municipal corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the qualified municipal corporation and net profit of persons that are not wholly located within the qualified municipal corporation, such individual or person shall have no municipal taxable income for the purposes of the tax levied by the qualified municipal corporation and may be exempted by the qualified municipal corporation from the requirements of section 718.03 of the Ohio Revised Code.
 - (iii) For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 183.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.
- (B) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.
- (21) **"MUNICIPALITY"** means the City of Lancaster.
- (22) **"NET OPERATING LOSS"** means a loss incurred by a person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.
- (23) (A) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (1) (H) of this section.
- (B) "Net profit" for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (C) of this section.
- (C) (i) The amount of such net operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred but in no case for more years than necessary for the deduction to be fully utilized.
- (ii) No person shall use the deduction allowed by division (C) of this section to offset qualifying wages.
- (iii) (a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (C) of this section.
- (b) For taxable years beginning in 2023 or thereafter, a person may deduct for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (C) of this section without regard to the limitation of division (C) of this section.
- (iv) Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to division (C) of this section.
- (v) Nothing in division (C)(iii)(a) of this section precludes a person from carrying forward, for use with respect to any return filed

for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (C)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (C)(iii)(a) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (C)(iii)(a) of this section shall apply to the amount carried forward.

- (D) For the purposes of this chapter, and notwithstanding division (23)(A) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.
- (E) (i) For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.
- (ii) For the purposes of this chapter, and notwithstanding any other provision of this chapter, the net profit of a publicly traded partnership that makes the election described in division (23)(D) of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.
- (iii) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (D)(iv) of this section.
- (iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (D)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.
- (v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (D) of this section applies to all municipal corporations in which an individual owner of the partnership resides.
- (vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.
- (24) **"NONRESIDENT"** means an individual that is not a resident of the Municipality.
- (25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (26) **"OTHER PAYER"** means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.
- (27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for federal income tax purposes, an S corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.
- (28A) **"PENSION"** means a retirement benefit plan, regardless of whether the plan satisfies the qualifications described under section 401(a) of the Internal Revenue Code, including amounts that are taxable under the "Federal Insurance Contributions Act", Chapter 21 of the Internal Revenue Code, excluding employee contributions and elective deferrals, and regardless of whether such amounts are paid in the same taxable year in which the amounts are included in the employee's wages, as defined by section 3121(a) of the Internal Revenue Code.
- (28B) **"RETIREMENT BENEFIT PLAN"** means an arrangement whereby an entity provides benefits to individuals either on or after their termination of service because of retirement or disability. "Retirement benefit plan" does not include wage continuation payments, severance payments, or payments made for accrued personal or vacation time.
- (29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S corporations, governmental entities, and any other entity.
- (30) **"POSTAL SERVICE"** means the United States postal service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.
- (31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery
- (32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in such Municipality in future taxable years.
- (B) For the purpose of calculating municipal taxable income, any pre-2017 net operating loss carryforward may be carried forward to any taxable year, including taxable years beginning in 2017 or thereafter, for the number of taxable years

provided in the resolution or ordinance or until fully utilized, whichever is earlier.

- (33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.
- (34) **"QUALIFYING WAGES"** means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (A) Municipal Corporation has exempted the following:
 - (i) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.
 - (ii) Any amount included in wages if the amount constitutes payment on account of a disability related to sickness or an accident paid by a party unrelated to the employer, agent of an employer, or other payer.
 - (iii) INTENTIONALLY LEFT BLANK
 - (iv) Any amount included in wages that is exempt income.
 - (B) Municipal Corporation has not exempted the following:
 - (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount attributable to a nonqualified deferred compensation plan or program described in section 3121(v)(2)(C) of the Internal Revenue Code if the compensation is included in wages.
 - (v) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (vi) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vii) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (B) A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - (C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
 - (D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (36) **"RELATED MEMBER"** means a person that, with respect to the taxpayer during all or any portion of the taxable year, is either a related entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.
- (37) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 183.042 of this Chapter.
- (38) **"S CORPORATION"** means a person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.
- (39) **"SCHEDULE C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (40) **"SCHEDULE E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code. Further, multiple properties with "common expenses" must allocate expenses based on the number of properties filed.
- (41) **"SCHEDULE F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"SINGLE MEMBER LIMITED LIABILITY COMPANY"** means a limited liability company that has one direct member.
- (43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not

limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

- (44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this chapter, and also includes the following:
- (A) A municipal corporation acting as the agent of another municipal corporation;
 - (B) A person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the person in whole or in part on a contingency basis;
 - (C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.
 - (D) "Tax Administrator" does not include the tax commissioner.
- (45) **"TAX COMMISSIONER"** means the tax commissioner appointed under Section 121.03 of the Revised Code.
- (46) **"TAX RETURN PREPARER"** means any individual described in section 7701(a)(36) of the Internal Revenue CODE AND 26 C.F.R. 301.7701-15 .
- (47) **"TAXABLE YEAR"** means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (48) (A) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.
- (B) (i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:
 - (a) The limited liability company's single member is also a limited liability company.
 - (b) The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five years before January 1, 2004.
 - (c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004.
 - (d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.
 - (e) The Ohio municipal corporation that was the primary place of business of the sole member of the limited liability company consented to the election.
 - (ii) For purposes of division (47)(B)(i)(e) of this section, a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least four hundred thousand dollars.
- (49) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.
- (50) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (51) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770. of the Ohio Revised Code to conduct video lottery terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code. (Ord. 25-20. Passed 11-23-20.)

183.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS.

183.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS.

- (A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:
- (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 183.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 183.03 (14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 183.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 183.03 (23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 183.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 183.062(E).
 - (iii) Section 183.03(14) provides the following: offsetting and net operating loss carryforward treatment in (14)(A)(ii)(a); resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by taxpayer in a

subsequent taxable year in (14)(A)(iv).

- (iv) "Pass Through Entity" is defined in Section 183.03(27).
- (b) "Exempt Income" is defined in Section 183.03 (11) of this Chapter.
- (c) Allowable employee business expense deduction is described in (20)(B) of Section 183.03 of this Chapter, and is subject to the limitations provided in that section.
- (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03 (32) of this Chapter
- (B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:
 - (1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in Section 183.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 183.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
 - (a) "Income" is defined in Section 183.03(14) of this Chapter.
 - (i) "Qualifying Wages" is defined in Section 183.03(34).
 - (ii) "Net profit" is included in "income", and is defined in Section 183.03(23) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (1)(H) of Section 183.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.
 - (iii) "Pass Through Entity" is defined in Section 183.03(27).
 - (b) "Exempt Income" is defined in Section 183.03(11) of this Chapter.
 - (c) "Apportioned or situated to the Municipality as provided in Section 183.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 183.062(E).
 - (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 183.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
 - (e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03(32) of this Chapter.
(Ord. 25-20. Passed 11-23-20.)

183.042 DOMICILE.

- (A) As used in this section:
 - (1) "Domicile" means the true, fixed and permanent home of the taxpayer to which whenever absent, the taxpayer intends to return.
 - (2) An individual is presumed to be domiciled in the Municipality for all or part of a taxable year if the individual was domiciled in the Municipality on the last day of the immediately preceding taxable year or if the tax administrator reasonably concludes that the individual is domiciled in the Municipality for all or part of the taxable year.
 - (3) An individual may rebut the presumption of domicile described in division (A)(1) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the Municipality for all or part of the taxable year.
- (B) For the purpose of determining whether an individual is domiciled in the Municipality for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
 - (1) The individual's domicile in other taxable years;
 - (2) The location at which the individual is registered to vote;
 - (3) The address on the individual's driver's license;
 - (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
 - (5) The location and value of abodes owned or leased by the individual;
 - (6) Declarations, written or oral, made by the individual regarding the individual's residency;
 - (7) The primary location at which the individual is employed.
 - (8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;
 - (9) The number of contact periods the individual has with the Municipality. For the purposes of this division, an individual has one "contact period" with the Municipality if the individual is away overnight from the individual's abode located outside of the Municipality and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the Municipality. For purposes of this section, the State's contact period test or bright-line test and resulting determination have no bearing on municipal residency or domicile.
- (C) All applicable factors are provided in Ohio Revised Code Section 718.012.
(Ord. 25-20. Passed 11-23-20.)

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

- (A) Only the municipal corporation of residence shall be permitted to levy a tax on the income of any member or employee of the Ohio General Assembly, including the Lieutenant Governor, whose income is received as a result of services rendered as such member or employee and is paid from appropriated funds of this state.
- (B) Only the municipal corporation of residence and the city of Columbus shall levy a tax on the income of the Chief Justice or a Justice of the Supreme Court received as a result of services rendered as the Chief Justice or Justice. Only the municipal corporation of residence shall levy a tax on the income of a judge sitting by assignment of the Chief Justice or on the income of a district court of appeals judge sitting in multiple locations within the district, received as a result of services rendered as a judge.

183.05 COLLECTION AT SOURCE.

183.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

- (A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under Section 183.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.
- (b) Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
- (c) An employer, agent of an employer or other payer has the option to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality can be remitted to the Municipality at the same time that the federal tax withholding payment is due.
- (C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under Section 183.091 of this Chapter,
- (D) An employer, agent of an employer, or other payer is not required to withhold municipal income tax with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of either the corporation with respect to whose stock the option has been issued or of such corporation's successor entity.
- (E) (1) An employee is not relieved from liability for a tax by the failure of the employer, agent of an employer, or other payer to withhold the tax as required under this chapter or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.
- (2) The failure of an employer, agent of an employer, or other payer to remit to the Municipality the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer, agent, or other payer in connection with the failure to remit the tax withheld.
- (F) Compensation deferred before June 26, 2003, is not subject to any municipal corporation income tax or municipal income tax withholding requirement to the extent the deferred compensation does not constitute qualifying wages at the time the deferred compensation is paid or distributed.
- (G) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.
- (H) (1) On or before the last day of February of each year, an employer shall file a withholding tax reconciliation return with the Tax Administrator showing the sum total of all qualifying wages paid to all employees, the portion of which, if any, was not subject to withholding along with an explanation for the same, and the portion of which was subject to withholding, together with the amount of such withholdings remitted.
- (a) Such return shall include information concerning each employee from whom the municipal income tax was withheld, or should have been withheld, during the preceding calendar year, showing the name, address, zip code and social security number of each such employee, the total amount of qualifying wages paid during the year and the amount of municipal income tax withheld. If the total tax withheld from any employee included tax withheld and remitted to another municipal corporation, the name of each such municipal corporation and the amount of same shall be separately shown on the return of information to the Municipality concerning each employee. Any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other

information as may be required by the Tax Administrator, also shall be included in the return.

- (b) Any person, including corporations, partnerships, employers, estates and trusts, who files 150 or more information returns of form W-2 for any calendar year, must file these returns in electronic format or such other process as determined acceptable to the Tax Administrator. All requirements apply separately to both original and corrected forms. Except as otherwise provided in this paragraph, the submission of required information in an electronic format does not affect an employer's obligation to file the returns as required under this section.
- (2) The Tax Administrator shall adopt rules governing the submission of the information required by this section. The Tax Administrator may grant an exemption to an employer from the duty to submit the required information electronically upon application for such exemption by the employer and the employer's demonstration to the Tax Administrator that the requirement to submit such information will impose a substantial hardship upon the employer.
- (3) In addition to the wage reporting requirements of this section, any business required by the Internal Revenue Service to report on Form 1099-MISC payments to individuals not treated as employees for services performed shall also report such payments to the Tax Administrator when the services were performed in the Municipality. The information may be submitted on a listing that shall include the individual's name, address, social security number (or federal identification number), and the amount of the payments made. Federal form(s) 1099 may be submitted in lieu of such listing. The information shall be filed annually on or before the last day of February following the end of the calendar year in which such payments are made.
- (I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.
- (J) An employer is required to deduct and withhold municipal income tax on tips and gratuities received by the employer's employees and constituting qualifying wages only to the extent that the tips and gratuities are under the employer's control. For the purposes of this division, a tip or gratuity is under the employer's control if the tip or gratuity is paid by the customer to the employer for subsequent remittance to the employee, or if the customer pays the tip or gratuity by credit card, debit card, or other electronic means.
- (K) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section.
- (Ord. 25-20. Passed 11-23-20.)

183.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT.

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

- (1) "Employer" includes a person that is a related member to or of an employer.
 - (2) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
 - (3) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
 - (4) "Public figure" means a person of prominence who performs services at discrete events, such as speeches, public appearances, or similar events, for wages or other remuneration on a per-event basis.
 - (5) "Fixed location" means a permanent place of doing business in this state, such as an office, warehouse, storefront, or similar location owned or controlled by an employer.
 - (6) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
 - (7) "Principal place of work" means the fixed location to which an employee is required to report for employment duties on a regular and ordinary basis. If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location, "principal place of work" means the worksite location in this state to which the employee is required to report for employment duties on a regular and ordinary basis.
If the employee is not required to report for employment duties on a regular and ordinary basis to a fixed location or worksite location, "principal place of work" means the location in this state at which the employee spends the greatest number of days in a calendar year performing services for or on behalf of the employee's employer.
If there is not a single municipal corporation in which the employee spent the "greatest number of days in a calendar year" performing services for or on behalf of the employer, but instead there are two or more municipal corporations in which the employee spent an identical number of days that is greater than the number of days the employee spent in any other municipal corporation, the employer shall allocate any of the employee's qualifying wages subject to division (B)(1)(a) of this section among those two or more municipal corporations. The allocation shall be made using any fair and reasonable method, including, but not limited to, an equal allocation among such municipal corporations or an allocation based upon the time spent or sales made by the employee in each such municipal corporation. A municipal corporation to which qualifying wages are allocated under this division shall be the employee's "principal place of work" with respect to those qualifying wages for the purposes of this section. For the purposes of this division, the location at which an employee spends a particular day shall be deemed in accordance with division (B)(2) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.
- (B) (1) Subject to divisions (C), (E), (F), and (G) of this section, an employer is not required to withhold municipal income tax on qualifying wages paid to an employee for the performance of personal services in a municipal corporation that imposes such a tax if the employee performed such services in the municipal corporation on twenty or fewer days in a calendar year, unless one of the following conditions applies:
- (a) The employee's principal place of work is located in the Municipality.
 - (b) The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in this state

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

- (i) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (ii) The agreement between the employer and its customer to perform services at a location requires the employer to perform actual services at the location for more than twenty days.
 - (c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 183.051 of this Chapter.
 - (d) The employee is a professional athlete, professional entertainer, or public figure, and the qualifying wages are paid for the performance of services in the employee's capacity as a professional athlete, professional entertainer, or public figure within the Municipality.
- (2) For the purposes of division (B)(1) of this section, an employee shall be considered to have spent a day performing services in a municipal corporation only if the employee spent more time performing services for or on behalf of the employer in that municipal corporation than in any other municipal corporation on that day. For the purposes of determining the amount of time an employee spent in a particular location, the time spent performing one or more of the following activities shall be considered to have been spent at the employee's principal place of work:
- (a) Traveling to the location at which the employee will first perform services for the employer for the day;
 - (b) Traveling from a location at which the employee was performing services for the employer to any other location;
 - (c) Traveling from any location to another location in order to pick up or load, for the purpose of transportation or delivery, property that has been purchased, sold, assembled, fabricated, repaired, refurbished, processed, remanufactured, or improved by the employee's employer;
 - (d) Transporting or delivering property described in division (B)(2)(c) of this section, provided that, upon delivery of the property, the employee does not temporarily or permanently affix the property to real estate owned, used, or controlled by a person other than the employee's employer;
 - (e) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.
- (C) If the principal place of work of an employee is located in a municipal corporation that imposes an income tax in accordance with this chapter, the exception from withholding requirements described in division (B)(1) of this section shall apply only if, with respect to the employee's qualifying wages described in that division, the employer withholds and remits tax on such qualifying wages to the municipal corporation in which the employee's principal place of work is located.
- (D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
- (2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.
- (3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.
- (E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 183.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of Section 183.051 of this Chapter.

(Ord. 25-20. Passed 11-23-20.)

183.053 COLLECTION AT SOURCE; CASINO AND VLT.

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

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

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

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

- (2) Annually, on or before the thirty-first day of January, a casino operator shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the casino facility is located, indicating the total amount deducted and withheld during the preceding calendar year. The casino operator shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
 - (3) Annually, on or before the thirty-first day of January, a casino operator shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted from the person's winnings during the preceding year. The casino operator shall provide to the Tax Administrator a copy of each information return issued under this division. The administrator may require that such copies be transmitted electronically.
 - (4) A casino operator that fails to file a return and remit the amounts deducted and withheld shall be personally liable for the amount withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
 - (5) If a casino operator sells the casino facility or otherwise quits the casino business, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor shall withhold an amount of the purchase money that is sufficient to cover the amounts deducted and withheld along with any penalties and interest thereon until the predecessor casino operator produces either of the following:
 - (a) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - (b) A certificate from the Tax Administrator indicating that no amounts are due.

If the successor fails to withhold purchase money, the successor is personally liable for the payment of the amounts deducted and withheld and penalties and interest thereon.
 - (6) The failure of a casino operator to deduct and withhold the required amount from a person's winnings does not relieve that person from liability for the municipal income tax with respect to those winnings.
- (D) If a person's prize award from a video lottery terminal is an amount for which reporting to the internal revenue service is required by section 6041 of the Internal Revenue Code, as amended, the video lottery sales agent shall deduct and withhold municipal income tax from the person's prize award at the rate of the tax imposed by the municipal corporation in which the video lottery terminal facility is located.
- (E) Amounts deducted and withheld by a video lottery sales agent are held in trust for the benefit of the municipal corporation to which the tax is owed.
- (1) The video lottery sales agent shall issue to a person from whose prize award an amount has been deducted and withheld a receipt for the amount deducted and withheld, and shall obtain from the person receiving a prize award the person's name, address, and social security number in order to facilitate the preparation of returns required by this section.
 - (2) On or before the tenth day of each month, the video lottery sales agent shall file a return electronically with the Tax Administrator of the Municipality providing the names, addresses, and social security numbers of the persons from whose prize awards amounts were deducted and withheld, the amount of each such deduction and withholding during the preceding calendar month, the amount of the prize award from which each such amount was withheld, and any other information required by the Tax Administrator. With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
 - (3) A video lottery sales agent shall maintain a record of all receipts issued under division (E) of this section and shall make those records available to the Tax Administrator upon request. Such records shall be maintained in accordance with section 5747.17 of the Ohio Revised Code and any rules adopted pursuant thereto.
 - (4) Annually, on or before the thirty-first day of January, each video lottery terminal sales agent shall file an annual return electronically with the Tax Administrator of the municipal corporation in which the facility is located indicating the total amount deducted and withheld during the preceding calendar year. The video lottery sales agent shall remit electronically with the annual return any amount that was deducted and withheld and that was not previously remitted. If the name, address, or social security number of a person or the amount deducted and withheld with respect to that person was omitted on a monthly return for that reporting period, that information shall be indicated on the annual return.
 - (5) Annually, on or before the thirty-first day of January, a video lottery sales agent shall issue an information return to each person with respect to whom an amount has been deducted and withheld during the preceding calendar year. The information return shall show the total amount of municipal income tax deducted and withheld from the person's prize award by the video lottery sales agent during the preceding year. A video lottery sales agent shall provide to the Tax Administrator of the municipal corporation a copy of each information return issued under this division. The Tax Administrator may require that such copies be transmitted electronically.
 - (6) A video lottery sales agent who fails to file a return and remit the amounts deducted and withheld is personally liable for the amount deducted and withheld and not remitted. Such personal liability extends to any penalty and interest imposed for the late filing of a return or the late payment of tax deducted and withheld.
- (F) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:
- (1) A receipt from the Tax Administrator showing that the amounts deducted and withheld and penalties and interest thereon have been paid;
 - (2) A certificate from the Tax Administrator indicating that no amounts are due.

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

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

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

- (1) For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;
- (2) For the failure to file, or the late filing of, a monthly or annual return, a penalty of five hundred dollars for each return not filed or filed late. Interest shall accrue on past due amounts deducted and withheld at the rate prescribed in section 5703.47 of the Ohio Revised Code.

(I) Amounts deducted and withheld on behalf of a municipal corporation shall be allowed as a credit against payment of the tax imposed by the municipal corporation and shall be treated as taxes paid for purposes of Section 183.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.

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

(Ord. 25-20. Passed 11-23-20.)

183.054 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(A) All taxes imposed by this ordinance shall be collectible, together with any interest, penalties and late fees thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of 25% or more of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.

(B) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the federal tax liability, whichever is later.

(C) Amounts of Ten dollars (\$10.00) or less shall not be collected or refunded.

(Ord. 25-20. Passed 11-23-20.)

183.06 INCOME SUBJECT TO NET PROFIT TAX.

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

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

- (A) "Income" reduced by "Exempt Income" to the extent otherwise included in income, multiplied by apportionment, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".
- (1) "Income" for a taxpayer that is not an individual means the "Net Profit" of the taxpayer.
 - (i) "Net Profit" for a person other than an individual is defined in Section 183.03(23).
 - (ii) "Adjusted Federal Taxable Income" is defined in Section 183.03(1) of this Chapter.
 - (2) "Exempt Income" is defined in Section 183.03(11) of this Chapter.
 - (3) "Apportionment" means the apportionment as determined by Section 183.062 of this Chapter.
 - (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 183.03 (32) of this Chapter.

(Ord. 25-20. Passed 11-23-20.)

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

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

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

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

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
- (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 183.052 of this Chapter;
- (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the Municipality to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.

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

- (a) Separate accounting;
- (b) The exclusion of one or more of the factors;

- (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
 - (d) A modification of one or more of the factors.
- (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 183.19 of this Chapter.
- (3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 183.19 of this Chapter.
- (4) Nothing in division (B) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by a Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
- (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;
 - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
 - (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;
 - (3) Any other location, if the Tax Administrator determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If a Tax Administrator makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the Tax Administrator's determination was unreasonable.
- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets any of the following criteria:
 - (a) The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 - (b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.
 - (2) Gross receipts from the sale of services shall be situated to the municipal corporation to the extent that such services are performed in the municipal corporation.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.
- (E) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual or by a disregarded entity owned by the individual shall be subject to tax only by the municipal corporation in which the property generating the net profit is located and the municipal corporation in which the individual taxpayer that receives the net profit resides.
- A municipal corporation shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit situated under this division to the municipal corporation in which the property is located.
- (F) (1) Except as provided in division (F)(2) of this section, commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to a municipal corporation based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the municipal corporation to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 183.081 of this Chapter.
- (G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 183.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a

municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity. (Ord. 25-20. Passed 11-23-20.)

183.063 CONSOLIDATED FEDERAL INCOME TAX RETURN.

(A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.
- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

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

- (a) The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law.
- (b) The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or
- (c) A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

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

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

(4) When a taxpayer makes the election allowed under Section 183.24 of the Codified Ordinances, a valid election made by the taxpayer under division (B)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.

(5) When an election made under Section 183.24 of the Codified Ordinances is terminated, a valid election made under Section 183.30 of the Codified Ordinances is binding upon the tax administrator for the remainder of the five-year period.

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

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

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in Section 183.03(1) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 183.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

(3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated municipal income tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:

(a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 183.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for

the purpose of making the computations required in Section 183.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
 - (a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 183.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;
 - (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 183.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

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

(Ord. 25-20. Passed 11-23-20.)

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

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

(Ord. 25-20. Passed 11-23-20.)

183.065 TAX CREDITS TO FOSTER JOB RETENTION.

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

(Ord. 25-20. Passed 11-23-20.)

183.066 PERFORMANCE WITHHOLDING INCENTIVE FOR INDUSTRIAL AND ADVANCED TECHNOLOGY JOBS.

(A) The City may offer annual performance-based cash incentives based upon a percentage of actual payroll withholdings for industrial and/or Advanced Technology Companies providing a minimum of thirty (30) new jobs and/or minimum payroll of \$1.5 Million (Z). The incentive shall be recommended by the Economic Development Director and approved by a majority approval of the Mayor, Auditor and Law Director. Approval may be provided in person, electronically, or by telephone. The period/duration (Y) will be 1 to 10 years with an incentive range (X) of 10% to 50%.

(B) The City proposes annual incentive payments based upon a percentage (the Incentive Factor) of employee annual withholdings (2.20% of wages). The City proposed an Incentive Factor of (X%) on employee withholdings (net of refunds) for (Y) years. This offer assumes and requires a minimum (Y) year production term.

(Y) Period of 1 to 10 years

(X) Range of 10% to 50%

(Z) Minimum thirty (30) new jobs and/or a minimum payroll of \$1.5 million

Year	Target Payroll	Target Withholdings	X% Payment
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20__	\$ min. (Z)	2.20% of Z	X% of Target Withholding
TOTAL			\$ Sum of this Column

If the annual "Target Payroll" is exceeded in any given year, the annual incentive payment would increase based on the formula above. If the annual "Target Payroll" is missed in any particular year, no payment is made for that year; but does not preclude the company from receiving payments in other remaining years. (Ord. 25-20. Passed 11-23-20.)

183.067 PERFORMANCE WITHHOLDING INCENTIVE FOR HISTORIC DISTRICT JOBS.

(A) The City may offer annual performance-based cash incentives based upon a percentage of actual payroll withholding for companies currently or newly located in the Historic District providing a minimum of ten (10) new jobs and/or a minimum payroll of \$400,000.00(Z). The incentive shall be recommended by the Economic Development Director and approved by a majority approval of the Mayor, Auditor and Law Director. Approval may be provided in person, electronically, or by telephone. The period/duration (Y) will be 3 to 5 years with an incentive range (X) of 10% to 50%.

(B) The City proposes annual incentive payments based upon a percentage (the Incentive Factor) of employee annual withholdings (2.20% of wages). The City proposes an Incentive Factor of (X%) on employee withholdings (Net of refunds) for (Y) years. This offer assumes and requires a minimum (Y) year production term.

(Y) Period of 3 to 5 years

(X) Range of 10% to 50%

(Z) Minimum ten (10) new jobs and/or a minimum payroll of \$400,000.00

Year	Target Payroll	Target Withholdings	X% Payment
20 ____	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20 ____	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20 ____	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20 ____	\$ min. (Z)	2.20% of Z	X% of Target Withholding
20 ____	\$ min. (Z)	2.20% of Z	X% of Target Withholding
TOTAL			\$ Sum of this Column

If the annual "Target Payroll" is exceeded in any given year, the annual incentive payment would increase based on the formula above. If the annual "Target Payroll" is missed in any particular year, no payment is made for that year; but does not preclude the company from receiving payments in other remaining year. (Ord. 25-20. Passed 11-23-20.)

183.07 DECLARATION OF ESTIMATED TAX.

(A) As used in this section:

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

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

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

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

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

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

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

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

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 183.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

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

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

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

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

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

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

- (d) For an individual on or before the fifteenth day of the first month of the following taxable year, ninety percent of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the taxable year.
 - (2) A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. When an amended declaration has been filed, the unpaid balance shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.
 - (3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with Section 183.091 of this Chapter.
 - (a) For taxpayers who are individuals, or who are not individuals and are reporting and filing on a calendar year basis, the annual tax return is due on the same date as the filing of the federal tax return, unless extended pursuant to division (G) of section 5747.08 of the Revised Code.
 - (b) For taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.
 - (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
 - (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 183.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
 - (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
 - (d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
 - (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
 - (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
 - (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 183.091 of this Chapter for that year.
 - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.
 - (F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.
- (Ord. 25-20. Passed 11-23-20.)

183.08 CREDIT FOR TAX PAID.

183.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

- (A) Limitation: Where a resident of the City of Lancaster is subject to a municipal tax or joint economic development district tax (JEDD), on or measured by income, in another municipality or JEDD either located within or without the State of Ohio, he shall receive credit of the tax paid, not to exceed one percent (1.0%) against the tax imposed by this chapter, of the earnings taxed by such municipality or JEDD with the exception of the City of Lancaster residents shall receive a credit of not to exceed one and three-quarter percent (1.75%) of the earnings taxed by the City of Lancaster against the tax imposed by this chapter.
 - (1) Credits to residents: Resident individuals of the City of Lancaster who are required to pay and do pay a tax to another municipality or joint economic development district tax (JEDD) on qualifying wages, commissions or other compensation, for work done or services performed in such other municipality, may claim a credit of the amount of tax paid by them or on their behalf to such other municipality or JEDD but not to exceed one percent (1.0%) of such income earned and taxed by the other municipality or JEDD. Credit for taxes paid to the City of Lancaster shall not exceed one and three-quarter (1.75%) of the income taxed by the City of Lancaster.
 - (2) Method of applying for credit: No credit will be given unless the taxpayer claims such credit on his final return or other form prescribed by the Administrator, and presents such evidence of the payment of a similar tax to another municipality, as the Administrator may require.
- (B) A statement satisfactory to the Administrator from the taxing authority of the municipality for which the taxes are paid, that a City of Lancaster resident or his employer is paying the tax shall be considered as fulfilling the filing requirements of this Article.
- (C) If tax or withholding is paid to a municipal corporation on taxable income, and if a second municipal corporation imposes a tax on that taxable income after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the

second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such taxable income, equal to the tax or withholding paid to the first municipal corporation with respect to such taxable income. If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit shall be calculated using the tax rate in effect in the second municipal corporation.

(D) A refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss relating to a nonqualified deferred compensation plan sustained by a taxpayer during the taxable year. A "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan. The amount of credit shall be equal to the product of the qualifying loss and the qualifying tax rate. With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan. In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan. The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to the insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan or the employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

- (1) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (F) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
- (2) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.

(Ord. 25-20. Passed 11-23-20.)

183.082 REFUNDABLE CREDIT FOR QUALIFYING LOSS.

(A) As used in this section:

- (1) "Nonqualified deferred compensation plan" means a compensation plan described in section 3121(v)(2)(C) of the Internal Revenue Code.
- (2) (a) Except as provided in division (A)(2)(b) of this section, "qualifying loss" means the excess, if any, of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan over the total amount of income the taxpayer has recognized for federal income tax purposes for all taxable years on a cumulative basis as compensation with respect to the taxpayer's receipt of money and property attributable to distributions in connection with the nonqualified deferred compensation plan.
(b) If, for one or more taxable years, the taxpayer has not paid to one or more municipal corporations income tax imposed on the entire amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan, then the "qualifying loss" is the product of the amount resulting from the calculation described in division (A)(2)(a) of this section computed without regard to division (A)(2)(b) of this section and a fraction the numerator of which is the portion of such compensation on which the taxpayer has paid income tax to one or more municipal corporations and the denominator of which is the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
(c) With respect to a nonqualified deferred compensation plan, the taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.
- (3) "Qualifying tax rate" means the applicable tax rate for the taxable year for the which the taxpayer paid income tax to a municipal corporation with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan. If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the municipal corporation each year with respect to the nonqualified deferred compensation plan.

- (B) (1) Except as provided in division (D) of this section, a refundable credit shall be allowed against the income tax imposed by a municipal corporation for each qualifying loss sustained by a taxpayer during the taxable year. The amount of the credit shall be equal to the product of the qualifying loss and the qualifying tax rate.
- (2) A taxpayer shall claim the credit allowed under this section from each municipal corporation to which the taxpayer paid municipal income tax with respect to the nonqualified deferred compensation plan in one or more taxable years.
 - (3) If a taxpayer has paid tax to more than one municipal corporation with respect to the nonqualified deferred compensation plan, the amount of the credit that a taxpayer may claim from each municipal corporation shall be calculated on the basis of each municipal corporation's proportionate share of the total municipal corporation income tax paid by the taxpayer to all municipal corporations with respect to the nonqualified deferred compensation plan.
 - (4) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to a municipal corporation for all taxable years with respect to the nonqualified deferred compensation plan.
- (C) (1) For purposes of this section, municipal corporation income tax that has been withheld with respect to a nonqualified deferred compensation plan shall be considered to have been paid by the taxpayer with respect to the nonqualified deferred compensation plan.
- (2) Any municipal income tax that has been refunded or otherwise credited for the benefit of the taxpayer with respect to a

nonqualified deferred compensation plan shall not be considered to have been paid to the municipal corporation by the taxpayer.

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

- (1) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
- (2) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation. (Ord. 25-20. Passed 11-23-20.)

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

A Municipality shall grant a credit against its tax on income to a resident of the Municipality who works in a joint economic development zone created under section 715.691 or a joint economic development district created under section 715.70, 715.71, or 715.72 of the Ohio Revised Code to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation, pursuant to Section 183.081 of this Chapter.

(Ord. 25-20. Passed 11-23-20.)

183.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND.

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 183.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in Section 183.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 183.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 183.081 of this Chapter regarding any limitation on credit shall prevail. (Ord. 25-20. Passed 11-23-20.)

183.09 ANNUAL RETURN.

183.091 RETURN AND PAYMENT OF TAX.

(A) (1) An annual return with respect to the income tax levied on Municipal Taxable Income by the Municipality shall be completed and filed by every taxpayer for any taxable year for which the taxpayer is subject to the tax, regardless of whether or not income tax is due.

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under Section 183.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, 16 years of age and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

(4) No return is needed if an individual is retired with no earned income.

(B) If an individual is deceased, any return or notice required of that individual shall be completed and filed by that decedent's executor, administrator, or other person charged with the property of that decedent.

(C) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust. Such fiduciary shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the fiduciary.

(E) No municipal corporation shall deny spouses the ability to file a joint return.

(F) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's social security number or taxpayer identification number. Each return shall be verified by a declaration under penalty of perjury.

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 and with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with

respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

- (4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.
- (5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (F) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.
- (6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.
- (G) (1) (a) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
- (b) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality or Tax Administrator.
- (c) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.
- (2) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the Municipality in accordance with this chapter, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (3) With respect to taxpayers to whom Section 183.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 183.092 of this Chapter, the provision in Section 183.092 of this Chapter prevails.
- (H) (1) For taxable years beginning after 2015, the Municipality shall not require a taxpayer to remit tax with respect to net profits if the amount due is ten dollars (\$10.00) or less.
- (2) Any taxpayer not required to remit tax to the Municipality for a taxable year pursuant to division (H)(1) of this section shall file with the Municipality an annual net profit return under division (F)(3) and (4) of this section.
- (I) This division shall not apply to payments required to be made under division (B)(1)(b) of Section 183.051 of this Chapter.
- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.
- (J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 183.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.
- (K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

(M) When income tax returns, reports, or other documents require the signature of a tax return preparer, the Tax Administrator shall accept a facsimile of such a signature in lieu of a manual signature.

(N) (1) As used in this division, "worksite location" has the same meaning as in Section 183.052 of this chapter.

(2) A person may notify a tax administrator that the person does not expect to be a taxpayer with respect to the municipal corporation for a taxable year if both of the following conditions apply:

(a) The person was required to file a tax return with the municipal corporation for the immediately preceding taxable year because the person performed services at a worksite location within the municipal corporation, and the person has filed all appropriate and required returns and remitted all applicable income tax and withholding payments as provided by this chapter. The tax administrator is not required to accept an affidavit from a taxpayer who has not complied with the provisions of this chapter.

(b) The person no longer provides services in the municipal corporation, and does not expect to be subject to the municipal corporation's income tax for the taxable year.

The person shall provide the notice in a signed affidavit that briefly explains the person's circumstances, including the location of the previous worksite location and the last date on which the person performed services or made any sales within the municipal corporation. The affidavit also shall include the following statement: "The affiant has no plans to perform any services within the municipal corporation, make any sales in the municipal corporation, or otherwise become subject to the tax levied by the municipal corporation during the taxable year. If the affiant does become subject to the tax levied by the municipal corporation for the taxable year, the affiant agrees to be considered a taxpayer and to properly register as a taxpayer with the municipal corporation, if such a registration is required by the municipal corporation's resolutions, ordinances, or rules." The person shall sign the affidavit under penalty of perjury.

(c) If a person submits an affidavit described in division (N)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the taxpayer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for the taxable year. Nothing in division (N) of this section prohibits the tax administrator from performing an audit of the person.

(Ord. 25-20. Passed 11-23-20.)

183.092 RETURN AND PAYMENT OF TAX; INDIVIDUALS SERVING IN COMBAT ZONE.

(A) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the President of the United States or an act of the Congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the Municipality for both an extension of time for filing of the return and an extension of time for payment of taxes required by the Municipality in accordance with this chapter during the period of the member's or civilian's duty service and for one hundred eighty days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(B) (1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the one hundred eighty-first day after the applicant's active duty or service terminates. Except as provided in division (B) (3) of this section, the Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate.

(2) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the Municipality before the one hundred eighty-first day after the applicant's active duty or service terminates.

(3) Taxes paid pursuant to a contract entered into under division (B)(1) of this section are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(C) (1) Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.

(2) (a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document and an extension of time in which to make any payment of taxes required by the Municipality in accordance with this chapter. The length of any extension granted under division (C)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this section, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the President of the United States or an act of the Congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

(b) Taxes the payment of which is extended in accordance with division (C)(2)(a) of this section are not delinquent during the extension period. Such taxes become delinquent on the first day after the expiration of the extension period

if the taxes are not paid prior to that date. The Tax Administrator shall not require any payment of penalties or interest in connection with those taxes for the extension period. The Tax Administrator shall not include any period of extension granted under division (C)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.

(D) For each taxable year to which division (A), (B), or (C) of this section applies to a taxpayer, the provisions of divisions (B)(2) and (3) or (C) of this section, as applicable, apply to the spouse of that taxpayer if the filing status of the spouse and the taxpayer is married filing jointly for that year. (Ord. 25-20. Passed 11-23-20.)

183.093 USE OF OHIO BUSINESS GATEWAY; TYPES OF FILINGS AUTHORIZED.

(A) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file any municipal income tax return or, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

(B) Any employer, agent of an employer, or other payer may report the amount of municipal income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.

(C) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.

(D) The use of the Ohio Business Gateway by municipal corporations, taxpayers, or other persons does not affect the legal rights of municipalities or taxpayers as otherwise permitted by law. The State of Ohio shall not be a party to the administration of municipal income taxes or to an appeal of a municipal income tax matter, except as otherwise specifically provided by law.

(E) Nothing in this section shall be construed as limiting or removing the authority of any municipal corporation to administer, audit, and enforce the provisions of its municipal income tax.

(Ord. 25-20. Passed 11-23-20.)

183.094 EXTENSION OF TIME TO FILE.

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the tax administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the tax administrator on or before the date the municipal income tax return is due, the tax administrator shall grant the taxpayer's requested extension.

(D) An extension of time to file under this chapter is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(E) If the State Tax Commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of section 5747.08 of the Ohio Revised Code, a taxpayer shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as the extended due date of the state income tax return. (Ord. 25-20. Passed 11-23-20.)

183.095 AMENDED RETURNS.

(A) (1) A taxpayer shall file an amended return with the Tax Administrator in such form as the Tax Administrator requires if any of the facts, figures, computations, or attachments required in the taxpayer's annual return to determine the tax due levied by the Municipality in accordance with this chapter must be altered.

(2) Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.

(3) If a taxpayer intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the Tax Administrator before filing the amended return.

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under Section 183.19 of this Chapter has not expired for a previously filed return.

(2) The additional tax to be paid shall not exceed the amount of tax that would be due if all facts, figures, computations, and attachments were reopened.

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of section 183.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C) (2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in Section 183.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either

directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

- (2) The amount to be refunded shall not exceed the amount of refund that would be due if all facts, figures, computations, and attachments were reopened.

(Ord. 25-20. Passed 11-23-20.)

183.096 REFUNDS.

(A) Upon receipt of a request for a refund, the Tax Administrator of the Municipality, in accordance with this section, shall refund to employers, agents of employers, other payers, or taxpayers, with respect to any income or withholding tax levied by the Municipality:

- (1) Overpayments of more than ten dollars;
- (2) Amounts paid erroneously if the refund requested exceeds ten dollars.

(B) (1) Except as otherwise provided in this chapter, returns setting forth a request for refund shall be filed with the Tax Administrator, within three years after the tax was due or paid, whichever is later. Any documentation that substantiates the taxpayer's claim for a refund must be included with the return filing. Failure to remit all documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses or other pertinent factors on the return will cause delay in processing, and / or disallowance of undocumented credits or losses.

(2) On filing of the refund request, the Tax Administrator shall determine the amount of refund due and certify such amount to the appropriate municipal corporation official for payment. Except as provided in division (B)(3) of this section, the administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 183.18 of this Chapter.

(C) A request for a refund that is received after the last day for filing specified in division (B) of this section shall be considered to have been filed in a timely manner if any of the following situations exist:

(1) The request is delivered by the postal service, and the earliest postal service postmark on the cover in which the request is enclosed is not later than the last day for filing the request.

(2) The request is delivered by the postal service, the only postmark on the cover in which the request is enclosed was affixed by a private postal meter, the date of that postmark is not later than the last day for filing the request, and the request is received within seven days of such last day.

(3) The request is delivered by the postal service, no postmark date was affixed to the cover in which the request is enclosed or the date of the postmark so affixed is not legible, and the request is received within seven days of the last day for making the request.

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 183.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in Section 183.10 of this Chapter.

(Ord. 25-20. Passed 11-23-20.)

183.10 PENALTY, INTEREST, FEES, AND CHARGES.

(A) As used in this section:

(1) "Applicable law" means this chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the Municipality provided such resolutions, ordinances, codes, directives, instructions, and rules impose or directly or indirectly address the levy, payment, remittance, or filing requirements of a municipal income tax.

(2) "Federal short-term rate" means the rate of the average market yield on outstanding marketable obligations of the United States with remaining periods to maturity of three years or less, as determined under section 1274 of the Internal Revenue Code, for July of the current year.

(3) "Income tax," "estimated income tax," and "withholding tax" mean any income tax, estimated income tax, and withholding tax imposed by a municipal corporation pursuant to applicable law, including at any time before January 1, 2016.

(4) "Interest rate as described in division (A) of this section" means the federal short-term rate, rounded to the nearest whole number per cent, plus five per cent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term rate is determined in accordance with division (A)(2) of this section.

(5) "Return" includes any tax return, report, reconciliation, schedule, and other document required to be filed with a Tax Administrator or municipal corporation by a taxpayer, employer, any agent of the employer, or any other payer pursuant to applicable law, including at any time before January 1, 2016.

(6) "Unpaid estimated income tax" means estimated income tax due but not paid by the date the tax is required to be paid under applicable law.

(7) "Unpaid income tax" means income tax due but not paid by the date the income tax is required to be paid under applicable law.

(8) "Unpaid withholding tax" means withholding tax due but not paid by the date the withholding tax is required to be paid under applicable law.

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

- (b) Income tax, estimated income tax, and withholding tax required to be paid or remitted to the Municipality on or after January 1, 2016 for taxable years beginning on or after January 1, 2016
- (2) This section does not apply to returns required to be filed or payments required to be made before January 1, 2016, regardless of the filing or payment date. Returns required to be filed or payments required to be made before January 1, 2016, but filed or paid after that date shall be subject to the ordinances or rules, as adopted from time to time before January 1, 2016 of this Municipality..
- (C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.
- (1) Interest shall be imposed at the rate defined as "interest rate as described in division (A) of this section", per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
- (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
- (3) With respect to any unpaid withholding tax, a penalty not exceeding fifty percent of the amount not timely paid shall be imposed.
- (4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.
- (D) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.
- (E) With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.
- (F) The Tax Administrator may, in the Tax Administrator's sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.
- (G) The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality's post-judgment collection costs and fees, including attorney's fees.
- (Ord. 25-20. Passed 11-23-20.)

183.11 AUDIT.

- (A) At or before the commencement of an audit, as defined in Section 183.03(3) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.
- (B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.
- (C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.
- A taxpayer may refuse to answer any questions asked by the person conducting an audit until the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.
- (D) A taxpayer may record, electronically or otherwise, the audit examination.
- (E) The failure of the Tax Administrator to comply with a provision of this section shall neither excuse a taxpayer from payment of any taxes owed by the taxpayer nor cure any procedural defect in a taxpayer's case.
- (F) If the Tax Administrator fails to substantially comply with the provisions of this section, the Tax Administrator, upon application by the taxpayer, shall excuse the taxpayer from penalties and interest arising from the audit.
- (Ord. 25-20. Passed 11-23-20.)

183.12 ROUNDING.

A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this chapter. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped, rounding down to the nearest whole dollar. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

(Ord. 25-20. Passed 11-23-20.)

183.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR.

183.131 AUTHORITY OF TAX ADMINISTRATOR; ADMINISTRATIVE POWERS OF THE TAX ADMINISTRATOR.

The Tax Administrator has the authority to perform all duties and functions necessary and appropriate to implement the provisions of this Chapter, including without limitation:

- (A) Exercise all powers whatsoever of an inquisitorial nature as provided by law, including, the right to inspect books, accounts,

records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths; provided that the powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under a municipal corporation income tax ordinance or resolution adopted in accordance with this chapter;

- (B) Appoint agents and prescribe their powers and duties;
- (C) Confer and meet with officers of other municipal corporations and states and officers of the United States on any matters pertaining to their respective official duties as provided by law;
- (D) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, illegally or erroneously imposed or collected, or for any other reason overpaid, and, in addition, the Tax Administrator may investigate any claim of overpayment and make a written statement of the Tax Administrator's findings, and, if the Tax Administrator finds that there has been an overpayment, approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this chapter;
- (E) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (F) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 183.062 of this Chapter;
- (G) Make all tax findings, determinations, computations, assessments and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, redetermine, or correct any tax findings, determinations, computations, assessments or orders the Tax Administrator has made, but the Tax Administrator shall not review, redetermine, or correct any tax finding, determination, computation, assessment or order which the Tax Administrator has made for which an appeal has been filed with the Local Board of Tax Review or other appropriate tribunal, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;
- (H) Destroy any or all returns or other tax documents in the manner authorized by law;
- (I) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 183.051 of this Chapter.
(Ord. 25-20. Passed 11-23-20.)

183.132 AUTHORITY OF TAX ADMINISTRATOR; COMPROMISE OF CLAIM AND PAYMENT OVER TIME.

- (A) As used in this section, "claim" means a claim for an amount payable to the Municipality that arises pursuant to the municipal income tax imposed in accordance with this chapter.
- (B) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:
 - (1) Compromise a claim;
 - (2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments, upon such terms and conditions as the Tax Administrator may require.
- (C) The Tax Administrator's rejection of a compromise or payment-over-time agreement proposed by a person with respect to a claim shall not be appealable.
- (D) A compromise or payment-over-time agreement with respect to a claim shall be binding upon and shall inure to the benefit of only the parties to the compromise or agreement, and shall not extinguish or otherwise affect the liability of any other person.
- (E) (1) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.
 - (2) The Tax Administrator shall have sole discretion to determine whether or not penalty, interest, charges or applicable fees will be assessed through the duration of any compromise or payment-over-time agreement.
- (F) The Tax Administrator may require that the taxpayer provide detailed financial documentation and information, in order to determine whether or not a payment-over-time agreement will be authorized. The taxpayer's failure to provide the necessary and required information by the Tax Administrator shall preclude consideration of a payment-over-time agreement.
(Ord. 25-20. Passed 11-23-20.)

183.133 AUTHORITY OF TAX ADMINISTRATOR; RIGHT TO EXAMINE.

- (A) The Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Chapter for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Chapter. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.
 - (B) The records and other documents of any taxpayer, employer, or other person that is subject to, or that a Tax Administrator believes is subject to, the provisions of this Chapter shall be open to the Tax Administrator's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the Tax Administrator, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The Tax Administrator of a municipal corporation may require any person, by notice served on that person, to keep such records as the Tax Administrator determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by the Municipality or for the withholding of such tax.
 - (C) The Tax Administrator may examine under oath any person that the Tax Administrator reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The Tax Administrator may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal and state income tax returns in such person's possession or control. The person may be assisted or represented by an

attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the Tax Administrator compelling attendance at a hearing or examination or the production of books, papers, records, or federal and state income tax returns under this section shall fail to comply.

(Ord. 25-20. Passed 11-23-20.)

183.134 AUTHORITY OF TAX ADMINISTRATOR; REQUIRING IDENTIFYING INFORMATION.

(A) The Tax Administrator may require any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

- (B) (1) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty days of making the request, nothing in this chapter prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 183.10 of this Chapter, in addition to any applicable penalty described in section 183.99 of this Chapter.
- (2) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (A) of this section within thirty days after filing the next tax document requiring such identifying information, nothing in this chapter prohibits the Tax Administrator from imposing a penalty pursuant to Section 183.10 of this Chapter.
- (3) The penalties provided for under divisions (B)(1) and (2) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 183.99 of this Chapter for a violation of 183.15 of this Chapter and any other penalties that may be imposed by the Tax Administrator by law.

(Ord. 25-20. Passed 11-23-20.)

183.14 CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or ordinance of the Municipality is confidential, and no person shall access or disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the Municipality as authorized by ORC 718 or the charter or ordinance authorizing the levy. The Tax Administrator of the Municipality or a designee thereof may furnish copies of returns filed or otherwise received under this chapter and other related tax information to the Internal Revenue Service, the State Tax Commissioner, and Tax Administrators of other municipal corporations.

(B) This section does not prohibit the Municipality from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(Ord. 25-20. Passed 11-23-20.)

183.15 FRAUD.

No person shall knowingly make, present, aid, or assist in the preparation or presentation of a false or fraudulent report, return, schedule, statement, claim, or document authorized or required by municipal corporation ordinance or state law to be filed with the Tax Administrator, or knowingly procure, counsel, or advise the preparation or presentation of such report, return, schedule, statement, claim, or document, or knowingly change, alter, or amend, or knowingly procure, counsel or advise such change, alteration, or amendment of the records upon which such report, return, schedule, statement, claim, or document is based with intent to defraud the Municipality or the Tax Administrator.

(Ord. 25-20. Passed 11-23-20.)

183.16 OPINION OF THE TAX ADMINISTRATOR.

(A) An "opinion of the Tax Administrator" means an opinion issued under this section with respect to prospective municipal income tax liability. It does not include ordinary correspondence of the Tax Administrator.

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator as to whether or how certain income, source of income, or a certain activity or transaction will be taxed. The written response of the Tax Administrator shall be an "opinion of the Tax Administrator" and shall bind the Tax Administrator, in accordance with divisions (C), (G), and (H) of this section, provided all of the following conditions are satisfied:

- (1) The taxpayer's request fully and accurately describes the specific facts or circumstances relevant to a determination of the taxability of the income, source of income, activity, or transaction, and, if an activity or transaction, all parties involved in the activity or transaction are clearly identified by name, location, or other pertinent facts.
- (2) The request relates to a tax imposed by the Municipality in accordance with this Chapter.
- (3) The Tax Administrator's response is signed by the Tax Administrator and designated as an "opinion of the Tax Administrator."

(C) An opinion of the Tax Administrator shall remain in effect and shall protect the taxpayer for whom the opinion was prepared and who reasonably relies on it from liability for any taxes, penalty, or interest otherwise chargeable on the activity or transaction specifically held by the Tax Administrator's opinion to be taxable in a particular manner or not to be subject to taxation for any taxable years that may be specified in the opinion, or until the earliest of the following dates:

- (1) The effective date of a written revocation by the Tax Administrator sent to the taxpayer by certified mail, return receipt requested. The effective date of the revocation shall be the taxpayer's date of receipt or one year after the issuance of the opinion, whichever is later;
- (2) The effective date of any amendment or enactment of a relevant section of the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance that would substantially change the analysis and conclusion of the opinion of the Tax Administrator;
- (3) The date on which a court issues an opinion establishing or changing relevant case law with respect to the Ohio Revised Code, uncodified state law, or the Municipality's income tax ordinance;
- (4) If the opinion of the Tax Administrator was based on the interpretation of federal law, the effective date of any change in the

relevant federal statutes or regulations, or the date on which a court issues an opinion establishing or changing relevant case law with respect to federal statutes or regulations;

- (5) The effective date of any change in the taxpayer's material facts or circumstances;
 - (6) The effective date of the expiration of the opinion, if specified in the opinion.
 - (D) (1) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.
 - (2) If the taxpayer knowingly has misrepresented the pertinent facts or omitted material facts with intent to defraud the Municipality in order to obtain a more favorable opinion, the taxpayer may be in violation of Section 183.15 of this Chapter 183.
 - (E) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
 - (1) The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
 - (2) It is the duty of the taxpayer to be aware of such changes.
 - (F) A Tax Administrator may refuse to offer an opinion on any request received under this section.
 - (G) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
 - (H) An opinion of a Tax Administrator binds that Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
 - (I) A Tax Administrator shall make available the text of all opinions issued under this section, except those opinions prepared for a taxpayer who has requested that the text of the opinion remain confidential. In no event shall the text of an opinion be made available until the Tax Administrator has removed all information that identifies the taxpayer and any other parties involved in the activity or transaction.
 - (J) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (F) may not be appealed.
- (Ord. 25-20. Passed 11-23-20.)

183.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY.

- (A) (1) The Tax Administrator shall serve an assessment either by personal service, by certified mail, or by a delivery service authorized under section 5703.056 of the Ohio Revised Code.
- (2) The Tax Administrator may deliver the assessment through alternative means as provided in this section, including, but not limited to, delivery by secure electronic mail. Such alternative delivery method must be authorized by the person subject to the assessment.
- (3) Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.
- (B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.
- (2) If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local Board of Tax Review.

(Ord. 25-20. Passed 11-23-20.)

183.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW.

- (A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.
- (2) The Local Board of Tax Review shall consist of three members.

The three members of the Local Board of Tax Review may be domiciled in the Municipality, but the appointing authority may consider membership from individuals who are not domiciled within the Municipality. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. This member may be an employee of the Municipality, but may not be the director of finance or equivalent officer, or the Tax Administrator or other similar official or an employee directly involved in municipal tax matters, or any direct subordinate thereof.
- (3) The term for members of the Local Board of Tax Review appointed by the legislative authority of the Municipality shall be two years. There is no limit on the number of terms that a member may serve should the member be reappointed by the legislative authority. The board member appointed by the top administrative official of the Municipality shall serve at the discretion of the administrative official.
- (4) Members of the board of tax review appointed by the legislative authority may be removed by the legislative authority as set forth in Section 718.11(A)(4) of the Revised Code.

- (5) A member of the board who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (6) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.
- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.

(B) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(C) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(D) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(E) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

(Ord. 25-20. Passed 11-23-20.)

183.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS.

(A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:

- (i) Three years after the tax was due or the return was filed, whichever is later; or
- (ii) One year after the conclusion of the qualifying deferral period, if any.

(b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.

(2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:

(a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 183.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.

(b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.

(B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.

(C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 183.096 of this Chapter.

(D) (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.

(2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 183.18 of this

Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 183.096 of this Chapter, with interest on that amount as provided by division (D) of this section.

(E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:

- (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
- (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(Ord. 25-20. Passed 11-23-20.)

183.20 ADOPTION OF RULES.

(A) Pursuant to Section 718.30 of the Revised Code, the Municipality, pursuant to this Chapter, grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the Municipality.

(B) All rules adopted under this section shall be published and posted on the internet.

(Ord. 25-20. Passed 11-23-20.)

183.21 REGISTRATION OF TENANTS, CONTRACTORS AND EMPLOYEES.

(a) Effective October 1, 2009 and every year thereafter on or before October 1st, all owners of rental property who rent to tenants of houses, commercial property, industrial property, apartments, rooms boarding houses and other rental accommodations shall file with the Tax Administrator a report showing the full first and last name, address, last four digits of social security number and telephone number, if available, of each such tenant who presently occupies an apartment room, house or commercial property or other rental accommodation within the City, unless the tenant(s) is responsible for their own City water utility payment. Said report must also provide the date a tenant vacates an apartment, room, house, commercial property or other rental accommodation located within the City and a forwarding address, if available.

(1) Each owner or the duly designated agent thereof, shall incur a penalty of five dollars (\$5.00) per month per tenant, up to a maximum of one thousand dollars (\$1,000.00), for failure to comply with Section (a) above.

(b) All employers, contractors or subcontractors who do work in the City shall register with the Tax Administrator. The Tax Administrator may request a list of all employees, subcontractors, contractors or others who may do work for them within the Municipality whose profits, wages or earnings are not presently subject to withholding of the City of Lancaster Income Tax (including but not limited to 1099-MISC).

(Ord. 25-20. Passed 11-23-20.)

183.22 MUNICIPAL CONTRACTS.

Effective January 1, 2001 no contract on behalf of the City of Lancaster for works or improvements of the City of Lancaster shall be binding or valid unless such contract contains the following provisions: Said hereby further agrees to withhold Lancaster income tax due or payable under the provisions of the Lancaster Income Tax Ordinance for wages, salaries, commissions and other compensation paid to its employees and further agrees that any of its subcontractors shall be required to withhold and pay such Lancaster income taxes due under the Ordinance for services performed under this contract.

(Ord. 25-20. Passed 11-23-20.)

183.23 TAXPAYERS' RIGHTS AND RESPONSIBILITIES.

"Taxpayers' rights and responsibilities" means the rights provided to taxpayers in sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 of the Revised Code and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 Of the Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(a) The municipal corporation shall maintain a local board of tax review to hear appeals of the taxpayer.

(b) Civil actions to recover municipal incomes taxes, penalties and interest have time limits.

(c) Taxpayer has a prescribed manner to request refunds from the tax administrator.

(d) Taxpayer has a required responsibility to allow examination of their books, papers, records, and federal and state income tax returns by the tax administrator.

(e) At or before the commencement of an audit, the tax administrator shall inform and provide the taxpayer with certain information regarding the audit.

(f) A taxpayer has certain recourse if aggrieved by an action or omission of the tax administrator, their employee or an employee of the municipal corporation.

(g) The taxpayer may request an 'opinion of the tax administrator' with respect to prospective municipal income tax liability.

(h) The taxpayer or the tax administrator may appeal a final determination.

(Ord. 25-20. Passed 11-23-20.)

183.24 FILING NET PROFIT TAXES; ELECTION TO BE SUBJECT TO PROVISIONS OF CHAPTER.

(A) A taxpayer may elect to be subject to Sections 183.24 to 183.39 of the Codified Ordinances in lieu of the provisions set forth in the remainder of this chapter. Notwithstanding any other provision of this chapter, upon the taxpayer's election, both of the following shall apply:

(1) The state tax commissioner shall serve as the sole administrator of the municipal net profit tax for which the taxpayer as defined in 183.25(C) of the Codified Ordinances is liable for the term of the election;

(2) The commissioner shall administer the tax pursuant to sections 718.80 to 718.95 of the Revised Code, Sections 183.24 to 183.39 of the Codified Ordinances, and any applicable provision of Chapter 5703 of the Revised Code.

(B) (1) A taxpayer shall make the initial election on or before the first day of the third month after the beginning of the taxpayer's taxable year by notifying the tax commissioner and the City of Lancaster, Ohio, on a form prescribed by the tax commissioner.

(2) (a) The election, once made by the taxpayer, applies to the taxable year in which the election is made and to each subsequent

taxable year until the taxpayer notifies the tax commissioner and the City of Lancaster, Ohio, of its termination of the election.

- (b) A notification of termination shall be made, on a form prescribed by the tax commissioner, on or before the first day of the third month of any taxable year.
 - (c) Upon a timely and valid termination of the election, the taxpayer is no longer subject to Sections 183.24 to 183.39 of the Codified Ordinances, and is instead subject to the provisions set forth in the remainder of this chapter.
- (C) The tax commissioner shall enforce and administer Sections 183.24 to 183.39 of the Codified Ordinances. In addition to any other powers conferred upon the tax commissioner by law, the tax commissioner may:
- (1) Prescribe all forms necessary to administer those sections;
 - (2) Adopt such rules as the tax commissioner finds necessary to carry out those sections;
 - (3) Appoint and employ such personnel as are necessary to carry out the duties imposed upon the tax commissioner by those sections.

(D) The tax commissioner shall not be considered a tax administrator, as that term is defined in section 718.01 of the Revised Code and Section 183.03 of the City of Lancaster, Ohio, Codified Ordinances.
(Ord. 25-20. Passed 11-23-20.)

183.25 DEFINITIONS.

If a term used in Sections 183.24 to 183.39 of the Codified Ordinances that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall have control over the use of the term in Title LVII of the Revised Code, unless the term is defined in Chapter 5703. of the Revised Code, in which case the definition in that chapter shall control. Any reference in this chapter to the Internal Revenue Code includes other laws of the United States related to federal income taxes. If a term is defined in both this section and Section 183.03 of the Codified Ordinances, the definition in this section shall control for all uses of that term in Sections 183.24 to 183.39 of the Codified Ordinances.

As used in Sections 183.24 to 183.39 of the Codified Ordinances only:

(A) "Municipal taxable income" means income apportioned or situated to the municipal corporation under Section 183.26 of the Codified Ordinances, as applicable, reduced by any pre-2017 net operating loss carryforward available to the person for the municipal corporation.

(B) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation as described in division (D)(5) of section 718.01 of the Revised Code and Section 183.03 of the Codified Ordinances, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

- (1) Deduct intangible income to the extent included in federal taxable income. The deduction shall be allowed regardless of whether the intangible income relates to assets used in a trade or business or assets held for the production of income.
 - (2) Add an amount equal to five per cent of intangible income deducted under division (B)(1) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in section 1221 of the Internal Revenue Code.
 - (3) Add any losses allowed as a deduction in the computation of federal taxable income if the losses directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.
 - (4) (a) Except as provided in division (B)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code.
(b) Division (B)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.
- (5) Add taxes on or measured by net income allowed as a deduction in the computation of federal taxable income.
- (6) In the case of a real estate investment trust or regulated investment company, add all amounts with respect to dividends to, distributions to, or amounts set aside for or credited to the benefit of investors and allowed as a deduction in the computation of federal taxable income.
- (7) Deduct, to the extent not otherwise deducted or excluded in computing federal taxable income, any income derived from a transfer agreement or from the enterprise transferred under that agreement under section 4313.02 of the Revised Code.

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

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 183.30 of the Codified Ordinances.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 183.30 of the Codified Ordinances.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division 47(B) of Section 183.03 of the Codified Ordinances, and is not a publicly traded partnership that has made the election described in division 23(D) of Section 183.03 of the Codified Ordinances, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member,

or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

- (C) "Taxpayer" has the same meaning as in Section 183.03 of the Codified Ordinances, except that "taxpayer" does not include natural persons or entities subject to the tax imposed under Chapter 5745. of the Revised Code. "Taxpayer" may include receivers, assignees, or trustees in bankruptcy when such persons are required to assume the role of a taxpayer.
 - (D) "Tax return" or "return" means the notifications and reports required to be filed pursuant to Sections 183.24 to 183.39 of the Codified Ordinances for the purpose of reporting municipal income taxes, and includes declarations of estimated tax.
 - (E) "Taxable year" means the calendar year or the taxpayer's fiscal year ending during the calendar year, or fractional part thereof, upon which the calculation of the taxpayer's adjusted federal taxable income is based pursuant to this chapter. If a taxpayer's taxable year is changed for federal income tax purposes, the taxable year for purposes of Sections 183.24 to 183.39 of the Codified Ordinances is changed accordingly but may consist of an aggregation of more than one taxable year for federal income tax purposes. The tax commissioner may prescribe by rule an appropriate period as the taxable year for a taxpayer that has had a change of its taxable year for federal income tax purposes, for a taxpayer that has two or more short taxable years for federal income tax purposes as the result of a change of ownership, or for a new taxpayer that would otherwise have no taxable year.
 - (F) "Assessment" means a notice of underpayment or nonpayment of a tax issued pursuant to Section 183.34 of the Codified Ordinances.
- (Ord. 25-20. Passed 11-23-20.)

183.26 APPLICABILITY; TAXABLE SITUS; APPORTIONMENT.

This section applies to any taxpayer that is engaged in a business or profession in the City of Lancaster, Ohio, and that has made the election under Section 183.24 of the Codified Ordinances.

- (A) Except as otherwise provided in division (B) of this section, net profit from a business or profession conducted both within and without the boundaries of the City of Lancaster, Ohio, shall be considered as having a taxable situs in the City of Lancaster, Ohio, for purposes of municipal income taxation in the same proportion as the average ratio of the following:
 - (1) The average original cost of the real property and tangible personal property owned or used by the taxpayer in the business or profession in the City of Lancaster, Ohio, during the taxable period to the average original cost of all of the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in the preceding paragraph, tangible personal or real property shall include property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
 - (2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City of Lancaster, Ohio, to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under Section 183.052 of the Codified Ordinances;
 - (3) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City of Lancaster, Ohio, to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
 - (B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a taxpayer's business activity in the City of Lancaster, Ohio, the taxpayer may request, or the tax commissioner may require, that the taxpayer use, with respect to all or any portion of the income of the taxpayer, an alternative apportionment method involving one or more of the following:
 - (a) Separate accounting;
 - (b) The exclusion of one or more of the factors;
 - (c) The inclusion of one or more additional factors that would provide for a fair apportionment of the income of the taxpayer to the municipal corporation;
 - (d) A modification of one or more of the factors.
 - (2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the tax commissioner denies the request in an assessment issued within the period prescribed by division (A) of Section 183.34 of the Codified Ordinances.
 - (3) The tax commissioner may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 183.34 of the Codified Ordinances.
- (C) As used in division (A)(2) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:
 - (1) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (a) The employer;
 - (b) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (c) A vendor, customer, client, or patient of a person described in division (C)(1)(b) of this section, or a related member of such a vendor, customer, client, or patient.
 - (2) Any location at which a trial, appeal, hearing, investigation, inquiry, review, court-martial, or similar administrative, judicial, or legislative matter or proceeding is being conducted, provided that the compensation is paid for services performed for, or on behalf of, the employer or that the employee's presence at the location directly or indirectly benefits the employer;

- (3) Any other location, if the tax commissioner determines that the employer directed the employee to perform the services at the other location in lieu of a location described in division (C)(1) or (2) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the tax commissioner makes such a determination, the employer may dispute the determination by establishing, by a preponderance of the evidence, that the tax commissioner's determination was unreasonable.
- (D) For the purposes of division (A)(3) of this section, receipts from sales and rentals made and services performed shall be situated to the City of Lancaster, Ohio, as follows:
- (1) Gross receipts from the sale of tangible personal property shall be situated to the City of Lancaster, Ohio, only if, regardless of where title passes, the property meets either of the following criteria:
 - (a) The property is shipped to or delivered within the City of Lancaster, Ohio, from a stock of goods located within the City of Lancaster, Ohio.
 - (b) The property is delivered within the City of Lancaster, Ohio, from a location outside the City of Lancaster, Ohio, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City of Lancaster, Ohio, and the sales result from such solicitation or promotion.
 - (2) Gross receipts from the sale of services shall be situated to the City of Lancaster, Ohio, to the extent that such services are performed in the City of Lancaster, Ohio.
 - (3) To the extent included in income, gross receipts from the sale of real property located in the City of Lancaster, Ohio shall be situated to the City of Lancaster, Ohio.
 - (4) To the extent included in income, gross receipts from rents and royalties from real property located in the City of Lancaster, Ohio, shall be situated to the City of Lancaster, Ohio.
 - (5) Gross receipts from rents and royalties from tangible personal property shall be situated to the City of Lancaster, Ohio, based upon the extent to which the tangible personal property is used in the City of Lancaster, Ohio.
- (E) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be situated to the City of Lancaster, Ohio, in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City of Lancaster, Ohio, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City of Lancaster, Ohio, to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (F) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(B)(ii) of Section 183.03 of the Codified Ordinances by the City of Lancaster, Ohio, or substantially similar provision of the codified ordinances of another municipal corporation, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to the City of Lancaster, Ohio. In no case shall a taxpayer be required to add to its net profit that was apportioned to the City of Lancaster, Ohio, any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.
This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to the City of Lancaster, Ohio, under this section.
- (G) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

(Ord. 25-20. Passed 11-23-20.)

183.27 INFORMATION PROVIDED TO TAX ADMINISTRATORS; CONFIDENTIALITY.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by Sections 183.24 to 183.39 of the Codified Ordinances is confidential, and no person shall disclose such information, except for official purposes, in accordance with a proper judicial order, or as provided in section 4123.271 or 5703.21 of the Revised Code. The tax commissioner may furnish the internal revenue service with copies of returns filed. This section does not prohibit the publication of statistics in a form which does not disclose information with respect to particular taxpayers.

(B) In May and November of each year, the tax commissioner shall provide the City of Lancaster, Ohio, tax administrator with the following information for every taxpayer that filed tax returns with the commissioner under Sections 183.24 to 183.39 of the Codified Ordinances and that had municipal taxable income apportionable to the City of Lancaster, Ohio, under this chapter for any prior year:

- (1) The taxpayer's name, address, and federal employer identification number;
- (2) The taxpayer's apportionment ratio for, and amount of municipal taxable income apportionable to, the City of Lancaster, Ohio, pursuant to Section 183.26 of the Codified Ordinances;
- (3) The amount of any pre-2017 net operating loss carryforward utilized by the taxpayer;
- (4) Whether the taxpayer requested that any overpayment be carried forward to a future taxable year;
- (5) The amount of any credit claimed under section 718.94 of the Revised Code.

(C) Not later than thirty days after each distribution made to municipal corporations under section 718.83 of the Revised Code, the tax commissioner shall provide to the City of Lancaster, Ohio, a report stating the name and federal identification number of every taxpayer that made estimated payments that are attributable to the City of Lancaster, Ohio, and the amount of each such taxpayer's estimated payment.

(D) The information described under divisions (B) and (C) of this section shall be provided to the individual or individuals designated by the City of Lancaster, Ohio, tax administrator under section 718.83(D) of the Revised Code.

- (E) (1) The City of Lancaster, Ohio, expects that the tax commissioner will, pursuant to section 718.84(E) of the Revised Code, provide tax returns and other information it receives in the performance of its administration of the municipal net profits tax for taxpayers making the election provided in Section 183.26 of the Codified Ordinances. The tax administrator shall review these returns and information, as well as the information received pursuant to divisions (B) and (C) of this section, and has discretion to refer any taxpayer for audit by the tax commissioner. Such referral shall be made on a form prescribed by the commissioner and shall include any information that forms the

basis for the referral.

- (2) If the tax commissioner declines to audit a taxpayer referred by the tax administrator under this section, the City of Lancaster, Ohio, reserves its right to pursue any and all remedies, whether at law or in equity, to ensure that the correct tax liability has been calculated and paid by the taxpayer.

(Ord. 25-20. Passed 11-23-20.)

183.28 FILING OF ANNUAL RETURN; REMITTANCE; DISPOSITION OF FUNDS.

- (A) (1) For each taxable year, every taxpayer shall file an annual return. Such return, along with the amount of tax shown to be due on the return less the amount paid for the taxable year under Section 183.32 of the Codified Ordinances, shall be submitted to the tax commissioner, on a form and in the manner prescribed by the commissioner, on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year.
- (2) If a taxpayer has multiple taxable years ending within one calendar year, the taxpayer shall aggregate the facts and figures necessary to compute the tax due under this chapter, in accordance with Sections 183.25, 183.26, and, if applicable, 183.30 of the Codified Ordinances onto its annual return.
- (3) The remittance shall be made payable to the treasurer of state and in the form prescribed by the tax commissioner. If the amount payable with the tax return is ten dollars or less, no remittance is required.
- (B) (1) Each return required to be filed under this section shall contain the signature of the taxpayer or the taxpayer's duly authorized agent and of the person who prepared the return for the taxpayer, and shall include the taxpayer's identification number. Each return shall be verified by a declaration under penalty of perjury.
- (2) (a) The tax commissioner may require a taxpayer to include, with each annual tax return, amended return, or request for refund filed with the commissioner under Sections 183.24 to 183.39 of the Codified Ordinances, copies of any relevant documents or other information.
- (b) A taxpayer that files an annual tax return electronically through the Ohio business gateway or in another manner as prescribed by the tax commissioner shall either submit the documents required under this division electronically as prescribed at the time of filing or, if electronic submission is not available, mail the documents to the tax commissioner. The department of taxation shall publish a method of electronically submitting the documents required under this division on or before January 1, 2019.
- (3) After a taxpayer files a tax return, the tax commissioner may request, and the taxpayer shall provide, any information, statements, or documents required to determine and verify the taxpayer's municipal income tax.
- (D) (1) (a) Any taxpayer that has duly requested an automatic extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a tax return with the commissioner under this section. The extended due date of the return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.
- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the commissioner grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the commissioner receives the request on or before the date the municipal income tax return is due, the commissioner shall grant the taxpayer's extension request.
- (c) An extension of time to file under division (D)(1) of this section is not an extension of the time to pay any tax due unless the tax commissioner grants an extension of that date.
- (2) If the commissioner considers it necessary in order to ensure payment of a tax imposed in accordance with Section 183.011 and 183.012 of the Codified Ordinances, the commissioner may require taxpayers to file returns and make payments otherwise than as provided in this section, including taxpayers not otherwise required to file annual returns.
- (E) Each return required to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the tax commissioner about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the commissioner to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the commissioner with information that is missing from the return, to contact the commissioner for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the commissioner and has shown to the preparer or other person.
- (F) When income tax returns or other documents require the signature of a tax return preparer, the tax commissioner shall accept a facsimile or electronic version of such a signature in lieu of a manual signature.

(Ord. 25-20. Passed 11-23-20.)

183.29 ELECTRONIC FILING.

(A) All taxpayers that have made the election allowed under Section 183.24 of the Codified Ordinances shall file any tax return or extension for filing a tax return, and shall make payment of amounts shown to be due on such returns, electronically, either through the Ohio business gateway or in another manner as prescribed by the tax commissioner.

(B) A taxpayer may apply to the commissioner, on a form prescribed by the commissioner, to be excused from the requirement to file returns and make payments electronically. For good cause shown, the commissioner may excuse the applicant from the requirement and permit the applicant to file the returns or make the payments by non-electronic means.

(C) The tax commissioner may adopt rules establishing the following:

- (1) The format of documents to be used by taxpayers to file returns and make payments by electronic means;
- (2) The information taxpayers must submit when filing tax returns by electronic means.

(Ord. 25-20. Passed 11-23-20.)

183.30 CONSOLIDATED RETURNS.

(A) As used in this section:

- (1) "Affiliated group of corporations" means an affiliated group as defined in section 1504 of the Internal Revenue Code, except that, if such a group includes at least one incumbent local exchange carrier that is primarily engaged in the

business of providing local exchange telephone service in this state, the affiliated group shall not include any incumbent local exchange carrier that would otherwise be included in the group.

- (2) "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- (3) "Consolidated federal taxable income" means the consolidated taxable income of an affiliated group of corporations, as computed for the purposes of filing a consolidated federal income tax return, before consideration of net operating losses or special deductions. "Consolidated federal taxable income" does not include income or loss of an incumbent local exchange carrier that is excluded from the affiliated group under division (A)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- (5) "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

- (B) (1) A taxpayer that is a member of an affiliated group of corporations may elect to file a consolidated tax return for a taxable year if at least one member of the affiliated group of corporations is subject to municipal income tax in that taxable year and if the affiliated group of corporations filed a consolidated federal income tax return with respect to that taxable year. The election is binding for a five-year period beginning with the first taxable year of the initial election unless a change in the reporting method is required under federal law. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing consolidated tax returns under division (B)(2) of this section or a taxpayer receives permission from the tax commissioner. The tax commissioner shall approve such a request for good cause shown.
- (2) An election to discontinue filing consolidated tax returns under this section must be made on or before the fifteenth day of the fourth month of the year following the last year of a five-year consolidated tax return election period in effect under division (B)(1) of this section. The election to discontinue filing a consolidated tax return is binding for a five-year period beginning with the first taxable year of the election.
 - (3) An election made under division (B)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.
 - (4) When a taxpayer makes the election allowed under Section 183.24 of the Codified Ordinances, a valid election made by the taxpayer under division (B)(1) or (2) of Section 183.063 of the Codified Ordinances is binding upon the tax commissioner for the remainder of the five-year period.
 - (5) When an election made under Section 183.24 of the Codified Ordinances is terminated, a valid election made under this section is binding upon the tax administrator for the remainder of the five-year period.

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

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

- (E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated tax return shall compute adjusted federal taxable income, as defined in Section 183.25 of the Codified Ordinances, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated tax return shall make any adjustment otherwise required under division (B) of Section 183.25 of the Codified Ordinances to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.
- (3) If the net profit or loss of a pass-through entity having at least eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, the corporation filing a consolidated tax return shall do one of the following with respect to that pass-through entity's net profit or loss for that taxable year:
 - (a) Exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 183.26 of the Codified Ordinances, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.
 - (b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 183.26 of the Codified Ordinances, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.
- (4) If the net profit or loss of a pass-through entity having less than eighty per cent of the value of its ownership interest owned or controlled, directly or indirectly, by an affiliated group of corporations is included in that affiliated group's consolidated federal taxable income for a taxable year, all of the following shall apply:
 - (a) The corporation filing the consolidated tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the

computations required in Section 183.26 of the Codified Ordinances, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;

- (b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with Sections 183.24 to 183.39 of the Codified Ordinances on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated tax return shall make the computations required under Section 183.26 of the Codified Ordinances by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

(G) Each corporation filing a consolidated tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts applicable under Section 183.24 to 183.39 of the Codified Ordinances or Chapter 5703. of the Revised Code to the corporation, an affiliated group of which the corporation is a member for any portion of the taxable year, or any one or more members of such an affiliated group.

(Ord. 25-20. Passed 11-23-20.)

183.31 FAILURE TO PAY TAX.

If a taxpayer that has made the election allowed under Section 183.24 of the Codified Ordinances fails to pay any tax as required under Sections 183.24 to 183.39 of the Codified Ordinances, or any portion of that tax, on or before the date prescribed for its payment, interest shall be assessed, collected, and paid, in the same manner as the tax, upon such unpaid amount at the rate per annum prescribed by section 5703.47 of the Revised Code from the date prescribed for its payment until it is paid or until the date an assessment is issued under Section 183.34 of the Codified Ordinances, whichever occurs first.

(Ord. 25-20. Passed 11-23-20.)

183.32 DECLARATION OF ESTIMATED TAXES.

(A) As used in this section:

- (1) "Combined tax liability" means the total amount of a taxpayer's income tax liabilities to all municipal corporations in this state for a taxable year.
- (2) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's combined tax liability for the current taxable year.

(B) (1) Except as provided in division (B)(4) of this section, every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the tax commissioner, if the amount payable as estimated taxes is at least two hundred dollars.

(2) Except as provided in division (B)(4) of this section, a taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the commissioner.

(3) The declaration of estimated taxes shall be filed on or before the fifteenth day of the fourth month after the beginning of the taxable year or on or before the fifteenth day of the fourth month after the taxpayer becomes subject to tax for the first time.

(4) The tax commissioner may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

(C) Each taxpayer shall file the declaration of estimated taxes with, and remit estimated taxes to, the tax commissioner at the times and in the amounts prescribed in division (C)(1) of this section. Remitted taxes shall be made payable to the treasurer of state.

(1) The required portion of the combined tax liability for the taxable year that shall be paid through estimated taxes shall be as follows:

- (a) On or before the fifteenth day of the fourth month after the beginning of the taxable year, twenty-two and one-half per cent of the combined tax liability for the taxable year;
- (b) On or before the fifteenth day of the sixth month after the beginning of the taxable year, forty-five per cent of the combined tax liability for the taxable year;
- (c) On or before the fifteenth day of the ninth month after the beginning of the taxable year, sixty-seven and one-half per cent of the combined tax liability for the taxable year;
- (d) On or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the combined tax liability for the taxable year.

(2) If the taxpayer determines that its declaration of estimated taxes will not accurately reflect the taxpayer's tax liability for the taxable year, the taxpayer shall increase or decrease, as appropriate, its subsequent payments in equal installments to result in a more accurate payment of estimated taxes.

(3) (a) Each taxpayer shall report on the declaration of estimated taxes the portion of the remittance that the taxpayer estimates that it owes to each municipal corporation for the taxable year.

(b) Upon receiving a payment of estimated taxes under this section, the commissioner shall immediately forward the payment to the treasurer of state. The treasurer shall credit the payment in the same manner as in division (B) of section 718.85 of the Revised Code.

(D) (1) In the case of any underpayment of estimated taxes, there shall be added to the taxes an amount determined at the rate per annum prescribed by section 5703.47 of the Revised Code upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

- (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
- (b) For the second payment of estimated taxes each year, forty-five per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
- (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the combined tax liability, less the amount of taxes paid by the date prescribed for that payment;
- (d) For the fourth payment of estimated taxes each year, ninety per cent of the combined tax liability, less the amount of taxes

paid by the date prescribed for that payment.

- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently due.
 - (3) All amounts collected under this section shall be considered as taxes collected under Sections 183.24 to 183.39 of the Codified Ordinances and shall be credited and distributed to municipal corporations in accordance with section 718.83 of the Revised Code.
- (E) An underpayment of any portion of a combined tax liability shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the combined tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a municipal income tax return for that year.

(Ord. 25-20. Passed 11-23-20.)

183.33 ADDITIONAL PENALTIES.

(A) In addition to any other penalty imposed by Sections 183.24 to 183.39 of the Codified Ordinances or Chapter 5703. of the Revised Code, the following penalties shall apply:

- (1) If a taxpayer required to file a tax return under Sections 183.24 to 183.39 of the Codified Ordinances fails to make and file the return within the time prescribed, including any extensions of time granted by the tax commissioner, the commissioner may impose a penalty not exceeding twenty-five dollars per month or fraction of a month, for each month or fraction of a month elapsing between the due date, including extensions of the due date, and the date on which the return is filed. The aggregate penalty, per instance, under this division shall not exceed one hundred fifty dollars.
- (2) If a person required to file a tax return electronically under Sections 183.24 to 183.39 of the Codified Ordinances fails to do so, the commissioner may impose a penalty not to exceed the following:
 - (a) For each of the first two failures, five per cent of the amount required to be reported on the return;
 - (b) For the third and any subsequent failure, ten per cent of the amount required to be reported on the return.
- (3) If a taxpayer that has made the election allowed under Section 183.24 of the Codified Ordinances fails to timely pay an amount of tax required to be paid under this chapter, the commissioner may impose a penalty equal to fifteen per cent of the amount not timely paid.
- (4) If a taxpayer files what purports to be a tax return required by Sections 183.24 to 183.39 of the Codified Ordinances that does not contain information upon which the substantial correctness of the return may be judged or contains information that on its face indicates that the return is substantially incorrect, and the filing of the return in that manner is due to a position that is frivolous or a desire that is apparent from the return to delay or impede the administration of Sections 183.24 to 183.39 of the Codified Ordinances, a penalty of up to five hundred dollars may be imposed.
- (5) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any return required under Sections 183.24 to 183.39 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the tax required to be shown on the return.
- (6) If any person makes a false or fraudulent claim for a refund under Section 183.35 of the Codified Ordinances, a penalty may be imposed not exceeding the greater of one thousand dollars or one hundred per cent of the claim. Any penalty imposed under this division, any refund issued on the claim, and interest on any refund from the date of the refund, may be assessed under Section 183.34 of the Codified Ordinances without regard to any time limitation for the assessment imposed by division (A) of that section.

(B) For purposes of this section, the tax required to be shown on a tax return shall be reduced by the amount of any part of the tax paid on or before the date, including any extensions of the date, prescribed for filing the return.

(C) Each penalty imposed under this section shall be in addition to any other penalty imposed under this section. All or part of any penalty imposed under this section may be abated by the tax commissioner. The commissioner may adopt rules governing the imposition and abatement of such penalties.

(D) All amounts collected under this section shall be considered as taxes collected under Sections 183.24 to 183.39 of the Codified Ordinances and shall be credited and distributed to municipal corporations in the same proportion as the underlying tax liability is required to be distributed to such municipal corporations under section 718.83 of the Revised Code.

(Ord. 25-20. Passed 11-23-20.)

183.34 ASSESSMENTS AGAINST TAXPAYER.

(A) If any taxpayer required to file a return under Section 183.24 to 183.39 of the Codified Ordinances fails to file the return within the time prescribed, files an incorrect return, or fails to remit the full amount of the tax due for the period covered by the return, the tax commissioner may make an assessment against the taxpayer for any deficiency for the period for which the return or tax is due, based upon any information in the commissioner's possession.

The tax commissioner shall not make or issue an assessment against a taxpayer more than three years after the later of the date the return subject to assessment was required to be filed or the date the return was filed. Such time limit may be extended if both the taxpayer and the commissioner consent in writing to the extension. Any such extension shall extend the three-year time limit in Section 183.35 of the Codified Ordinances for the same period of time. There shall be no bar or limit to an assessment against a taxpayer that fails to file a return subject to assessment as required by Sections 183.24 to 183.39 of the Codified Ordinances, or that files a fraudulent return. The commissioner shall give the taxpayer assessed written notice of the assessment as provided in section 5703.37 of the Revised Code. With the notice, the commissioner shall provide instructions on how to petition for reassessment and request a hearing on the petition.

(B) Unless the taxpayer assessed files with the tax commissioner within sixty days after service of the notice of assessment, either personally or by certified mail, a written petition for reassessment signed by the authorized agent of the taxpayer assessed having knowledge of the facts, the assessment becomes final, and the amount of the assessment is due and payable from the taxpayer to the treasurer of state. The petition shall indicate the taxpayer's objections, but additional objections may be raised in writing if received by the commissioner prior to the date shown on the final determination. If the petition has been properly filed, the commissioner shall proceed under section 5703.60 of the Revised Code.

(C) After an assessment becomes final, if any portion of the assessment remains unpaid, including accrued interest, a certified copy of the tax commissioner's entry making the assessment final may be filed in the office of the clerk of the court of common pleas in the county in which the taxpayer has an office or place of business in this state, the county in which the taxpayer's statutory agent is located, or Franklin county.

Immediately upon the filing of the entry, the clerk shall enter a judgment against the taxpayer assessed in the amount shown on the entry. The judgment may be filed by the clerk in a loose-leaf book entitled "special judgments for municipal income taxes," and shall have the same effect as other judgments. Execution shall issue upon the judgment upon the request of the tax commissioner, and all laws applicable to sales on execution shall apply to sales made under the judgment.

If the assessment is not paid in its entirety within sixty days after the day the assessment was issued, the portion of the assessment consisting of tax due shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the day the commissioner issues the assessment until the assessment is paid or until it is certified to the attorney general for collection under section 131.02 of the Revised Code, whichever comes first. If the unpaid portion of the assessment is certified to the attorney general for collection, the entire unpaid portion of the assessment shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the date of certification until the date it is paid in its entirety. Interest shall be paid in the same manner as the tax and may be collected by issuing an assessment under this section.

(D) All money collected under this section shall be credited to the municipal income tax fund and distributed to the municipal corporation to which the money is owed based on the assessment issued under this section.

(E) If the tax commissioner believes that collection of the tax will be jeopardized unless proceedings to collect or secure collection of the tax are instituted without delay, the commissioner may issue a jeopardy assessment against the taxpayer liable for the tax. Immediately upon the issuance of the jeopardy assessment, the commissioner shall file an entry with the clerk of the court of common pleas in the manner prescribed by division (C) of this section. Notice of the jeopardy assessment shall be served on the taxpayer assessed or the taxpayer's legal representative in the manner provided in section 5703.37 of the Revised Code within five days of the filing of the entry with the clerk. The total amount assessed is immediately due and payable, unless the taxpayer assessed files a petition for reassessment in accordance with division (B) of this section and provides security in a form satisfactory to the commissioner and in an amount sufficient to satisfy the unpaid balance of the assessment. Full or partial payment of the assessment does not prejudice the commissioner's consideration of the petition for reassessment.

(F) Notwithstanding the fact that a petition for reassessment is pending, the taxpayer may pay all or a portion of the assessment that is the subject of the petition. The acceptance of a payment by the treasurer of state does not prejudice any claim for refund upon final determination of the petition.

If upon final determination of the petition an error in the assessment is corrected by the tax commissioner, upon petition so filed or pursuant to a decision of the board of tax appeals or any court to which the determination or decision has been appealed, so that the amount due from the taxpayer under the corrected assessment is less than the portion paid, there shall be issued to the taxpayer, its assigns, or legal representative a refund in the amount of the overpayment as provided by Section 183.35 of the Codified Ordinances, with interest on that amount as provided by that section.

(Ord. 25-20. Passed 11-23-20.)

183.35 REFUND APPLICATIONS.

(A) An application to refund to a taxpayer the amount of taxes paid on any illegal, erroneous, or excessive payment of tax under Sections 183.24 to 183.39 of the Codified Ordinances, including assessments, shall be filed with the tax commissioner within three years after the date of the illegal, erroneous, or excessive payment of the tax, or within any additional period allowed by division (A) of Section 183.34 of the Codified Ordinances. The application shall be filed in the form prescribed by the tax commissioner.

(B) (1) On the filing of a refund application, the tax commissioner shall determine the amount of refund to which the applicant is entitled. The amount determined shall be based on the amount overpaid per return or assessment. If the amount is greater than ten dollars and not less than that claimed, the commissioner shall certify that amount to the director of budget and management and the treasurer of state for payment from the tax refund fund created in section 5703.052 of the Revised Code. If the amount is greater than ten dollars but less than that claimed, the commissioner shall proceed in accordance with section 5703.70 of the Revised Code.

(2) Upon issuance of a refund under this section, the commissioner shall notify each municipal corporation of the amount refunded to the taxpayer attributable to that municipal corporation, which shall be deducted from the municipal corporation's next distribution under section 718.83 of the Revised Code.

(C) Any portion of a refund determined under division (B) of this section that is not issued within ninety days after such determination shall bear interest at the rate per annum prescribed by section 5703.47 of the Revised Code from the ninety-first day after such determination until the day the refund is paid or credited. On an illegal or erroneous assessment, interest shall be paid at that rate from the date of payment on the illegal or erroneous assessment until the day the refund is paid or credited.

(Ord. 25-20. Passed 11-23-20.)

183.36 AMENDED RETURNS.

(A) If any of the facts, figures, computations, or attachments required in an annual return filed by a taxpayer that has made the election allowed under Section 183.24 of the Codified Ordinances and used to determine the tax due under Sections 183.24 to 183.39 of the Codified Ordinances must be altered as the result of an adjustment to the taxpayer's federal income tax return, whether initiated by the taxpayer or the internal revenue service, and such alteration affects the taxpayer's tax liability under those sections, the taxpayer shall file an amended return with the tax commissioner in such form as the commissioner requires. The amended return shall be filed not later than sixty days after the adjustment is agreed upon or finally determined for federal income tax purposes or after any federal income tax deficiency or refund, or the abatement or credit resulting therefrom, has been assessed or paid, whichever occurs first. If a taxpayer

intends to file an amended consolidated municipal income tax return, or to amend its type of return from a separate return to a consolidated return, based on the taxpayer's consolidated federal income tax return, the taxpayer shall notify the commissioner before filing the amended return.

(B) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. An amended return required by this section is a return subject to assessment under Section 183.34 of the Codified Ordinances for the purpose of assessing any additional tax due under this section, together with any applicable penalty and interest. The amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return no longer subject to assessment that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal tax return.

(C) In the case of an overpayment, an application for refund may be filed under this division within the sixty-day period prescribed for filing the amended return, even if that period extends beyond the period prescribed in Section 183.35 of the Codified Ordinances, if the application otherwise conforms to the requirements of that section. An application filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return unless it is also filed within the time prescribed in Section 183.35 of the Codified Ordinances. The application shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal income tax return. (Ord. 25-20. Passed 11-23-20.)

183.37 EXAMINATION OF RECORDS AND OTHER DOCUMENTS AND PERSONS.

(A) The tax commissioner, or any authorized agent or employee thereof, may examine the books, papers, records, and federal and state income tax returns of any taxpayer or other person that is subject to Sections 183.24 to 183.39 of the Codified Ordinances for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due as required under those sections. Upon written request by the commissioner or a duly authorized agent or employee thereof, every taxpayer or other person subject to this section is required to furnish the opportunity for the commissioner, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

(B) The records and other documents of any taxpayer or other person that is subject to Sections 183.24 to 183.39 of the Codified Ordinances shall be open to the tax commissioner's inspection during business hours and shall be preserved for a period of six years following the end of the taxable year to which the records or documents relate, unless the commissioner, in writing, consents to their destruction within that period, or by order requires that they be kept longer. The commissioner may require any person, by notice served on that person, to keep such records as the commissioner determines necessary to show whether or not that person is liable, and the extent of such liability, for the income tax levied by a municipal corporation.

(C) The tax commissioner may examine under oath any person that the commissioner reasonably believes has knowledge concerning any income that was or would have been returned for taxation or any transaction tending to affect such income. The commissioner may, for this purpose, compel any such person to attend a hearing or examination and to produce any books, papers, records, and federal income tax returns in such person's possession or control. The person may be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

(D) No person issued written notice by the tax commissioner compelling attendance at a hearing or examination or the production of books, papers, records, or federal income tax returns under this section shall fail to comply. (Ord. 25-20. Passed 11-23-20.)

183.38 CREDITS.

(A) A credit, granted by resolution or ordinance of the City of Lancaster, Ohio, pursuant to Section 183.064 or 183.065 of the Codified Ordinances, shall be available to a taxpayer that has made the election allowed under Section 183.24 of the Codified Ordinances, against the municipal corporation's tax on income. A municipal corporation shall submit the following information to the tax commissioner on or before the later of January 31, 2018, or the thirty-first day of January of the first year in which the taxpayer is eligible to receive the credit:

- (1) A copy of the agreement entered into by the City of Lancaster, Ohio, and taxpayer under Section 183.064 or 183.065 of the Codified Ordinances;
- (2) A copy of the ordinance or resolution authorizing the agreement entered into between the City of Lancaster, Ohio, and the taxpayer.

- (B) (1) Each taxpayer that claims a credit shall submit, with the taxpayer's tax return, documentation issued by the City of Lancaster, Ohio, granting the credit that confirms the eligibility of the taxpayer for the credit, the amount of the credit for which the taxpayer is eligible, and the tax year to which the credit is to be applied.
- (2) Such documentation shall be provided in the form prescribed by the tax commissioner.
 - (3) Nothing in this section shall be construed to authorize the tax commissioner to enter into an agreement with a taxpayer to grant a credit, to determine if a taxpayer meets the conditions of a tax credit agreement entered into by the City of Lancaster, Ohio, and taxpayer under Section 183.064 or 183.065 of the Codified Ordinances, or to modify the terms or conditions of any such existing agreement.

(Ord. 25-20. Passed 11-23-20.)

183.39 RECKLESS VIOLATIONS; PENALTIES.

(A) Except as provided in division (B) of this section, whoever recklessly violates division (A) of Section 183.27 of the Codified Ordinances shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both.

(B) Each instance of access or disclosure in violation of division (A) of Section 183.27 of the Codified Ordinances constitutes a separate offense.

(C) These specific penalties shall not be construed to prevent the [City/Village] from prosecuting any and all other offenses that may apply.

(Ord. 25-20. Passed 11-23-20.)

183.97 COLLECTION AFTER TERMINATION OF CHAPTER.

(A) This chapter shall continue in full force and effect insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue in full force and effect until all of the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the limitations contained in Section 183.054 and 183.99 herein.

(B) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 183.091 and 183.051 as though the same were continuing.

(Ord. 25-20. Passed 11-23-20.)

183.98 SAVINGS CLAUSE.

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

(Ord. 25-20. Passed 11-23-20.)

183.99 VIOLATIONS; PENALTY.

(A) Except as provided in division (B) of this section, whoever violates Section 183.15 of this Chapter, division (A) of Section 183.14 of this Chapter, or Section 183.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 183.14 of this Chapter constitutes a separate offense.

(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the first degree. By way of an illustrative enumeration, violations of this Chapter shall include but not be limited to the following acts, conduct, and/or omissions:

- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter; or
- (2) Knowingly make any incomplete return; or
- (3) Willfully fail, neglect, or refuse to pay the tax, penalties, and interest, or any combination thereof, imposed by this Chapter; or
- (4) Cause to not be remitted the city income tax withheld from qualifying wages of employees to the Municipality municipal corporation as required by Section 183.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or
- (12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or
- (13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.
- (14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.
- (15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 183.03 (29), include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

(Ord. 25-20. Passed 11-23-20.)

CHAPTER 185

Lodging Tax

- 185.01 Purpose and effective period.**
- 185.02 Definitions.**
- 185.03 Application of lodging tax.**
- 185.04 Transient guest to pay the lodging tax.**
- 185.05 Records inspection and preservation.**
- 185.06 Lodging tax to be separately stated and charged.**
- 185.07 Regulations for filing returns.**
- 185.08 Refund of erroneous payments.**
- 185.09 Failure to report and collect lodging tax; determination by Administrator; fraudulent reports.**
- 185.10 Actions to collect.**
- 185.11 Interest on unpaid lodging tax.**
- 185.12 Rules and regulations; appeals.**
- 185.13 Violations.**
- 185.14 Collection of lodging tax after termination of chapter.**
- 185.99 Penalty.**

CROSS REFERENCES

Power to levy - see Ohio R.C. 5739.02(C)

185.01 PURPOSE AND EFFECTIVE PERIOD.

To provide funds to Fairfield County Visitors and Convention Bureau, there is hereby levied an excise tax of three percent (3%) on transactions occurring after July 1, 1994 by which lodging by a hotel or transient accommodations (as hereinafter defined) is or is to be furnished to transient guests, all as permitted and authorized by Ohio R.C. 5739.08. The tax shall remain in effect until repealed.

(Ord. 16-21. Passed 5-24-21.)

185.02 DEFINITIONS.

(a) As used in this chapter, the following words shall have the meaning ascribed to them as provided in this section, except as and if the context clearly indicates or requires a different meaning:

- (1) "Administrator" means the individual designated by this chapter, whether appointed or elected, to administer and enforce the provisions of this chapter.
- (2) "Board of Review" means the Board of Review created pursuant to Section 181.14.
- (3) "Hotel" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests, in which five or more rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (4) "Lodging tax" means the excise tax levied pursuant to this chapter.
- (5) "Transient accommodation" means every establishment kept, used, maintained, advertised or held out to the public to be a place where sleeping accommodations are offered to guests in which four or less rooms are used for the accommodation of such guests, whether such rooms are in one or several structures.
- (6) "Transient guests" means persons occupying a room or rooms for sleeping accommodations for less than thirty consecutive days.
- (7) "Person" as used in the definition of "Transient guests" includes individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, associations, joint-stock companies, joint ventures, clubs, societies, corporations, the state and its political subdivisions, and combinations of individuals of any form.
- (8) "Vendor" means the person who is the owner or operator of the hotel or transient accommodation and who furnishes the lodging.

(Ord. 16-21. Passed 5-24-21.)

185.03 APPLICATION OF LODGING TAX.

(a) The lodging tax applies and is collectible at the time the lodging is furnished, regardless of the time when the charge for the lodging is paid. The tax shall not apply to transactions by which lodging is furnished to the Federal government or a State government, excluding Ohio, but only when the accommodations are paid for by the Federal or State government agency by direct billing or government agency credit card at the time of lodging. The Federal and State government exemption does not apply if the traveler pays for the accommodations personally. All revenues received by the City from the lodging tax shall be deposited in a separate fund and, after deducting the real and actual costs of collecting and administering the lodging tax, shall be contributed to the Fairfield County Visitors and Convention Bureau.

(Ord. 16-21. Passed 5-24-21.)

(b) This section shall indicate that five percent (5%) shall include the actual cost for the administration of the tax collection, which five percent (5%) shall be deducted before distribution of the tax proceeds.

(Ord. 46-94. Passed 12-28-94.)

185.04 TRANSIENT GUEST TO PAY THE LODGING TAX.

(a) The lodging tax shall be paid by the transient guest to the vendor, and each vendor shall collect from the transient guest the full and exact amount of the tax payable on each taxable lodging. If for any reason the lodging tax due is not paid to the vendor, the Administrator may require the transient guest to pay such tax directly to the City.

(b) No exemption shall be granted except upon a claim therefore made at the time the lodging is furnished and, under penalty of perjury, upon a form and in the manner prescribed by the Administrator.

(c) No transient guest shall refuse to pay the full and exact lodging tax as required by this chapter, or present to the vendor false evidence indicating that the lodging as furnished is not subject to the lodging tax.

(d) For the purpose of the proper administration of this chapter, it shall be presumed that all lodging furnished by hotels or transient accommodations in the City to transient guests is subject to the lodging tax until the contrary is established.

(Ord. 19-94. Passed 5-9-94.)

185.05 RECORDS INSPECTION AND PRESERVATION.

Each vendor shall keep complete and accurate records of lodging furnished, together with a record of the lodging tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents. If the vendor furnishes lodging not subject to the lodging tax, the vendor's records shall show the identity of the transient guest, if the sale was exempted by reason of such identity, or the nature of the transaction if exempted for any other reason. Such records shall be open during business hours to the inspection of the Administrator and shall be preserved for a period of five years, unless the Administrator in writing either consents to their destruction within that period or by order requires that they be kept longer.

(Ord. 19-94. Passed 5-9-94.)

185.06 LODGING TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The vendor shall state and charge the lodging tax to the transient guest separately from the charge for the lodging and on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for occupancy issued or delivered by the vendor.

(b) No vendor shall advertise or state in any manner, whether directly or indirectly, that the lodging tax or any part thereof will be assumed or absorbed by the vendor, or that it will not be added to the amount charged for the lodging, or that, if added, any part will be refunded except in the manner provided in this chapter.

(Ord. 19-94. Passed 5-9-94.)

185.07 REGULATIONS FOR FILING RETURNS.

(a) Each vendor shall on or before the last day of the month make and file a return for the preceding month, on forms furnished by the Administrator, showing the receipts from lodging furnished, the amount of lodging tax due from the vendor to the City for the period covered by the return, and such other information as the Administrator deems necessary for the proper administration of the lodging tax. All returns shall be signed by the vendor or its authorized agent. The Administrator may extend the time for making and filing returns. Returns shall be filed by delivering or mailing the same to the Administrator together with payment of the full amount of lodging tax shown to be due thereon.

(b) The Administrator may authorize vendors whose lodging tax liability is not such as to merit monthly returns, as determined by the Administrator upon the basis of administrative costs of the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(c) The Administrator may, if it is deemed necessary in order to ensure the payment of the lodging tax, require returns and payment to be made for other than monthly periods.

(d) The Administrator may order any vendor required to file monthly returns under this chapter who fails, on two consecutive months or on three or more months within a twelve-month period, to file such returns when due or to pay the lodging tax thereon, or any vendor authorized by the Administrator to file returns at less frequent intervals, who fails on two or more occasions within a twenty-four month period, to file such returns when due or pay the lodging tax due thereon, to furnish security in an amount equal to the average lodging tax liability of the vendor for a period of one year, as determined by the Administrator for a review of returns or other information pertaining to such vendor, which amount shall in no event be less than one hundred dollars (\$100.00). The security may be in the form of an advance payment to be applied to pay the lodging tax due on subsequent returns, or a corporate surety bond, satisfactory to the Administrator, conditioned upon payment of the lodging tax due with the returns from the vendor. The security shall be filed within ten days following the vendor's receipt of the notice from the Administrator of its requirements. A corporate surety bond filed under this section shall be returned to the vendor if, for a period of twelve consecutive months following the date the bond was filed, the vendor has filed all returns and remitted payment therewith within the time prescribed in this chapter.

(e) Each vendor shall file all claims for exemption from lodging tax filed by transient guests with the vendor during the reporting period with the return.

(f) The Administrator shall treat all returns and payments submitted by vendors as confidential and shall not release them except upon order of a court of competent jurisdiction or to an officer or agent of the United States, the State, the county, or the City, for official use only.

(g) All returns shall bear the mark of the date received and shall also reflect the amount of payment received therewith.

(Ord. 19-94. Passed 5-9-94.)

185.08 REFUND OF ERRONEOUS PAYMENTS.

The Administrator shall direct the City Treasurer to refund to a vendor or transient guest any amount erroneously paid. Applications for refund shall be filed with the Administrator, on the form so prescribed, within ninety days from the date it is ascertained that the amount paid was erroneous; provided, however, that in any event such applications for refund shall be filed with the Administrator within five years from the date of the erroneous payment. On filing of such application, the Administrator shall determine and certify the amount of the refund.

(Ord. 19-94. Passed 5-9-94.)

185.09 FAILURE TO REPORT AND COLLECT LODGING TAX; DETERMINATION BY ADMINISTRATOR; FRAUDULENT REPORTS.

(a) No person, including any officer of a corporation or employee of a corporation having control or supervision of or charged with the responsibility of filing returns, shall fail to file any return or report required to be filed by this chapter, or file or cause to be filed any incomplete, false, or fraudulent return, report or statement, or aid to abet another in the filing of any false or fraudulent return, report or statement.

(b) If any vendor fails or refuses to collect the lodging tax or to file a return or remit the lodging tax or any portion thereof, as required by this chapter, the Administrator shall proceed in such manner as he or she may deem best to obtain information on which to base an assessment of the lodging tax due. When the Administrator has obtained such information as he is able, he shall proceed to determine and assess against such vendor the tax.

(c) In case such determination is made, the Administrator shall serve notice upon the vendor of the amount so assessed, by personal

service or by registered or certified mail. Such vendor may, within thirty days after the serving or mailing of such notice, apply in writing to the Administrator for a hearing on the correctness of the amount assessed. If the vendor does not apply within the time prescribed, the lodging tax determined by the Administrator shall become final and conclusive and immediately due and payable. If the vendor makes timely application, the Administrator shall give the vendor written notice, by personal service, or by registered or certified mail, of a hearing not less than five days in advance of the hearing, to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for the lodging tax. At any such hearing, the vendor may appear and offer evidence why such specified tax should not be so fixed. After such hearing, the Administrator shall determine the proper amount of lodging tax due and shall thereafter give written notice to the vendor, by personal service, or by registered or certified mail, of such determination and the amount of the lodging tax. The amount determined to be due shall be payable after fifteen days.

(Ord. 19-94. Passed 5-9-94.)

185.10 ACTIONS TO COLLECT.

(a) Any lodging tax required to be paid by a transient guest under the provisions of this chapter shall be deemed a debt owed by the transient guest to the City. Any such tax collected by a vendor and not paid to the City shall be deemed a debt owed by the vendor to the City. Any person owing money to the City under the provisions of this chapter shall be liable to an action brought in the name of the City for the recovery of such amount.

(b) The Administrator is authorized to institute civil law suits to collect delinquent lodging taxes due and owing the City by virtue of the provisions of this chapter. The Administrator is authorized to waive penalties, compromise any lodging tax liabilities and the right to accept waiver of State statutes of limitations.

(Ord. 19-94. Passed 5-9-94.)

185.11 INTEREST ON UNPAID LODGING TAX.

The lodging tax imposed and collected or required to be collected under the provisions of this chapter and remaining unpaid to the City after the tax becomes due shall bear interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof.

(Ord. 19-94. Passed 5-9-94.)

185.12 RULES AND REGULATIONS; APPEALS.

(a) The Administrator is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, subject to the approval of the Board of Review to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the reexamination and correction of returns.

(b) Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

(Ord. 19-94. Passed 5-9-94.)

185.13 VIOLATIONS.

(a) No vendor, or any officer or employee of a vendor having control or supervision of or charged with the responsibility of collecting the lodging tax or filing returns shall:

- (1) Willfully fail to file any return or report required to be filed by this chapter; or
- (2) File or cause to be filed any incomplete, false or fraudulent return, report or statement; or
- (3) Aid or abet another in the filing of any false or fraudulent return, report or statement; or
- (4) Fail, neglect or refuse to collect the lodging tax or interest imposed by this chapter; or
- (5) Fail, neglect or refuse to remit the lodging tax or any portion thereof, as required by this chapter; or
- (6) Refuse to permit the Administrator or any duly authorized agent or employee to examine the hotel's or transient accommodation's books, records and papers relating to lodging provided to transient guests; or
- (7) Fail to appear before the Administrator and to produce the hotel's or transient accommodation's books, records and papers relating to lodging provided to transient guests by the hotel or the transient accommodation upon order or subpoena of the Administrator; or
- (8) Refuse to disclose to the Administrator any information with respect to lodging provided transient guests by the hotel or transient accommodation; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby; or
- (10) Fail to use ordinary diligence in maintaining complete and accurate records, invoices and other pertinent documents regarding lodging furnished and the lodging tax withheld, to knowingly give false information; or
- (11) Attempt to do anything whatever to avoid the payment of the whole or any part of the lodging tax, or interest imposed by this chapter.

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(b) No transient guest shall:

- (1) Willfully fail, neglect or refuse to pay the lodging tax required by this chapter; or
- (2) Make any incomplete, false or fraudulent representation indicating an exemption from the lodging tax.

Shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months or both for each offense.

(c) The failure of any vendor to collect the lodging tax or any transient guest to pay the lodging tax imposed by or pursuant to this chapter on any transaction subject to the lodging tax shall not excuse such vendor or transient guest from being personally liable for the amount of the lodging tax applicable to the transaction. The Administrator may make an assessment against either the vendor or transient guest, as the facts may require, based upon any information in the possession of the Administrator.

(d) The failure of any vendor corporation, required to file returns and to remit lodging tax due to the City under the provisions of this chapter shall not excuse any of its officers or employees having control of or charged with the responsibility of filing returns and remitting lodging tax due under the provisions of this chapter from being held personally liable for such failure.

(e) The dissolution of a corporation shall not discharge an officer's or employee's liability for a prior failure of the corporation to file returns or remit lodging tax due under the provisions of this chapter. The sum due for such liability may be collected by assessment in the manner provided in this chapter.

(f) All prosecutions under this section must be commenced within three (3) years from the time of the offense complained of except in the case of failure to collect the lodging tax or failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be six (6) years from the date the return was due or the date the false or fraudulent return was filed.

(Ord. 19-94. Passed 5-9-94.)

185.14 COLLECTION OF LODGING TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter shall continue effective insofar as the levy of lodging taxes is concerned until repealed according to the law and insofar as the collection of lodging taxes levied hereunder and actions or proceedings for collecting any lodging tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all of such lodging taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such lodging taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 185.10 and 185.13.

(b) Monthly returns due for all or any part of the last effective month of this chapter shall be due on the date provided in Section 185.07 as though the same were continuing.

(Ord. 19-94. Passed 5-9-94.)

185.99 PENALTY.

Whoever violates any provision of Section 185.13 shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both, for each offense.

(Ord. 19-94. Passed 5-9-94.)

CHAPTER 187

Motor Vehicle License Tax

187.01 Ohio Revised Code levy 4504.171.

187.02 Ohio Revised Code levy 4504.172.

187.03 Ohio Revised Code levy 4504.173.

CROSS REFERENCES

Authority to collect - see Ohio R.C. 4504.06

187.01 OHIO REVISED CODE LEVY 4504.171.

(a) This section will levy an annual license tax, pursuant to Ohio R.C. 4504.171 upon the operation of motor vehicles on the public streets and highways. Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles, the District of Registration of which, as defined in Ohio R.C. 4503.10, is in the Municipal Corporation of Lancaster, Ohio. Such tax shall be in addition to Ohio R.C. 4504.172 and 4504.173 and shall continue in effect until repealed.

(b) The tax shall be subject to reductions in the manner provided in Ohio R.C. 4503.11 and the exemptions provided in Ohio R.C. 4503.16, 4503.17, 4503.171, 4503.41 and 4503.43. (Ord. 11-19. Passed 6-24-19.)

187.02 OHIO REVISED CODE LEVY 4504.172.

(a) This section will levy an annual license tax pursuant to Ohio R.C. 4504.172 upon the operation of motor vehicles on the public streets and highways. Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles, the District of Registration of which, as defined in Ohio R.C. 4503.10, is in the Municipal Corporation of Lancaster, Ohio. Such tax shall be in addition to Ohio R.C. 4504.171 and 4504.173 and shall continue in effect until repealed.

(b) The tax shall be subject to reductions in the manner provided in Ohio R.C. 4503.11 and the exemptions provided in Ohio R.C. 4503.16, 4503.17, 4503.171, 4503.41 and 4503.43. (Ord. 11-19. Passed 6-24-19.)

187.03 OHIO REVISED CODE LEVY 4504.173.

(a) This section will levy and annual license tax pursuant to Ohio R.C. 4504.173, upon the operation of motor vehicles on the public streets and highways. Such tax shall be at the rate of five dollars (\$5.00) per motor vehicle on all motor vehicles, the District of Registration of which, as defined in Ohio R.C. 4503.10, is in the Municipal Corporation of Lancaster, Ohio. Such tax shall be in addition to Ohio R.C. 4504.171 and 4504.172 and shall continue in effect until repealed.

(b) The tax shall be subject to reductions in the manner provided in Ohio R.C. 4503.11 and the exemptions provided in Ohio R.C. 4503.16, 4503.17, 4503.172, 4503.173, 4503.18, 4503.41, 4503.43, 4503.46 and 4503.571.

(Ord. 11-19. Passed 6-24-19.)

CODIFIED ORDINANCES OF LANCASTER

PART THREE - TRAFFIC CODE

TITLE ONE - Administration

Chap. 301. Definitions.

Chap. 303. Enforcement, Impounding and Penalty.

Chap. 305. Traffic Control.

TITLE THREE - Streets and Traffic Control Devices

Chap. 311. Street Obstructions and Special Uses.

Chap. 313. Traffic Control Devices.

TITLE FIVE - Vehicles

Chap. 331. Operation Generally.

Chap. 333. OVI; Willful Misconduct; Speed.

Chap. 335. Licensing; Accidents.

Chap. 337. Safety and Equipment.

Chap. 339. Commercial and Heavy Vehicles.

Chap. 341. Commercial Drivers.

Chap. 343. Storage of Junk and Other Motor Vehicles.

Chap. 345. Low-Speed Vehicles.

TITLE SEVEN - Parking

- Chap. 351. Parking Generally.
- Chap. 353. Loading and Unloading Zones.
- Chap. 355. Parking Meters. (Repealed)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

- Chap. 371. Pedestrians.
- Chap. 373. Bicycles and Motorcycles.
- Chap. 374. Motorized Bicycles.
- Chap. 375. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.

CODIFIED ORDINANCES OF LANCASTER

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CHAPTER 301

Definitions

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CROSS REFERENCES

See sectional histories for similar State law
 Funeral procession defined - see TRAF. 331.24
 Street racing defined - see TRAF. 333.07
 Studded tire defined - see TRAF. 339.11
 Blind person defined - see TRAF. 371.02
 Snowmobile, off-highway motorcycle and all purpose vehicle defined - see TRAF.
 375.01
 School zones defined - see TRAF. 333.03(b)

301.01 MEANING OF WORDS AND PHRASES.

The following words and phrases when used in this Traffic Code, except as otherwise provided, shall have the meanings respectively ascribed to them in this chapter.

301.02 AGRICULTURAL TRACTOR.

"Agricultural tractor" means every self-propelling vehicle designed or used for drawing other vehicles or wheeled machinery but having no provision for carrying loads independently of such other vehicles, and used principally for agricultural purposes.

(ORC 4511.01(J))

301.03 ALLEY.

"Alley" means a street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic, and includes any street or highway that has been declared an "alley" by Council.

(ORC 4511.01(XX))

301.031 BEACON; HYBRID BEACON.

- (a) "Beacon" means a highway traffic signal with one or more signal sections that operate in a flashing mode. (ORC 4511.01(KKK))
- (b) "Hybrid beacon" means a type of beacon that is intentionally placed in a dark mode between periods of operation where no indications are displayed and, when in operation, displays both steady and flashing traffic control signal indications. (ORC 4511.01(LLL))

301.04 BICYCLE; MOTORIZED BICYCLE; MOPED; ELECTRIC BICYCLE.

(a) "Bicycle" means every device, other than a device that is designed solely for use as a play vehicle by a child, that is propelled solely by human power upon which a person may ride, and that has two or more wheels, any of which is more than fourteen inches in diameter.

(ORC 4511.01(G))

(b) "Motorized bicycle" or "moped" means any vehicle having either two tandem wheels or one wheel in the front and two wheels in the rear, that may be pedaled, and that is equipped with a helper motor of not more than fifty cubic centimeters piston displacement that produces not more than one brake horsepower and is capable of propelling the vehicle at a speed of no greater than twenty miles per hour on a level surface.

"Motorized bicycle" or "moped" does not include an electric bicycle. (ORC 4511.01(H))

(c) "Electric bicycle" means a "class 1 electric bicycle", a "class 2 electric bicycle", or a "class 3 electric bicycle" as defined in this section. (ORC 4511.01(RRR))

- (1) "Class 1 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(SSS))
- (2) "Class 2 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that may provide assistance regardless of whether the rider is pedaling and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour. (ORC 4511.01(TTT))
- (3) "Class 3 electric bicycle" means a bicycle that is equipped with fully operable pedals and an electric motor of less than seven hundred fifty watts that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour. (ORC 4511.01(UUU))

301.05 BUS.

"Bus" means every motor vehicle designed for carrying more than nine passengers and used for the transportation of persons other than in a ridesharing arrangement as defined in Ohio R.C. 4511.01, and every motor vehicle, automobile for hire or funeral car, other than a taxicab or motor vehicle used in a ridesharing arrangement, designed and used for the transportation of persons for compensation.

(ORC 4511.01(L))

301.06 BUSINESS DISTRICT.

"Business district" means the territory fronting upon a street or highway, including the street or highway, between successive intersections where fifty percent or more of the frontage between such successive intersections is occupied by buildings in use for business, or where fifty percent or more of the frontage for a distance of 300 feet or more is occupied by buildings in use for business, and the character of such territory is indicated by official traffic control devices.

(ORC 4511.01(NN))

301.07 COMMERCIAL TRACTOR.

"Commercial tractor" means every motor vehicle having motive power designed or used for drawing other vehicles and not so constructed as to carry any load thereon, or designed or used for drawing other vehicles while carrying a portion of such other vehicles, or the load thereon, or both.

(ORC 4511.01(I))

301.08 CONTROLLED-ACCESS HIGHWAY.

"Controlled-access highway" means every street or highway in respect to which owners or occupants of abutting lands and other persons have no legal right or access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such street or highway. (ORC 4511.01(CC))

301.09 CROSSWALK.

"Crosswalk" means:

- (a) That part of a roadway at intersections ordinarily included within the real or projected prolongation of property lines and curb lines or, in the absence of curbs, the edges of the traversable roadway;
- (b) Any portion of a roadway at an intersection or elsewhere, distinctly indicated for pedestrian crossing by lines or other markings on the surface;
- (c) Notwithstanding subsections (a) and (b) hereof, there shall not be a crosswalk where authorized signs have been placed indicating no crossing.

(ORC 4511.01(LL))

301.10 DRIVER OR OPERATOR.

"Driver" or "operator" means every person who drives or is in actual physical control of a vehicle.

(ORC 4511.01(Y))

301.11 EMERGENCY VEHICLE.

"Emergency vehicle" means emergency vehicles of municipal, township or county departments or public utility corporations when identified as such as required by law, the Ohio Director of Public Safety or local authorities, and motor vehicles when commandeered by a police officer.

(ORC 4511.01(D))

301.12 EXPLOSIVES.

"Explosives" means any chemical compound or mechanical mixture that is intended for the purpose of producing an explosion that contains any oxidizing and combustible units or other ingredients in such proportions, quantities or packing that an ignition by fire, by friction, by concussion, by percussion or by a detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects, or of destroying life or limb.

Manufactured articles shall not be held to be explosives when the individual units contain explosives in such limited quantities, of such nature or in such packing, that it is impossible to procure a simultaneous or a destructive explosion of such units, to the injury of life, limb or property by fire, by friction, by concussion, by percussion or by a detonator, such as fixed ammunition for small arms, firecrackers or safety fuse matches.

(ORC 4511.01(T))

301.13 EXPRESSWAY.

"Expressway" means a divided arterial highway for through traffic with full or partial control of access with an excess of fifty percent of all crossroads separated in grade.

(ORC 4511.01(ZZ))

301.14 FLAMMABLE LIQUID.

"Flammable liquid" means any liquid that has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device.

(ORC 4511.01(U))

301.15 FREEWAY.

"Freeway" means a divided multi-lane highway for through traffic with all crossroads separated in grade and with full control of access.

(ORC 4511.01(YY))

301.16 GROSS WEIGHT.

"Gross weight" means the weight of a vehicle plus the weight of any load thereon.

(ORC 4511.01(V))

301.161 HIGHWAY MAINTENANCE VEHICLE.

"Highway maintenance vehicle" means a vehicle used in snow and ice removal or road surface maintenance, including a snow plow, traffic line striper, road sweeper, mowing machine, asphalt distributing vehicle, or other such vehicle designed for use in specific

highway maintenance activities. (ORC 4511.01(QQQ))

301.162 HIGHWAY TRAFFIC SIGNAL.

“Highway traffic signal” means a power-operated traffic control device by which traffic is warned or directed to take some specific action. “Highway traffic signal” does not include a power-operated sign, steadily illuminated pavement markers, warning light, or steady burning electric lamp. (ORC 4511.01(MMM))

301.17 INTERSECTION.

"Intersection" means:

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways that join at any other angle might come into conflict. The junction of an alley or driveway with a roadway or highway does not constitute an intersection unless the roadway or highway at the junction is controlled by a traffic control device.
- (b) If a highway includes two roadways that are thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway constitutes a separate intersection. If both intersecting highways include two roadways thirty feet or more apart, then every crossing of any two roadways of such highways constitutes a separate intersection.
- (c) At a location controlled by a traffic control signal, regardless of the distance between the separate intersections as described in subsection (b) of this section:
 - (1) If a stop line, yield line, or crosswalk has not been designated on the roadway within the median between the separate intersections, the two intersections and the roadway and median constitute one intersection.
 - (2) Where a stop line, yield line, or crosswalk line is designated on the roadway on the intersection approach, the area within the crosswalk and any area beyond the designated stop line or yield line constitute part of the intersection.
 - (3) Where a crosswalk is designated on a roadway on the departure from the intersection, the intersection includes the area that extends to the far side of the crosswalk. (ORC 4511.01(KK))

301.18 LANED STREET OR HIGHWAY.

"Laned street or highway" means a street or highway the roadway of which is divided into two or more clearly marked lanes for vehicular traffic.

(ORC 4511.01(GG))

301.183 LOW-SPEED MICROMOBILITY DEVICE.

“Low-speed micromobility device” means a device weighing less than 100 pounds that has handlebars, is propelled by an electric motor or human power, and has an attainable speed on a paved level surface of not more than twenty miles per hour when propelled by the electric motor.

(ORC 4511.01(WWW))

301.185 MEDIAN.

“Median” means the area between two roadways of a divided highway, measured from edge of traveled way to edge of traveled way, but excluding turn lanes. The width of a median may be different between intersections, between interchanges, and at opposite approaches of the same intersection. (ORC 4511.01(NNN))

301.19 MOTORCYCLE.

"Motorcycle" means every motor vehicle, other than a tractor, having a seat or saddle for the use of the operator and designed to travel on not more than three wheels in contact with the ground, including but not limited to, motor vehicles known as "motor-driven cycle," "motor scooter," "autocycle," "cab-enclosed motorcycle" or "motorcycle" without regard to weight or brake horsepower.

(ORC 4511.01(C))

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))

301.201 OPERATE.

“Operate” means to cause or have caused movement of a vehicle.

(ORC 4511.01(HHH))

301.21 PARK OR PARKING.

"Park or parking" means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

301.22 PEDESTRIAN.

"Pedestrian" means any natural person afoot. The term includes a personal delivery device as defined in Ohio R.C. 4511.513 unless the context clearly suggests otherwise.

(ORC 4511.01(X))

301.23 PERSON.

"Person" means every natural person, firm, copartnership, association or corporation.

(ORC 4511.01(W))

301.24 POLE TRAILER.

"Pole trailer" means every trailer or semitrailer attached to the towing vehicle by means of a reach, pole or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connection.

(ORC 4511.01(O))

301.25 POLICE OFFICER.

"Police officer" means every officer authorized to direct or regulate traffic, or to make arrests for violations of traffic regulations.

(ORC 4511.01(Z))

301.251 PREDICATE MOTOR VEHICLE OR TRAFFIC OFFENSE.

"Predicate motor vehicle or traffic offense" means any of the following:

- (a) A violation of Ohio R.C. 4511.03, 4511.051, 4511.12, 4511.132, 4511.16, 4511.20, 4511.201, 4511.21, 4511.211, 4511.213, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.451, 4511.452, 4511.46, 4511.47, 4511.48, 4511.481, 4511.49, 4511.50, 4511.511, 4511.522, 4511.53, 4511.54, 4511.55, 4511.56, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.64, 4511.66, 4511.661, 4511.68, 4511.70, 4511.701, 4511.71, 4511.711, 4511.712, 4511.713, 4511.72, 4511.73, 4511.763, 4511.771, 4511.78 or 4511.84;
- (b) A violation of division (A)(2) of Ohio R.C. 4511.17, divisions (A) to (D) of Ohio R.C. 4511.51, or division (A) of Ohio R.C. 4511.74;
- (c) A violation of any provision of Ohio R.C. 4511.01 to 4511.76 for which no penalty otherwise is provided in the section that contains the provision violated;
- (d) A violation of Ohio R.C. 4511.214.
- (e) A violation of a municipal ordinance that is substantially similar to any section or provision set forth or described in subsection (a) to (d) of this section.

(ORC 4511.01(III))

301.26 PRIVATE ROAD OR DRIVEWAY.

(a) "Private road or driveway" means every way or place in private ownership used for vehicular travel by the owner and those having express or implied permission from the owner but not by other persons. (ORC 4511.01(DD))

(b) "Private road open to public travel" means a private toll road or road, including any adjacent sidewalks that generally run parallel to the road, within a shopping center, airport, sports arena, or other similar business or recreation facility that is privately owned but where the public is allowed to travel without access restrictions. "Private road open to public travel" includes a gated toll road but does not include a road within a private gated property where access is restricted at all times, a parking area, a driving aisle within a parking area, or a private grade crossing. (ORC 4511.01(OOO))

301.27 PUBLIC SAFETY VEHICLE.

"Public safety vehicle" means any of the following:

- (a) Ambulances, including private ambulance companies under contract to a municipal corporation, township or county and private ambulances and transport vehicles bearing license plates issued under Ohio R.C. 4503.49;
- (b) Motor vehicles used by public law enforcement officers or other persons sworn to enforce the criminal and traffic laws of the State or the Municipality;
- (c) Any motor vehicle when properly identified as required by the Ohio Director of Public Safety, when used in response to fire emergency calls or to provide emergency medical service to ill or injured persons, and when operated by a duly qualified person who is a member of a volunteer rescue service or a volunteer fire department, and who is on duty pursuant to the rules or directives of that service. The Ohio Fire Marshal shall be designated by the Ohio Director of Public Safety as the certifying agency for all public safety vehicles described in this subsection (c);
- (d) Vehicles used by fire departments, including motor vehicles when used by volunteer fire fighters responding to emergency calls in the fire department service when identified as required by the Ohio Director of Public Safety.
Any vehicle used to transport or provide emergency medical service to an ill or injured person, when certified as a public safety vehicle, shall be considered a public safety vehicle when transporting an ill or injured person to a hospital regardless of whether such vehicle has already passed a hospital.

(ORC 4511.01(E))

- (e) Vehicles used by the Commercial Motor Vehicle Safety Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission as specified in Ohio R.C. 5503.34.

301.28 RAILROAD.

"Railroad" means a carrier of persons or property operating upon rails placed principally on a private right of way.

(ORC 4511.01(P))

301.29 RAILROAD SIGN OR SIGNAL.

"Railroad sign or signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

(ORC 4511.01(SS))

301.30 RAILROAD TRAIN.

"Railroad train" means a steam engine, or an electric or other motor, with or without cars coupled thereto, operated by a railroad.

(ORC 4511.01(Q))

301.31 RESIDENCE DISTRICT.

"Residence district" means the territory, not comprising a business district, fronting on a street or highway, including the street or highway, where, for a distance of 300 feet or more, the frontage is improved with residences or residences and buildings in use for business.

(ORC 4511.01(OO))

301.32 RIGHT OF WAY.

"Right of way" means either of the following, as the context requires:

- (a) The right of a vehicle or pedestrian to proceed uninterruptedly in a lawful manner in the direction in which it or the individual is moving in preference to another vehicle or pedestrian approaching from a different direction into its or the individual's path;
- (b) A general term denoting land, property or the interest therein, usually in the configuration of a strip, acquired for or devoted to transportation purposes. When used in this context, right of way includes the roadway, shoulders or berm, ditch, and slopes extending to the right-of-way limits under the control of the State or local authority.

(ORC 4511.01(UU))

301.321 ROAD SERVICE VEHICLE.

"Road service vehicle" means wreckers, utility repair vehicles, and state, county, and municipal service vehicles equipped with visual signals by means of flashing, rotating, or oscillating lights. (ORC 4511.01(JJJ))

301.33 ROADWAY.

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, except the berm or shoulder. If a street or highway includes two or more separate roadways, the term "roadway" means any such roadway separately but not all such roadways collectively.

(ORC 4511.01(EE))

301.34 SAFETY ZONE.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and protected or marked or indicated by adequate signs as to be plainly visible at all times.

(ORC 4511.01(MM))

301.35 SCHOOL BUS.

"School bus" means every bus designed for carrying more than nine passengers that is owned by a public, private or governmental agency or institution of learning and operated for the transportation of children to or from a school session or a school function, or owned by a private person and operated for compensation for the transportation of children to or from a school session or a school function; provided "school bus" does not include a bus operated by a municipally owned transportation system, a mass transit company operating exclusively within the territorial limits of the Municipality, or within such limits and the territorial limits of municipal corporations immediately contiguous to the Municipality, nor a common passenger carrier certified by the Public Utilities Commission unless such bus is devoted exclusively to the transportation of children to and from a school session or a school function, and "school bus" does not include a van or bus used by a licensed child day-care center or type A family day-care home to transport children from the child day-care center or type A family day-care home to a school if the van or bus does not have more than fifteen children in the van or bus at any time. "Child day-care center" and "type A family day-care home" have the same meanings as in Ohio R.C. 5104.01.

(ORC 4511.01(F), (FFF))

301.36 SEMITRAILER.

"Semitrailer" means every vehicle designed or used for carrying persons or property with another and separate motor vehicle so that in operation a part of its own weight or that of its load, or both, rests upon and is carried by another vehicle.

(ORC 4511.01(N))

301.361 SHARED-USE PATH.

"Shared-use path" means a bikeway outside the traveled way and physically separate from motorized vehicular traffic by an open space or barrier and either within the highway right-of-way or within an independent alignment. A shared-use path also may be used by pedestrians, including skaters, joggers, users of manual and motorized wheelchairs, and other authorized motorized and non-motorized users. A shared-use path does not include any trail that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use.

(ORC 4511.01(PPP))

301.37 SIDEWALK.

"Sidewalk" means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

(ORC 4511.01(FF))

301.38 STATE ROUTE.

"State route" means every highway that is designated with an official State route number and so marked.

(ORC 4511.01(JJ))

301.39 STOP (WHEN REQUIRED).

"Stop" when required means a complete cessation of movement.

301.40 STOPPING OR STANDING.

(a) "Stop or stopping" when prohibited means any halting of a vehicle, even momentarily, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device.

(b) "Stand or standing" means the halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

301.41 STOP INTERSECTION.

"Stop intersection" means any intersection at one or more entrances of which stop signs are erected. (ORC 4511.01(BBB))

301.42 STREET OR HIGHWAY; ARTERIAL STREET.

(a) "Street" or "highway" are synonymous and mean the entire width between the boundary lines of every way open to the use of the public as a thoroughfare for purposes of vehicular travel.

(ORC 4511.01(BB))

(b) "Arterial street" means any United States or State numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

(ORC 4511.01(CCC))

301.43 THROUGH STREET OR HIGHWAY.

"Through street or highway" means every street or highway as provided in Section 313.02.

(ORC 4511.01(HH))

301.44 THRUWAY.

"Thruway" means a through street or highway whose entire roadway is reserved for through traffic and on which roadway parking is prohibited.

(ORC 4511.01(AAA))

301.45 TRAFFIC.

"Traffic" means pedestrians, ridden or herded animals, vehicles and other devices, either singly or together, while using for purposes of travel any street or highway or private road open to public travel. (ORC 4511.01(TT))

301.46 TRAFFIC CONTROL DEVICES.

"Traffic control device" means a flagger, sign, signal, marking, or other device used to regulate, warn or guide traffic, placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or, in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

(ORC 4511.01(QQ))

301.47 TRAFFIC CONTROL SIGNAL.

"Traffic control signal" means any highway traffic signal by which traffic is alternately directed to stop and permitted to proceed.

(ORC 4511.01(RR))

301.48 TRAILER.

"Trailer" means every vehicle designed or used for carrying persons or property wholly on its own structure and for being drawn by a motor vehicle, including any such vehicle when formed by or operated as a combination of a semitrailer and a vehicle of the dolly type, such as that commonly known as a trailer dolly, a vehicle used to transport agricultural produce or agricultural production materials between a local place of storage or supply and the farm when drawn or towed on a street or highway at a speed greater than twenty-five miles per hour and a vehicle 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 more than ten miles or at a speed of more than twenty-five miles per hour.

(ORC 4511.01(M))

301.49 TRUCK.

"Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property.

(ORC 4511.01(K))

301.50 URBAN DISTRICT.

"Urban district" means the territory contiguous to and including any street or highway which is built up with structures devoted to business, industry or dwelling houses situated at intervals of less than 100 feet for distance of a quarter of a mile or more, and the character of such territory is indicated by official traffic control devices.

(ORC 4511.01(PP))

301.51 VEHICLE.

"Vehicle" means every device, including 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, any low-speed micromobility device, or any device, other than a bicycle, that is moved by human power.

(ORC 4511.01(A))

301.52 WHEELCHAIR, MOTORIZED.

"Motorized wheelchair" means any self-propelled vehicle designed for, and used by, a handicapped person and that is incapable of a speed in excess of eight miles per hour.

(ORC 4511.01(EEE))

301.53 WASTE COLLECTION VEHICLE.

"Waste collection vehicle" means a vehicle used in the collection of garbage, refuse, trash or recyclable materials.

(ORC 4511.01(RRR))

CHAPTER 303

Enforcement, Impounding and Penalty

303.01 Compliance with lawful order of police officer; fleeing.

- 303.02 Traffic direction in emergencies; obedience to school guard.**
- 303.03 Officer may remove ignition key.**
- 303.04 Road workers, motor vehicles and equipment excepted.**
- 303.041 Emergency, public safety and coroner's vehicles exempt.**
- 303.05 Application to persons riding, driving animals upon roadway.**
- 303.06 Freeway use prohibited by pedestrians, bicycles and animals.**
- 303.07 Application to drivers of government vehicles.**
- 303.08 Impounding of vehicles; redemption.**
- 303.081 Other prosecutions.**
- 303.082 Damage caused by removal or storage.**
- 303.083 Expense of removal and storage.**
- 303.084 Notice to owner; redemption.**
- 303.085 Impounding fee and storage charges.**
- 303.086 Payment of fees and charges under protest. (Repealed)**
- 303.087 Towing rotation and impounding.**
- 303.09 Providing false information to police officer.**
- 303.10 Disposition of fines and revenues.**
- 303.99 General Traffic Codepenalties.**
- 303.991 Committing an offense while distracted penalty.**

CROSS REFERENCES

See sectional histories for similar State law
Disposition of unclaimed vehicles - see Ohio R.C. 737.32, 4513.62 et seq.
Citations for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. 4507.16, 4507.34
State point system suspension - see Ohio R.C. 4507.40
Uniform application of Ohio Traffic Law - see Ohio R.C. 4511.06
Marking motor vehicles used by traffic officers - see Ohio R.C. 4549.13
Distinctive uniform required for traffic officers - see Ohio R.C. 4549.15
Exceptions for emergency or public safety vehicles - see TRAF. 331.20, 333.06

303.01 COMPLIANCE WITH LAWFUL ORDER OF POLICE OFFICER; FLEEING.

(a) No person shall fail to comply with any lawful order or direction of any police officer invested with authority to direct, control or regulate traffic.

(b) No person shall operate a motor vehicle so as willfully to elude or flee a police officer after receiving a visible or audible signal from a police officer to bring the person's motor vehicle to a stop.

(c) Whoever violates this section is guilty of failure to comply with an order or signal of a police officer. A violation of subsection (a) is a misdemeanor of the first degree. A violation of subsection (b) is a misdemeanor of the first degree, unless the jury or judge as trier of fact finds any one of the following by proof beyond a reasonable doubt:

- (1) In committing the offense, the offender was fleeing immediately after the commission of a felony;
- (2) The operation of the motor vehicle by the offender was a proximate cause of serious physical harm to persons or property;
- (3) The operation of the motor vehicle by the offender caused a substantial risk of serious physical harm to persons or property.

(d) In addition to any other sanction imposed for a violation of subsection (a) of this section or a misdemeanor violation of subsection (b) of this section, the court shall impose a class five suspension from the range specified in Ohio R.C. 4510.02(A)(5). If the offender previously has been found guilty of an offense under this section, in addition to any other sanction imposed for the offense, the court shall impose a class one suspension as described in division (A)(1) of that section. The court may grant limited driving privileges to the offender on a suspension imposed for a misdemeanor violation of this section as set forth in Ohio R.C. 4510.021. No judge shall suspend the first three years of suspension under a class two suspension of an offender's license, permit or privilege required by this division on any portion of the suspension under a class one suspension of an offender's license, permit, or privilege required by this subsection. (ORC 2921.331)

303.02 TRAFFIC DIRECTION IN EMERGENCIES; OBEDIENCE TO SCHOOL GUARD.

(a) Police officers shall direct or regulate traffic in accordance with the provisions of this Traffic Code, provided that, in the event of fire or other emergency or to expedite traffic or safeguard pedestrians, they are authorized to direct traffic as conditions may require notwithstanding the provisions of this Traffic Code. Firemen, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity. The direction of traffic may be by word or audible signal, by gesture or visible signal or by any combination thereof. No person shall fail to comply with any lawful order or direction of any police officer or fireman issued pursuant to this section.

(b) No person shall fail to comply with any lawful order or direction of any school crossing guard invested with authority to direct, control or regulate traffic in the vicinity of the school to which such guard may be assigned.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

303.03 OFFICER MAY REMOVE IGNITION KEY.

A law enforcement officer may remove the ignition key left in the ignition switch of an unlocked and unattended motor vehicle parked on a street or highway, or any public or private property used by the public for purposes of vehicular travel or parking. The officer removing such key shall place notification upon the vehicle detailing his name and badge number, the place where such key may be

reclaimed and the procedure for reclaiming such key. The key shall be returned to the owner of the motor vehicle upon presentation of proof of ownership.

(ORC 4549.05)

303.04 ROAD WORKERS, MOTOR VEHICLES AND EQUIPMENT EXCEPTED.

(a) The provisions of this Traffic Code do not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work upon the surface of a highway within an area designated by traffic control devices, but apply to such persons and vehicles when traveling to or from such work.

(b) The driver of a highway maintenance vehicle owned by this state or any political subdivision of this state, while the driver is engaged in the performance of official duties upon a street or highway, provided the highway maintenance vehicle is equipped with flashing lights and such other markings as are required by law, and such lights are in operation when the driver and vehicle are so engaged, shall be exempt from criminal prosecution for violations of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 and Ohio R.C. 4511.66 and 5577.01 to 5577.09.

(c) (1) This section does not exempt a driver of a highway maintenance vehicle from civil liability arising from a violation of Sections 331.01 to 331.04, 331.06 to 331.08, 331.31, 333.04, 337.01 or Ohio R.C. 4511.66 or 5577.01 to 5577.09.

(2) This section does not exempt a driver of a vehicle who is not a state employee and who is engaged in the transport of highway maintenance equipment from criminal liability for a violation of Ohio R.C. 5577.01 to 5577.09.

(d) As used in this section, "engaged in the performance of official duties" includes driving a highway maintenance vehicle to and from the manufacturer or vehicle maintenance provider and transporting a highway maintenance vehicle, equipment, or materials to and from a work location. (ORC 4511.04)

303.041 EMERGENCY, PUBLIC SAFETY AND CORONER'S VEHICLES EXEMPT.

(a) Ohio R.C. 4511.12, 4511.13, 4511.131, 4511.132, 4511.14, 4511.202, 4511.21, 4511.211, 4511.22, 4511.23, 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.34, 4511.35, 4511.36, 4511.37, 4511.38, 4511.39, 4511.40, 4511.41, 4511.42, 4511.43, 4511.431, 4511.432, 4511.44, 4511.441, 4511.57, 4511.58, 4511.59, 4511.60, 4511.61, 4511.62, 4511.66, 4511.68, 4511.681 and 4511.69 and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to the driver of an emergency vehicle or public safety vehicle if the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and if the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(ORC 4511.041)

(b) Ohio R.C. 4511.25, 4511.26, 4511.27, 4511.28, 4511.29, 4511.30, 4511.31, 4511.32, 4511.33, 4511.35, 4511.36, 4511.37, 4511.38 and 4511.66, and all sections of this Traffic Code or other municipal ordinances that are substantially equivalent to the sections listed above, do not apply to a coroner, deputy coroner, or coroner's investigator operating a motor vehicle in accordance with Ohio R.C. 4513.171. This section does not relieve a coroner, deputy coroner, or coroner's investigator operating a motor vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(ORC 4511.042)

303.05 APPLICATION TO PERSONS RIDING, DRIVING ANIMALS UPON ROADWAY.

Every person riding, driving or leading an animal upon a roadway shall be subject to the provisions of this Traffic Code applicable to the driver of a vehicle, except those provisions of such sections which by their nature are inapplicable.

(ORC 4511.05)

303.06 FREEWAY USE PROHIBITED BY PEDESTRIANS, BICYCLES AND ANIMALS.

(a) No person, unless otherwise directed by a police officer, shall:

(1) As a pedestrian, occupy any space within the limits of the right-of-way of a freeway, except: in a rest area; on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for pedestrian use; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle; or to obtain assistance;

(2) Occupy any space within the limits of the right of way of a freeway, with: an animal-drawn vehicle; a ridden or led animal; herded animals; a pushcart; a bicycle, except on a facility that is separated from the roadway and shoulders of the freeway and is designed and appropriately marked for bicycle use; an electric bicycle; a bicycle with motor attached; a motor driven cycle with a motor which produces not to exceed five brake horsepower; an agricultural tractor; farm machinery; except in the performance of public works or official duties.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.051)

303.07 APPLICATION TO DRIVERS OF GOVERNMENT VEHICLES.

The provisions of this Traffic Code applicable to the drivers of vehicles shall apply to the drivers of all vehicles owned or operated by the United States, any state or any political subdivision thereof, including this Municipality, except as may be otherwise provided by law and subject to such specific exceptions as are set forth with reference to authorized emergency and public safety vehicles.

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

(a) Police officers are authorized to provide for the removal of a vehicle under the following circumstances:

- (1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations.
- (2) When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left on private property for more than forty-eight consecutive hours without the 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 forty-eight consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place. Prior to disposal of an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63, it shall be photographed by a law enforcement officer.
- (3) When any vehicle has been stolen or operated without the consent of the owner and is located upon either public or private property.
- (4) When any vehicle displays illegal license plates or fails to display the current lawfully required plates and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (5) When any vehicle has been used in or connected with the commission of a felony and is located upon either public or private property.
- (6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property, and is located upon any public street or other property open to the public for purposes of vehicular travel or parking.
- (7) When any vehicle is left unattended either on public or private property due to the removal of an ill, injured or arrested operator, or due to the abandonment thereof by the operator during or immediately after pursuit by a law enforcement officer.
- (8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision and is located either on public or private property.
- (9) When any vehicle has been operated by any person who is driving without a lawful license or while his license has been suspended or revoked and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required, and is located upon a public street or other property open to the public for purposes of vehicular travel or parking.
- (11) When the driver has been cited under a state or local law that requires the impoundment of the motor vehicle.

(Ord. 29-02. Passed 8-26-02.)

(b) Any vehicle removed under authority of subsection (a)(2) hereof shall be ordered into storage and/or disposed of as provided under Ohio R.C. 4513.60 et seq. Any other vehicle removed under authority of this section shall be ordered into storage and the Municipal police shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage. Any person desiring to redeem an impounded vehicle shall appear at the police offices to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges.

(c) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima-facie evidence that it was so removed by the owner or operator.

(d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

303.081 OTHER PROSECUTIONS.

The removal and storage of a vehicle impounded, and the payment of the expense of removal and storage of a vehicle so impounded, shall not release the owner or operator of such vehicle from penalties imposed for violation of this Traffic Code or any other traffic ordinances.

(Ord. 71-59. Passed 10-12-59.)

303.082 DAMAGE CAUSED BY REMOVAL OF STORAGE.

(a) The removal by a police officer of a vehicle for any of the reasons mentioned in Section 303.08 shall be at the risk of the owner or operator and there shall be no liability on the part of the City for any damage caused by such removal.

(b) The storage of any vehicle when impounded by the City shall be at the risk of the owner or operator thereof, and the City shall not be liable for damage of any nature or the theft or destruction by fire of any vehicle so impounded.

(c) The City of Lancaster shall not be liable for the theft or destruction of any personal property located within an impounded motor vehicle or attached to such motor vehicle.

(Ord. 29-02. Passed 8-26-02.)

303.083 EXPENSE OF REMOVAL AND STORAGE.

The expense of removal, conveyance or towing of such vehicle and the expense of storage thereof when removed to any impounding

place designated by the Safety-Service Director shall be borne by the owner or operator thereof, and shall be paid before the vehicle is released from the pound.

(Ord. 71-59. Passed 10-12-59.)

303.084 NOTICE TO OWNER; REDEMPTION.

If, at the expiration of twelve hours after any vehicle has been impounded, the owner or operator thereof has not presented himself at the vehicle pound to claim the vehicle, it shall be the duty of the officer in charge of such pound to notify, in writing, the owner, at his last known place of residence, informing him of the nature and circumstances of the violation on account of which such vehicle has been impounded, and also the amount of charges for redelivery.

When the owner or operator of the vehicle impounded presents himself at the vehicle pound to claim his vehicle, he shall furnish satisfactory proof of his right and title thereof to the officer in charge of such pound.

(Ord. 71-59. Passed 10-12-59.)

303.085 IMPOUNDING FEE AND STORAGE CHARGES.

No vehicle impounded under the provisions of this chapter shall be removed from such vehicle pound except upon the payment by the owner or operator of such vehicle of a tow and/or storage charge not to exceed the amounts specified under Ohio R.C. 4513.60(E).

(Ord. 29-02. Passed 8-26-02.)

303.086 PAYMENT OF FEES AND CHARGES UNDER PROTEST. (REPEALED)

(EDITOR'S NOTE: Former Section 303.086 was repealed by Ordinance 35-08, passed October 6, 2008.)

303.087 TOWING ROTATION AND IMPOUNDING.

The Service Safety Director or his agent is hereby authorized and directed, in the interest of public welfare, to create a policy for establishing a towing and impoundment lot plan for motor vehicles impounded under Chapter 303 of the Lancaster Codified Ordinances. Such policy shall be designed in such a manner so that inconvenience to the owners of towed and/or impounded motor vehicles is as minimal as possible. The Service Safety Director is further authorized to operate and maintain an impound lot for the purpose of the impoundment and the storage of motor vehicles lawfully impounded by reason of any section of these Codified Ordinances or the Ohio Revised Code, and to enter into all contracts reasonably necessary to operate and maintain such impound lot. However, the Service Safety Director shall also have authority to delegate to another agency, entity, company or corporation to act as the City's impound lot or to provide dispatch services or administer a towing and impoundment lot plan.

(Ord. 29-02. Passed 8-26-02.)

303.09 PROVIDING FALSE INFORMATION TO POLICE OFFICER.

(a) No person shall knowingly present, display or orally communicate a false name, social security number or date of birth to a law enforcement officer who is in the process of issuing to the person a traffic ticket or complaint.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 4513.361)

303.10 DISPOSITION OF FINES AND REVENUES.

All fines, costs, forfeited deposits, forfeited bail bonds and forfeited recognizances taken for appearances collected under the provisions of this Traffic Code shall be placed to the credit of the General Fund of the City, with the exception of that portion distributed under Ohio R.C. 3375.50 and 3375.53.

(Ord. 4-52. Passed 1-22-52.)

303.99 GENERAL TRAFFIC CODE PENALTIES.

(a) General Misdemeanor Classifications. Whoever violates any provision of this Traffic Code for which violation no penalty is otherwise provided, is guilty of a minor misdemeanor.

(ORC 4513.99)

(b) Penalties. Whoever is convicted of or pleads guilty to a violation of this Traffic Code shall be imprisoned for a definite term or fined, or both, which term of imprisonment and fine shall be fixed by the court as provided in this section.

Classification of Misdemeanor	Maximum Term of Imprisonment	Maximum Fine
First degree	180 days	\$1,000.00
Second degree	90 days	750.00
Third degree	60 days	500.00
Fourth degree	30 days	250.00
Minor	No imprisonment	150.00

(ORC 2929.24; 2929.28)

303.991 COMMITTING AN OFFENSE WHILE DISTRACTED PENALTY.

(a) As used in this section and each section of the Traffic Code where specified, all of the following apply:

(1) "Distracted" means doing either of the following while operating a vehicle:

A. Using a handheld electronic wireless communications device, as defined in Ohio R.C. 4511.204 except when utilizing any of the following:

1. The device's speakerphone function;

2. A wireless technology standard for exchanging data over short distances;
 3. A "voice-operated or hands-free" device that allows the person to use the electronic wireless communications device without the use of either hand except to activate, deactivate, or initiate a feature or function;
 4. Any device that is physically or electronically integrated into the motor vehicle.
- B. Engaging in any activity that is not necessary to the operation of a vehicle and impairs, or reasonably would be expected to impair, the ability of the operator to drive the vehicle safely.
- (2) "Distracted" does not include operating a motor vehicle while wearing an earphone or earplug over or in both ears at the same time. A person who so wears earphones or earplugs may be charged with a violation of Section 331.43.
 - (3) "Distracted" does not include conducting any activity while operating a utility service vehicle or a vehicle for or on behalf of a utility, provided that the driver of the vehicle is acting in response to an emergency, power outage or a circumstance affecting the health or safety of individuals.
- As used in subsection (a)(3) of this section:
- A. "Utility" means an entity specified in division (A), (C), (D), (E) or (G) of Ohio R.C. 4905.03.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.

(b) If an offender violates any section of this Traffic Code which provides for an enhanced penalty for an offense committed while distracted and the distracting activity is a contributing factor to the commission of the violation, the offender is subject to the applicable penalty for the violation and, notwithstanding Ohio R.C. 2929.28, is subject to an additional fine of not more than one hundred dollars (\$100.00) as follows:

- (1) Subject to Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation or summons for a violation of any section of the Traffic Code that indicates that the offender was distracted while committing the violation and that the distracting activity was a contributing factor to the commission of the violation, the offender may enter a written plea of guilty and waive the offender's right to contest the ticket, citation or summons in a trial provided that the offender pays the total amount of the fine established for the violation and pays the additional fine of one hundred dollars (\$100.00).
In lieu of payment of the additional fine of one hundred dollars (\$100.00), the offender instead may elect to attend a distracted driving safety course, the duration and contents of which shall be established by the Ohio Director of Public Safety. If the offender attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of one hundred dollars (\$100.00), so long as the offender submits to the court both the offender's payment in full and such written evidence.
- (2) If the offender appears in person to contest the ticket, citation or summons in a trial and the offender pleads guilty to or is convicted of the violation, the court, in addition to all other penalties provided by law, may impose the applicable penalty for the violation and may impose the additional fine of not more than one hundred dollars (\$100.00).
If the court imposes upon the offender the applicable penalty for the violation and an additional fine of not more than one hundred dollars (\$100.00), the court shall inform the offender that, in lieu of payment of the additional fine of not more than one hundred dollars (\$100.00), the offender instead may elect to attend the distracted driving safety course described in subsection (b)(1) of this section. If the offender elects the course option and attends and successfully completes the course, the offender shall be issued written evidence that the offender successfully completed the course. The offender shall be required to pay the total amount of the fine established for the violation, but shall not be required to pay the additional fine of not more than one hundred dollars (\$100.00), so long as the offender submits to the court the offender's payment and such written evidence.

(ORC 4511.991)

CHAPTER 305

Traffic Control

- 305.01 Regulations by Chief of Police; emergencies; signs.**
- 305.02 Powers of Safety-Service Director.**
- 305.03 Regulations by Director.**
- 305.04 Council may waive 30 days' notice.**
- 305.05 Erection and maintenance of signs and signals.**

CROSS REFERENCES

Power to designate highway as included in a freeway, expressway or thruway - see Ohio R.C. 4511.011
 Power to enact local traffic regulations - see Ohio R.C. 4511.07, 4511.61
 Local traffic control devices - see Ohio R.C. 4511.11
 Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(A), 4511.23
 Designation of through streets and erection of stop or yield signs - see Ohio R.C. 4511.65; TRAF. 313.02

305.01 REGULATIONS BY CHIEF OF POLICE; EMERGENCIES; SIGNS.

The Chief of Police is authorized and empowered to make and enforce regulations necessary to make effective the provisions of this Traffic Code, and to make and enforce temporary regulations to cover emergency or special conditions, and to place signs and devices at intersections and other places.

(Ord. 72-55. Passed 11-28-55.)

305.02 POWERS OF SAFETY-SERVICE DIRECTOR.

The Safety-Service Director is authorized and empowered:

- (a) To designate and maintain by appropriate devices, marks or lines upon the surface of the roadway, crosswalks and intersections where in his opinion there is particular danger to pedestrians crossing the roadway and at such other places as he may deem necessary.
- (b) To establish safety zones and safety islands of such kind and character and at such places as he may deem necessary for the protection of pedestrians.
- (c) To mark lanes for traffic on street pavements at such places as he may deem necessary for the protection of pedestrians.
- (d) To determine the right and left side of laned streets by fixing and marking or designating the center line of such streets.
- (e) To declare any street or part thereof a play street, and to place appropriate signs or devices in the roadway indicating and helping to protect the same.
- (f) To determine the location of truck zones and to place and maintain appropriate signs indicating the same and stating the hours during which the provision regarding truck zones shall be applicable.

(Ord. 4-52. Passed 1-22-52.)

- (g) To establish such bicycle parking zones upon the public streets as will serve the best interest of the public. Such zones shall be used exclusively for the parking of bicycles.

(Ord. 2098. Passed 10-21-40.)

- (h) To establish zones for the loading and unloading of passengers or merchandise, or both, in front of, at the rear or side entrances of any building in conformity with the provisions of Chapter 353, when in his judgment the operation of the business therein, or the use of such building, justifies and traffic conditions permit.

(Ord. 35-52. Passed 5-26-52.)

305.03 REGULATIONS BY DIRECTOR.

(a) The Safety-Service Director is authorized to adopt regulations:

- (1) Designating intersections and all of the intersections on street length as stop intersections.
- (2) Designating streets upon which vehicular traffic shall move in one direction.
- (3) Prohibiting left-hand or right-hand turns or both by vehicles at designated intersections.
- (4) Closing temporarily any highways or parts of the same or restricting the use when required by public safety or convenience.
- (5) Designating streets or parts of streets upon which there shall be no stopping, standing or parking of vehicles for a limited time or for certain hours. No such regulations shall permit parking in any of the places prohibited by this Traffic Code or by law, nor shall any such regulation limiting the time of parking be deemed to apply on Sunday, holidays or between the hours of 6:00 p.m. and 7:00 a.m., unless the regulation and sign evidencing the same shall specifically so state.

(b) Such regulations shall become effective ten days after publication in a newspaper of general circulation in the City, and upon erection of signs sufficient in number to apprise the ordinarily observant person of the existence of the regulation and shall continue to have the force and effect of ordinances until rescinded by the Director or disapproval by ordinance of Council. However, before adopting any regulations the Director shall notify, in writing, Council of such proposed regulation at least thirty days prior to the adopting of such proposed regulation and, in the event the proposed regulation meets with the disapproval of Council, it shall not be adopted. The provisions of the Traffic Code in effect at the date of the passage of this Traffic Code shall be deemed to be regulations adopted under this section and shall continue in full force and effect as such regulations until changed in the manner provided herein. Violation of such regulations so adopted and published shall be subject to the penalties prescribed by this Traffic Code.

(Ord. 4-52. Passed 1-22-52.)

305.04 COUNCIL MAY WAIVE 30 DAYS' NOTICE.

Council by a three-fourths vote of all members elected thereto may waive in writing the thirty days' notice required by Section 305.03 in order that such regulation may become effective ten days after publication and posting of signs.

(Ord. 4-52. Passed 1-22-52.)

305.05 ERECTION AND MAINTENANCE OF SIGNS AND SIGNALS.

(a) It shall be the duty of the Safety-Service Director to place and maintain a stop or yield sign at each and every street intersecting a through street or that portion thereof described and designated as such in this Code or pursuant thereto.

(b) After investigation, he shall determine what portions of the City are within business districts, and erect signs so indicating and setting forth the limitations of speed therein.

(c) He shall place and maintain traffic control devices when and as required under the provisions of this Traffic Code and may place and maintain such additional traffic control devices as he may deem necessary to regulate, guide or warn traffic consistent with the provisions of this Code. All signs and signals designated for a particular purpose shall be uniform wherever practicable.

(Ord. 4-52. Passed 1-22-52.)

TITLE THREE - Streets and Traffic Control Devices

Chap. 311. Street Obstructions and Special Uses.

Chap. 313. Traffic Control Devices.

CHAPTER 311

Street Obstructions and Special Uses

311.01 Placing injurious material or obstruction in street.

311.02 Parades and assemblages.

311.03 Toy vehicles on streets.

311.04 Games in streets.

311.05 Play streets.

311.06 Limitation on height of shrubbery obstructions.

311.07 Skateboards, roller blades, and roller skates in commercial areas and private property.

CROSS REFERENCES

See sectional history for similar State law

Power to regulate processions or assemblages - see Ohio R.C. 4511.07(C)

Dropping, sifting and leaking loads - see TRAF. 339.08

311.01 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET.

(a) No person shall place or knowingly drop upon any part of a street, highway or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such street, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(b) Any person who drops or permits to be dropped or thrown upon any street any noxious, destructive or injurious material shall immediately remove the same.

(c) Any person authorized to remove a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(d) No person shall place any obstruction in or upon a street without proper authority.

(e) No person, with intent to cause physical harm to a person or vehicle, shall place or knowingly drop upon any part of a highway, lane, road, street or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such highway, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(f) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.

(2) Whoever violates subsection (e) of this section is guilty of a misdemeanor of the first degree.

(ORC 4511.74)

311.02 PARADES AND ASSEMBLAGES.

(a) No person, group of persons or organization shall conduct or participate in any parade, assemblage or procession other than a funeral procession upon any street or highway, or block off any street or highway area, without first obtaining a permit from the Mayor.

Applications for such permits shall be made on such forms as may be prescribed and shall contain such information as is reasonably necessary to a fair determination of whether a permit should be issued. Applications shall be filed not less than five days before the time intended for such parade, procession or assemblage.

The permit may be refused or cancelled if:

- (1) The time, place, size or conduct of the parade including the assembly areas and route of march would unreasonably interfere with the public convenience and safe use of the streets and highways.
- (2) The parade would require the diversion of so great a number of police officers to properly police the line of movement, assembly area and areas contiguous thereto so as to deny normal police protection to the Municipality.
- (3) The parade route of march or assembly areas would unreasonably interfere with the movement of police vehicles, fire-fighting equipment or ambulance service to other areas of the Municipality.
- (4) The parade would unreasonably interfere with another parade for which a permit has been issued.
- (5) The information contained in the application is found to be false, misleading or incomplete in any material detail.
- (6) An emergency such as a fire or storm would prevent the proper conduct of the parade.

The permit or any order accompanying it may limit or prescribe reasonable conditions, including the hours, the place of assembly and of dispersal, the route of march or travel and the streets, highways or portions thereof which may be used or occupied.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

311.03 TOY VEHICLES ON STREETS.

(a) No person shall ride any sled, toy vehicles or similar device upon any roadway except while crossing a street on a crosswalk and except on streets set aside as play streets.

(Ord. 45-98. Passed 9-14-98.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

311.04 GAMES IN STREETS.

(a) No person shall fly a kite or play any game of ball or other game on any street unless the same shall have been set aside as a play street.

(Ord. 4-52. Passed 1-22-52.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

311.05 PLAY STREETS.

(a) Whenever authorized signs are erected designating any street or part thereof as a play street, no person shall drive a vehicle upon such street or portion thereof unless necessary to the service or convenience of persons residing on such street, or unless such person resides thereon.

(Ord. 4-52. Passed 1-22-52.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

311.06 LIMITATION ON HEIGHT OF SHRUBBERY OBSTRUCTIONS.

(a) No person shall place or maintain any shrubbery obstruction, excluding trees properly trimmed, within the limits of the right of way of any street or alley at a height in excess of twenty-four inches, so as to cause an obstruction to the view of motorists and other lawful users of the streets or alleys.

(Ord. 46-59. Passed 7-15-59.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

311.07 SKATEBOARDS, ROLLER BLADES, AND ROLLER SKATES IN COMMERCIAL AREAS AND PRIVATE PROPERTY.

(a) (1) It is the purpose of this section to provide for and promote the health, safety and welfare of the general public, including those who wish to use skateboards, roller blades and roller skates, as well as those who drive motor vehicles, and pedestrians who use the sidewalks.

(2) It is the specific intent of this section that none of its provisions are intended to impose any duty whatsoever upon the City, or any of its officers or employees, for whom the implementation and enforcement of this section shall be discretionary and not mandatory.

(b) "Skateboard" means any platform device designed and intended to move or propel one or more riders over a hard surface by means of roller wheels utilizing gravity or human impetus. "Roller skates" and "roller blades" means any device fitted upon the human foot designed and intended to propel persons over hard surfaces by means of roller wheels utilizing gravity or human impetus.

(c) "Business district" is defined as the following areas:

(1) Downtown business district which is both sides on Main Street from High Street to Memorial Drive and both sides of North Columbus Street from Wheeling to Chestnut Street and both sides of Broad Street from Chestnut to Wheeling Street. A business district includes the parking lots adjacent to the businesses in the district.

(2) A general business district is the sidewalk area adjacent to a commercial establishment.

(3) Any business district as may be defined by the Lancaster Codified Ordinances.

(d) No person shall ride a skateboard or wear roller blades or roller skate devices upon public property within any business district of the City, nor shall any person ride a skateboard or wear roller blades or roller skates upon any street within the corporation limits.

(e) Every person riding a skateboard or wearing roller blades or roller skate devices shall do so on private property only with the written permission of the person(s) in control thereof.

(f) Every person riding a skateboard or wearing roller blades or roller skate devices upon sidewalks shall yield the right of way to all pedestrians at all times and shall pass them, without causing injury or reasonable fear for their safety, even if dismounting or the cessation of locomotion shall be necessary.

(g) Every person riding a skateboard shall dismount a skateboard at a street intersection and shall walk as a pedestrian across such intersection.

(h) No person shall ride a skateboard or wear roller blades or roller skate devices on public street or sidewalks after sunset and before sunrise without wearing a reflective vest or other reasonable reflective device or other reasonable reflective devices.

(i) Whoever violates any provision of this section shall be guilty of a minor misdemeanor. A second violation of this offense is a fourth degree misdemeanor.

(Ord. 31-98. Passed 4-13-98.)

CHAPTER 313

Traffic Control Devices

313.01 Obedience to traffic control devices.

313.02 Through streets; stop and yield right-of-way signs.

313.03 Traffic signal indications.

313.04 Lane-use control signal indications.

313.05 Special pedestrian control signals.

313.06 Flashing traffic signals. (Repealed)

- 313.07 Unauthorized signs and signals, hiding from view, advertising.**
- 313.08 Alteration, injury, removal of traffic control devices.**
- 313.09 Driver's duties upon approaching ambiguous or non-working traffic signal.**
- 313.10 Unlawful purchase, possession or sale.**
- 313.11 Portable signal preemption devices prohibited.**

CROSS REFERENCES

See sectional histories for similar State law

Designation of through streets or stop intersections - see Ohio R.C. 4511.07(F), 4511.65

Uniform system of traffic control devices - see Ohio R.C. 4511.09, 4511.11(D)

Placing and maintaining local traffic control devices - see Ohio R.C. 4511.10, 4511.11

Traffic control devices defined - TRAF. 301.46

313.01 OBEDIENCE TO TRAFFIC CONTROL DEVICES.

(a) No pedestrian or driver of a vehicle shall disobey the instructions of any traffic control device placed in accordance with the provisions of this Traffic Code, unless at the time otherwise directed by a police officer.

No provisions of this Traffic Code for which signs are required shall be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section of this Traffic Code does not state that signs are required, that section shall be effective even though no signs are erected or in place.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
(ORC 4511.12)

313.02 THROUGH STREETS; STOP AND YIELD RIGHT-OF-WAY SIGNS.

(a) All State routes are hereby designated as through streets or highways, provided that stop signs, yield signs or traffic control signals shall be erected at all intersections with such through streets or highways, except as otherwise provided in this section. Where two or more State routes that are through streets or highways intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation, except as otherwise provided in this section.

Whenever the Ohio Director of Transportation determines on the basis of an engineering and traffic investigation that stop signs are necessary to stop traffic on a through highway for safe and efficient operation, nothing in this section shall be construed to prevent such installations. When circumstances warrant, the Director also may omit stop signs on roadways intersecting through highways under his jurisdiction. Before the Director either installs or removes a stop sign under this paragraph, he shall give notice, in writing, of that proposed action to the Municipality at least thirty days before installing or removing the stop sign.

(b) Other streets or highways or portions thereof, are hereby designated through streets or highways, if they are within the Municipality, if they have a continuous length of more than one mile between the limits of such street or highway or portion thereof, and if they have "stop" or "yield" signs or traffic control signals at the entrances of the majority of intersecting streets or highways. For purposes of this section, the limits of such street or highway or portion thereof, shall be a municipal corporation line, the physical terminus of the street or highway or any point on such street or highway at which vehicular traffic thereon is required by regulatory signs to stop or yield to traffic on the intersecting street, provided that in residence districts the Municipality may by ordinance designate such street or highway, or portion thereof, not to be a through highway and thereafter the affected residence district shall be indicated by official traffic control devices. Where two or more streets or highways designated under this subsection (b) intersect and no traffic control signal is in operation, stop signs or yield signs shall be erected at one or more entrances thereto by the Ohio Department of Transportation or by Council or the authorized local authority, except as otherwise provided in this section.

(c) Stop signs need not be erected at intersections so constructed as to permit traffic to safely enter a through street or highway without coming to a stop. Signs shall be erected at such intersections indicating that the operator of a vehicle shall yield the right of way to or merge with all traffic proceeding on the through street or highway.

(d) Council or the authorized local authority may designate additional through streets or highways and shall erect stop signs, yield signs or traffic control signals at all streets and highways intersecting such through streets or highways, or may designate any intersection as a stop or yield intersection and shall erect like signs at one or more entrances to such intersection.

(ORC 4511.65)

313.03 TRAFFIC SIGNAL INDICATIONS.

Highway traffic signal indications for vehicles, and pedestrians shall have the following meanings:

(a) Steady Green Signal Indication:

- (1) A. Vehicular traffic facing a circular green signal indication is permitted to proceed straight through or turn right or left, or make a u-turn movement except as such movement is modified by a lane- use sign, turn prohibition sign, lane marking, roadway design, separate turn signal indication, or other traffic control device. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.

- B. In addition, vehicular traffic turning left or making a u-turn movement to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (2) Vehicular traffic facing a green arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 - A. Pedestrians lawfully within an associated crosswalk.
 - B. Other traffic lawfully using the intersection.
- (3) A. Unless otherwise directed by a pedestrian signal indication, as provided in Section 313.05, pedestrians facing a circular green signal indication are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection or so close as to create an immediate hazard at the time that the green signal indication is first displayed.
 - B. Pedestrians facing a green arrow signal indication, unless otherwise directed by a pedestrian signal indication or other traffic control device, shall not cross the roadway.
- (b) Steady Yellow Signal Indication:
 - (1) Vehicular traffic facing a steady circular yellow signal indication is thereby warned that the related green movement or the related flashing arrow movement is being terminated or that a steady red signal indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady circular yellow signal indication is displayed.
 - (2) Vehicular traffic facing a steady yellow arrow signal indication is thereby warned that the related green arrow movement or the related flashing arrow movement is being terminated. The provisions governing vehicular operation under the movement being terminated shall continue to apply while the steady yellow arrow signal indication is displayed.
 - (3) Pedestrians facing a steady circular yellow or yellow arrow signal indication, unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, shall not start to cross the roadway.
- (c) Steady Red Signal Indication:
 - (1) A. Vehicular traffic facing a steady circular red signal indication, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, traffic shall stop before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, before then before entering the intersection; and shall remain stopped until a signal indication to proceed is displayed except as provided in subsections (c)(1), (2) and (3) of this section.
 - B. Except when a traffic control device is in place prohibiting a turn on red or a steady red arrow signal indication is displayed, vehicular traffic facing a steady circular red signal indication is permitted, after stopping, to enter the intersection to turn right, or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be subject to the provisions that are applicable after making a stop at a stop sign.
 - (2) A. Vehicular traffic facing a steady red arrow signal indication shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make another movement permitted by another signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, then before entering the intersection; and shall remain stopped until a signal indication or other traffic control device permitting the movement indicated by such red arrow is displayed.
 - B. When a traffic control device is in place permitting a turn on a steady red arrow signal indication, vehicular traffic facing a steady red arrow indication is permitted, after stopping, to enter the intersection to turn right or to turn left from a one-way street into a one-way street. The right to proceed with the turn shall be limited to the direction indicated by the arrow, and shall be subject to the provisions that are applicable after making a stop at a stop sign.
 - (3) Unless otherwise directed by a pedestrian signal indication as provided in Section 313.05 or other traffic control device, pedestrians facing a steady circular red or steady red arrow signal indication shall not enter the roadway.
 - (4) Local authorities by ordinance, or the Director of Transportation on State highways, may prohibit a right or a left turn against a steady red signal at any intersection, which shall be effective when signs giving notice thereof are posted at the intersection.
- (d) Flashing Green Signal Indication. A flashing green signal indication has no meaning and shall not be used.
- (e) Flashing Yellow Signal Indication:
 - (1) A. Vehicular traffic, on an approach to an intersection, facing a flashing circular yellow signal indication, is permitted to cautiously enter the intersection to proceed straight through or turn right or left or make a u-turn movement except as such movement is modified by lane-use signs, turn prohibition signs, lane markings, roadway design, separate turn signal indications, or other traffic control devices. Such vehicular traffic, including vehicles turning right or left or making a u-turn movement, shall yield the right-of-way to both of the following:
 - 1. Pedestrians lawfully within an associated crosswalk;
 - 2. Other vehicles lawfully within the intersection.
 - B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
 - (2) A. Vehicular traffic, on an approach to an intersection, facing a flashing yellow arrow signal indication, displayed alone or in combination with another signal indication, is permitted to cautiously enter the intersection only to make

the movement indicated by such arrow, or other such movement as is permitted by other signal indications displayed at the same time. Such vehicular traffic, including vehicles turning right or left or making a u-turn, shall yield the right-of-way to both of the following:

1. Pedestrians lawfully within an associated crosswalk;
 2. Other vehicles lawfully within the intersection.
- B. In addition, vehicular traffic turning left or making a u-turn to the left shall yield the right-of-way to other vehicles approaching from the opposite direction so closely as to constitute an immediate hazard during the time when such turning vehicle is moving across or within the intersection.
- (3) Pedestrians facing any flashing yellow signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing yellow signal indication is first displayed.
 - (4) When a flashing circular yellow signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory or warning requirements of the other traffic control device, which might not be applicable at all times, are currently applicable.
- (f) Flashing Red Signal Indication:
- (1) Vehicular traffic, on an approach to an intersection, facing a flashing circular red signal indication, shall stop at a clearly marked stop line; but if there is no stop line, before entering the crosswalk on the near side of the intersection; or if there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection. The right to proceed shall be subject to the provisions that are applicable after making a stop at a stop sign.
 - (2) Pedestrians facing any flashing red signal indication at an intersection, unless otherwise directed by a pedestrian signal indication or other traffic control device, are permitted to proceed across the roadway within any marked or unmarked associated crosswalk. Pedestrians shall yield the right-of-way to vehicles lawfully within the intersection at the time that the flashing red signal indication is first displayed.
 - (3) When a flashing circular red signal indication is displayed as a beacon to supplement another traffic control device, road users are notified that there is a need to pay additional attention to the message contained thereon or that the regulatory requirements of the other traffic control device, which might not be applicable at all times, are currently applicable. Use of this signal indication shall be limited to supplementing stop, do not enter, or wrong way signs, and to applications where compliance with the supplemented traffic control device requires a stop at a designated point.
- (g) General Application: In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.
- (h) Exception. This section does not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by Ohio R.C. 4511.61 and 4511.62. (ORC 4511.13)

313.04 LANE-USE CONTROL SIGNAL INDICATIONS.

- (a) The meanings of lane-use control signal indications are as follows:
- (1) A steady downward green arrow: A road user is permitted to drive in the lane over which the arrow signal indication is located.
 - (2) A steady yellow "X": A road user is to prepare to vacate the lane over which the signal indication is located because a lane control change is being made to a steady red "X" signal indication.
 - (3) A steady white two-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns also is permitted.
 - (4) A steady white one-way left-turn arrow: A road user is permitted to use a lane over which the signal indication is located for a left turn, without opposing turns in the same lane, but not for through travel.
 - (5) A steady red "X": A road user is not permitted to use the lane over which the signal indication is located and that this signal indication shall modify accordingly the meaning of other traffic controls present.

(ORC 4511.131)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.99)

313.05 SPECIAL PEDESTRIAN CONTROL SIGNALS.

(a) Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk", or the symbol of a walking person or an upraised palm are in place, such signals shall indicate the following instructions:

- (1) A steady walking person signal indication, which symbolizes "walk", means that a pedestrian facing the signal indication is permitted to start to cross the roadway in the direction of the signal indication, possibly in conflict with turning vehicles. The pedestrian shall yield the right-of-way to vehicles lawfully within the intersection at the time that the walking person signal indication is first shown.
- (2) A flashing upraised hand signal indication, which symbolizes "don't walk", means that a pedestrian shall not start to cross the roadway in the direction of the signal indication, but that any pedestrian who has already started to cross on a steady walking person signal indication shall proceed to the far side of the traveled way of the street or highway, unless otherwise directed by a traffic control device to proceed only to the median of a divided highway or only to

some other island or pedestrian refuge area.

(3) A steady upraised hand signal indication means that a pedestrian shall not enter the roadway in the direction of the signal indication.

(4) Nothing in this section shall be construed to invalidate the continued use of pedestrian control signals utilizing the word "wait" if those signals were installed prior to March 28, 1985.

(5) A flashing walking person signal indication has no meaning and shall not be used. (ORC 4511.14)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.99)

313.06 FLASHING TRAFFIC SIGNALS.

(Former Ohio R.C. 4511.15 from which Section 313.06 was derived was repealed by House Bill 349, effective April 20, 2012.)

313.07 UNAUTHORIZED SIGNS AND SIGNALS, HIDING FROM VIEW, ADVERTISING.

(a) No person shall place, maintain or display upon or in view of any street any unauthorized sign, signal, marking or device which purports to be, is an imitation of or resembles a traffic control device or railroad sign or signal, or which attempts to direct the movement of traffic, or hides from view or interferes with the effectiveness of any traffic control device or any railroad sign or signal, and no person shall place or maintain, nor shall any public authority permit upon any street any traffic sign or signal bearing thereon any commercial advertising. This section does not prohibit either the erection upon private property adjacent to streets of signs giving useful directional information and of a type that cannot be mistaken for traffic control devices, or the erection upon private property of traffic control devices by the owner of real property in accordance with Ohio R.C. 4511.211 and 4511.432.

Every such prohibited sign, signal, marking or device is a public nuisance, and the Police Chief is authorized to remove it or cause it to be removed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.16)

313.08 ALTERATION, INJURY, REMOVAL OF TRAFFIC CONTROL DEVICES.

(a) No person without lawful authority, shall do any of the following:

(1) Knowingly move, deface, damage, destroy or otherwise improperly tamper with any traffic control device, any railroad sign or signal, or any inscription, shield or insignia on the device, sign or signal, or any part of the device, sign or signal;

(2) Knowingly drive upon or over any freshly applied pavement marking material on the surface of a roadway while the marking material is in an undried condition and is marked by flags, markers, signs or other devices intended to protect it;

(3) Knowingly move, damage, destroy or otherwise improperly tamper with a manhole cover.

(b) (1) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (3) of this section is guilty of a misdemeanor of the third degree. If a violation of subsection (a)(1) or (3) of this section creates a risk of physical harm to any person, the offender is guilty of a misdemeanor of the first degree. If a violation of subsection (a)(1) or (3) of this section causes serious physical harm to property that is owned, leased, or controlled by a state or local authority, the offender is guilty of a felony and shall be prosecuted under appropriate state law.

(2) Except as otherwise provided in this subsection, whoever violates subsection (a)(2) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the third degree.

(ORC 4511.17)

313.09 DRIVER'S DUTIES UPON APPROACHING AMBIGUOUS OR NON-WORKING TRAFFIC SIGNAL.

(a) The driver of a vehicle who approaches an intersection where traffic is controlled by traffic control signals shall do all of the following if the signal facing the driver exhibits no colored lights or colored lighted arrows, exhibits a combination of such lights or arrows that fails to clearly indicate the assignment of right of way, or, if the vehicle is a bicycle or an electric bicycle, the signals are otherwise malfunctioning due to the failure of a vehicle detector to detect the presence of the bicycle or electric bicycle.

(1) Stop at a clearly marked stop line, but if none, stop before entering the crosswalk on the near side of the intersection, or, if none, stop before entering the intersection;

(2) Yield the right of way to all vehicles in the intersection or approaching on an intersecting road, if the vehicles will constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(3) Exercise ordinary care while proceeding through the intersection.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.132)

313.10 UNLAWFUL PURCHASE, POSSESSION OR SALE.

(a) As used in this section, "traffic control device" means any sign, traffic control signal or other device conforming to and placed or erected in accordance with the manual adopted under Ohio R.C. 4511.09 by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic, including signs denoting the names of streets and highways, but does not mean any pavement marking.

(b) No individual shall buy or otherwise possess or sell, a traffic control device, except when one of the following applies:

- (1) In the course of the individual's employment by the State or a local authority for the express or implied purpose of manufacturing, providing, erecting, moving or removing such a traffic control device;
- (2) In the course of the individual's employment by any manufacturer of traffic control devices other than a State or local authority;
- (3) For the purpose of demonstrating the design and function of a traffic control device to State or local officials;
- (4) When the traffic control device has been purchased from the State or a local authority at a sale of property that is no longer needed or is unfit for use;
- (5) The traffic control device has been properly purchased from a manufacturer for use on private property and the person possessing the device has a sales receipt for the device or other acknowledgment of sale issued by the manufacturer.

(c) This section does not preclude, and shall not be construed as precluding, prosecution for theft in violation of Ohio R.C. 2913.02 or a municipal ordinance relating to theft, or for receiving stolen property in violation of Ohio R.C. 2913.51 or a municipal ordinance relating to receiving stolen property.

(d) Whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.18)

313.11 PORTABLE SIGNAL PREEMPTION DEVICES PROHIBITED.

(a) (1) No person shall possess a portable signal preemption device.

(2) No person shall use a portable signal preemption device to affect the operation of a traffic control signal.

(b) Subsection (a)(1) of this section does not apply to any of the following persons and subsection (a)(2) of this section does not apply to any of the following persons when responding to an emergency call:

- (1) A peace officer, as defined in Ohio R.C. 109.71(A)(11), (12), (14) or (19);
- (2) A State highway patrol trooper;
- (3) A person while occupying a public safety vehicle as defined in Ohio R.C. 4511.01(E)(1), (3) or (4).

(c) Whoever violates subsection (a)(1) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates subsection (a)(2) of this section is guilty of a misdemeanor of the first degree.

(d) As used in this section, "portable signal preemption device" means a device that, if activated by a person, is capable of changing a traffic control signal to green out of sequence.

(ORC 4513.031)

TITLE FIVE - Vehicles

- Chap. 331. Operation Generally.
- Chap. 333. OVI; Willful Misconduct; Speed.
- Chap. 335. Licensing; Accidents.
- Chap. 337. Safety and Equipment.
- Chap. 339. Commercial and Heavy Vehicles.
- Chap. 341. Commercial Drivers.
- Chap. 343. Storage of Junk and Other Motor Vehicles.
- Chap. 345. Low-Speed Vehicles.

CHAPTER 331

Operation Generally

- 331.01 Driving upon right side of roadway; exceptions.**
- 331.02 Passing to right when proceeding in opposite directions.**
- 331.03 Overtaking, passing to left; driver's duties.**
- 331.04 Overtaking and passing upon right.**
- 331.05 Overtaking, passing to left of center.**
- 331.06 Additional restrictions on driving upon left side of roadway.**
- 331.07 Hazardous or no passing zones.**
- 331.08 Driving in marked lanes or continuous lines of traffic.**
- 331.09 Following too closely.**
- 331.10 Turning at intersections.**
- 331.11 Turning into private driveway, alley or building.**
- 331.12 "U" turns restricted.**
- 331.13 Starting and backing vehicles.**
- 331.14 Signals before changing course, turning or stopping.**
- 331.15 Hand and arm signals.**
- 331.16 Right of way at intersections.**
- 331.17 Right of way when turning left.**
- 331.18 Operation of vehicle at yield signs.**
- 331.19 Operation of vehicle at stop signs.**
- 331.20 Emergency or public safety vehicles at stop signals or signs.**
- 331.21 Right of way of public safety or coroner's vehicle.**
- 331.211 Report of vehicle failing to yield right of way to public safety vehicle.**

- 331.22 Driving onto roadway from place other than roadway: duty to yield.
- 331.23 Driving onto roadway from place other than roadway: stopping at sidewalk.
- 331.24 Right of way of funeral procession.
- 331.25 Driver's view and control to be unobstructed by load or persons.
- 331.26 Driving upon street posted as closed for repair.
- 331.27 Following and parking near emergency or safety vehicles.
- 331.28 Driving over fire hose.
- 331.29 Driving through safety zone.
- 331.30 One-way streets and rotary traffic islands.
- 331.31 Driving upon divided roadways.
- 331.32 Entering and exiting controlled-access highway.
- 331.33 Obstructing intersection, crosswalk or grade crossing.
- 331.34 Failure to control; weaving; full time and attention.
- 331.35 Occupying a moving trailer or manufactured or mobile home.
- 331.36 Squealing tires, "peeling", cracking exhaust noises.
- 331.37 Driving upon sidewalks, street lawns or curbs.
- 331.38 Stopping for school bus; discharging children.
- 331.39 Driving across grade crossing.
- 331.40 Stopping at grade crossing.
- 331.41 Shortcutting; avoiding traffic control devices.
- 331.42 Littering from motor vehicle.
- 331.43 Wearing earplugs or earphones prohibited.
- 331.44 Advertising from vehicle.
- 331.45 Alleys restricted to use for abutting lots.
- 331.46 Fire lane, fire door, fire exit, blocking prohibited.
- 331.47 Vehicular operation on street closed due to rise in water level.

CROSS REFERENCES

See sectional histories for similar State law
 Obedience to traffic control devices - see TRAF. 313.01
 Operation of bicycles and motorcycles - see TRAF. 373.01 et seq.
 School bus operation - see OAC Ch. 4501-3

331.01 DRIVING UPON RIGHT SIDE OF ROADWAY; EXCEPTIONS.

- (a) Upon all roadways of sufficient width, a vehicle shall be driven upon the right half of the roadway, except as follows:
 - (1) When overtaking and passing another vehicle proceeding in the same direction, or when making a left turn under the rules governing such movements;
 - (2) When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;
 - (3) When driving upon a roadway divided into three or more marked lanes for traffic under the rules applicable thereon;
 - (4) When driving upon a roadway designated and posted with signs for one-way traffic;
 - (5) When otherwise directed by a police officer or traffic control device.
- (b) (1) Upon all roadways any vehicle proceeding at less than the prevailing and lawful speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, and far enough to the right to allow passing by faster vehicles if such passing is safe and reasonable, except under any of the following circumstances:
 - A. When overtaking and passing another vehicle proceeding in the same direction;
 - B. When preparing for a left turn;
 - C. When the driver must necessarily drive in a lane other than the right-hand lane to continue on the driver's intended route.
- (2) Nothing in subsection (b)(1) of this section requires a driver of a slower vehicle to compromise the driver's safety to allow overtaking by a faster vehicle.
- (c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic control devices designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use the lanes, or except as permitted under subsection (a) (2) hereof.

This subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.
 (ORC 4511.25)

331.02 PASSING TO RIGHT WHEN PROCEEDING IN OPPOSITE DIRECTIONS.

- (a) Operators of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not

more than one line of traffic in each direction, each operator shall give to the other one-half of the main traveled portion of the roadway or as nearly one-half as is reasonably possible.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.26)

331.03 OVERTAKING, PASSING TO LEFT; DRIVER'S DUTIES.

(a) The following rules govern the overtaking and passing of vehicles proceeding in the same direction:

- (1) The operator of a vehicle overtaking another vehicle proceeding in the same direction shall, except as provided in subsection (a) (3) hereof, signal to the vehicle to be overtaken, shall pass to the left thereof at a safe distance, and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. When a motor vehicle overtakes and passes a bicycle or electric bicycle, three feet or greater is considered a safe passing distance.
- (2) Except when overtaking and passing on the right is permitted, the operator of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle at the latter's audible signal, and the operator shall not increase the speed of the operator's vehicle until completely passed by the overtaking vehicle.
- (3) The operator of a vehicle overtaking and passing another vehicle proceeding in the same direction on a divided street or highway as defined in Section 331.31, a limited access highway as defined in Ohio R.C. 5511.02 or a highway with four or more traffic lanes, is not required to signal audibly to the vehicle being overtaken and passed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.27)

331.04 OVERTAKING AND PASSING UPON RIGHT.

(a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:

- (1) When the vehicle overtaken is making or about to make a left turn;
- (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.

(b) The driver of a vehicle may overtake and pass another vehicle only under conditions permitting such movement in safety. The movement shall not be made by driving off the roadway.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.28)

331.05 OVERTAKING, PASSING TO LEFT OF CENTER.

(a) No vehicle shall be driven to the left of the center of the roadway in overtaking and passing traffic proceeding in the same direction, unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made, without interfering with the safe operation of any traffic approaching from the opposite direction or any traffic overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for traffic approaching from the opposite direction before coming within 200 feet of any approaching vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.29)

331.06 ADDITIONAL RESTRICTIONS ON DRIVING UPON LEFT SIDE OF ROADWAY.

(a) No vehicle shall be driven upon the left side of the roadway under the following conditions:

- (1) When approaching the crest of a grade or upon a curve in the highway, where the operator's view is obstructed within such a distance as to create a hazard in the event traffic might approach from the opposite direction;
 - (2) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel;
 - (3) When approaching within 100 feet of or traversing any intersection or railroad grade crossing.
- (b) This section does not apply to vehicles upon a one-way roadway, upon a roadway where traffic is lawfully directed to be driven to

the left side or under the conditions described in Section 331.01(a)(2).

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.30)

331.07 HAZARDOUS OR NO PASSING ZONES.

(a) Hazardous zones, commonly called "no passing zones," shall consist of an auxiliary yellow line marked on the roadway pavement and placed parallel to the normal center line or marked lane line. When the auxiliary yellow line appears on the left side in the driver's lane of travel and to the right of the normal center line or marked lane line, no driver shall drive across the auxiliary yellow line to overtake and pass another vehicle proceeding in the same direction. When auxiliary yellow lines appear on both sides of the normal center line or marked lane line, drivers proceeding in either direction shall not drive across such auxiliary yellow lines to overtake and pass another vehicle proceeding in the same direction. No driver shall, at any other time, drive across the yellow auxiliary line when it appears in the driver's lane of travel, except to make a lawfully permitted left-hand turn under the rules governing such movement. No passing signs may also be erected facing traffic to indicate the beginning and end of each no passing zone.

When appropriate signs or markings indicating hazardous or no passing zones are in place and clearly visible, every operator of a vehicle shall obey the directions of the signs or markings, notwithstanding the distance set out in Section 331.06.

(b) Subsection (a) of this section does not apply when all of the following apply:

- (1) The slower vehicle is proceeding at less than half the speed of the speed limit applicable to that location.
- (2) The faster vehicle is capable of overtaking and passing the slower vehicle without exceeding the speed limit.
- (3) There is sufficient clear sight distance to the left of the center or center line of the roadway to meet the overtaking and passing provisions of Section 331.05, considering the speed of the slower vehicle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.31)

331.08 DRIVING IN MARKED LANES OR CONTINUOUS LINES OF TRAFFIC.

(a) Whenever any roadway has been divided into two or more clearly marked lanes for traffic or wherever traffic is lawfully moving in two or more substantially continuous lines in the same direction, the following rules apply:

- (1) A vehicle shall be driven, as nearly as is practicable, entirely within a single lane or line of traffic and shall not be moved from such lane or line until the driver has first ascertained that such movement can be made with safety.
- (2) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle where the roadway is clearly visible and such center lane is clear of traffic within a safe distance, or when preparing for a left turn, or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is posted with signs to give notice of such allocation.
- (3) Official signs may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, or restricting the use of a particular lane to only buses during certain hours or during all hours, and drivers of vehicles shall obey the directions of such signs.
- (4) Official traffic control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the directions of every such device.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.33)

331.09 FOLLOWING TOO CLOSELY.

(a) The operator of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.

The driver of any truck, or motor vehicle drawing another vehicle, when traveling upon a roadway outside a business or residence district shall maintain a sufficient space, whenever conditions permit, between such vehicle and another vehicle ahead so an overtaking motor vehicle may enter and occupy such space without danger. This paragraph does not prevent overtaking and passing nor does it apply to any lane specially designated for use by trucks.

Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, shall maintain a sufficient space between such vehicles so an overtaking vehicle may enter and occupy such space without danger. This paragraph shall

not apply to funeral processions.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.34)

331.10 TURNING AT INTERSECTIONS.

(a) The driver of a vehicle intending to turn at an intersection shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection.
- (3) At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane of the roadway being entered lawfully available to the traffic moving in that lane.
- (4) Markers, buttons or signs may be placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, and when such markers, buttons or signs are so placed, no operator of a vehicle shall turn such vehicle at an intersection other than as directed and required by such markers, buttons or signs.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.36)

331.11 TURNING INTO PRIVATE DRIVEWAY, ALLEY OR BUILDING.

(a) The driver of a vehicle intending to turn into a private road or driveway, alley or building from a public street or highway shall be governed by the following rules:

- (1) Approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
- (2) Upon a roadway where traffic is proceeding in opposite directions, approach for a left turn and a left turn shall be made from that portion of the right half of the roadway nearest the center line thereof.
- (3) Upon a roadway where traffic is restricted to one direction, approach for a left turn and a left turn shall be made as close as practicable to the left-hand curb or edge of the roadway.

It shall be the duty of the driver of any vehicle entering a private road or driveway, alley or building to yield the right of way to pedestrians lawfully using the sidewalk or sidewalk area extending across any alleyway, private road, driveway or building.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.12 "U" TURNS RESTRICTED.

(a) Except as provided in Section 313.03 and subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to or near the crest of a grade, if the vehicle cannot be seen within 500 feet by the driver of any other vehicle approaching from either direction.

(b) The driver of an emergency vehicle or public safety vehicle, when responding to an emergency call, may turn the vehicle so as to proceed in the opposite direction. This subsection applies only when the emergency vehicle or public safety vehicle is responding to an emergency call, is equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle, and when the driver of the vehicle is giving an audible signal by siren, exhaust whistle or bell. This subsection does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(ORC 4511.37)

(c) Except as provided in subsection (b) hereof, no vehicle shall be turned so as to proceed in the opposite direction within an intersection, or upon any street in a business district, or upon a freeway, expressway or controlled-access highway, or where authorized signs are erected to prohibit such movement, or at any other location unless such movement can be made with reasonable safety to other users of the street and without interfering with the safe operation of any traffic that may be affected by such movement.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of

the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.37)

331.13 STARTING AND BACKING VEHICLES.

(a) No person shall start a vehicle which is stopped, standing or parked until such movement can be made with reasonable safety.

Before backing, operators of vehicles shall give ample warning, and while backing they shall exercise vigilance not to injure person or property on the street or highway.

No person shall back a motor vehicle on a freeway, except: in a rest area; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.38)

331.14 SIGNALS BEFORE CHANGING COURSE, TURNING OR STOPPING.

(a) No person shall turn a vehicle or move right or left upon a highway unless and until such person has exercised due care to ascertain that the movement can be made with reasonable safety nor without giving an appropriate signal in the manner hereinafter provided.

When required, a signal of intention to turn or move right or left shall be given continuously during not less than the last 100 feet traveled by the vehicle before turning, except that in the case of a person operating a bicycle or electric bicycle, the signal shall be made not less than one time but is not required to be continuous. A bicycle or electric bicycle operator is not required to make a signal if the bicycle or electric bicycle is in a designated turn lane, and a signal shall not be given when the operator's hands are needed for the safe operation of the bicycle or electric bicycle.

No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give a signal.

Any stop or turn signal required by this section shall be given either by means of the hand and arm, or by signal lights that clearly indicate to both approaching and following traffic intention to turn or move right or left, except that any motor vehicle in use on a highway shall be equipped with, and the required signal shall be given by, signal lights when the distance from the center of the top of the steering post to the left outside limit of the body, cab or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet, whether a single vehicle or a combination of vehicles.

The signal lights required by this section shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.39)

331.15 HAND AND ARM SIGNALS.

(a) Except as provided in subsection (b) hereof, all signals required by this Traffic Code, when given by hand and arm shall be given from the left side of the vehicle in the following manner, and such signals shall indicate as follows:

- (1) Left turn: Hand and arm extended horizontally;
- (2) Right turn: Hand and arm extended upward;
- (3) Stop or decrease speed: Hand and arm extended downward.

(b) As an alternative to subsection (a)(2) hereof, a person operating a bicycle or electric bicycle may give a right turn signal by extending the right hand and arm horizontally and to the right side of the bicycle or electric bicycle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.40)

331.16 RIGHT OF WAY AT INTERSECTIONS.

(a) When two vehicles approach or enter an intersection from different streets or highways at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(b) The right of way rule declared in subsection (a) hereof, is modified at through highways and otherwise as stated in this Traffic Code and Ohio R.C. Chapter 4511.

(ORC 4511.41)

(c) Subject to compliance with any traffic control device, when two vehicles approach or enter a junction of two or more alleys from different directions at approximately the same time, the driver of the vehicle on the left shall yield the right of way to the vehicle on the right.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.41)

331.17 RIGHT OF WAY WHEN TURNING LEFT.

(a) The operator of a vehicle intending to turn to the left within an intersection or into an alley, private road or driveway shall yield the right of way to any vehicle approaching from the opposite direction, whenever the approaching vehicle is within the intersection or so close to the intersection, alley, private road or driveway as to constitute an immediate hazard.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.42)

331.18 OPERATION OF VEHICLE AT YIELD SIGNS.

(a) The driver of a vehicle approaching a yield sign shall slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways. Whenever a driver is involved in a collision with a vehicle in the intersection or junction of roadways, after driving past a yield sign without stopping, the collision shall be prima-facie evidence of the driver's failure to yield the right of way.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.43(B))

331.19 OPERATION OF VEHICLE AT STOP SIGNS.

(a) Except when directed to proceed by a law enforcement officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time the driver is moving across or within the intersection or junction of roadways.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.43(A))

331.20 EMERGENCY OR PUBLIC SAFETY VEHICLES AT STOP SIGNALS OR SIGNS.

(a) The driver of any emergency vehicle or public safety vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety to traffic, but may proceed cautiously past such red or stop sign or signal with due regard for the safety of all persons using the street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.03)

331.21 RIGHT OF WAY OF PUBLIC SAFETY OR CORONER'S VEHICLE.

(a) Upon the approach of a public safety vehicle or coroner's vehicle, equipped with at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and the driver is giving an audible signal by siren, exhaust whistle or bell, no driver of any other vehicle shall fail to yield the right-of-way, immediately drive if practical to a position parallel to and as close as possible to, the right edge or curb of the street clear of any intersection, and stop and remain in that position until the public safety vehicle or coroner's vehicle has passed, except when otherwise directed by a police officer.

(b) This section does not relieve the driver of a public safety vehicle or coroner's vehicle from the duty to drive with due regard for the safety of all persons and property upon the street.

(c) This section applies to a coroner's vehicle only when the vehicle is operated in accordance with Ohio R.C. 4513.171. As used in this section, "coroner's vehicle" means a vehicle used by a coroner, deputy coroner or coroner's investigator that is equipped with a flashing, oscillating or rotating red or blue light and a siren, exhaust whistle, or bell capable of giving an audible signal.

(d) Except as otherwise provided in this subsection or Section 331.211, whoever violates subsection (a) of this section is guilty of a misdemeanor of the fourth degree on a first offense. On a second offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree, and, on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the second degree. (ORC 4511.45)

331.211 REPORT OF VEHICLE FAILING TO YIELD RIGHT OF WAY TO PUBLIC SAFETY VEHICLE.

(a) When the failure of a motor vehicle operator to yield the right-of-way to a public safety vehicle as required by Section 331.21(a) impedes the ability of the public safety vehicle to respond to an emergency, any emergency personnel in the public safety vehicle may report the license plate number and a general description of the vehicle and the operator of the vehicle to the law enforcement agency exercising jurisdiction over the area where the alleged violation occurred.

(b) (1) Upon receipt of a report under subsection (a) of this section, the law enforcement agency may conduct an investigation to attempt to determine or confirm the identity of the operator of the vehicle at the time of the alleged violation.

(2) If the identity of the operator at the time of an alleged violation of Section 331.21(a) is established, the law enforcement agency has probable cause to issue either a written warning or a citation for that violation, and the agency shall issue a written warning or a citation to the operator.

(3) If the identity of the operator of the vehicle at the time of the alleged violation cannot be established, the law enforcement agency may issue a warning to the person who owned the vehicle at the time of the alleged violation. However, in the case of a leased or rented vehicle, the law enforcement agency shall issue the written warning to the person who leased or rented the vehicle at the time of the alleged violation.

(c) (1) Whoever violates Section 331.21(a) based on a report filed under subsection (a) of this section is guilty of a minor misdemeanor and shall be fined one hundred fifty dollars (\$150.00).

(2) If a person who is issued a citation for a violation of Section 331.21(a) based on a report filed under subsection (a) of this section does not enter a written plea of guilty and does not waive the person's right to contest the citation but instead appears in person in the proper court to answer the charge, the trier of fact cannot find beyond a reasonable doubt that the person committed that violation unless the emergency personnel who filed the report appears in person in the court and testifies.

(d) As used in this section:

(1) "License plate" includes any temporary motor vehicle license registration issued under Ohio R.C. 4503.182 or similar law of another jurisdiction.

(2) "Public safety vehicle" does not include an unmarked public safety vehicle or a vehicle used by a public law enforcement officer or other person sworn to enforce the criminal and traffic laws of the State or a vehicle used by the Motor Carrier Enforcement Unit for the enforcement of orders and rules of the Public Utilities Commission.

(ORC 4511.454)

331.22 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: DUTY TO YIELD.

(a) Subject to compliance with any traffic control device, the operator of a vehicle about to enter or cross a highway from an alley or from any place other than another roadway shall yield the right of way to all traffic approaching on the roadway to be entered or crossed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.44)

331.23 DRIVING ONTO ROADWAY FROM PLACE OTHER THAN ROADWAY: STOPPING AT SIDEWALK.

(a) Subject to compliance with any traffic control device, the driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop the vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across the alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.431)

331.24 RIGHT OF WAY OF FUNERAL PROCESSION.

(a) As used in this section "funeral procession" means two or more vehicles accompanying the cremated remains or the body of a deceased person in the daytime when each of the vehicles has its headlights lighted and is displaying a purple and white or an orange and white pennant attached to each vehicle in such a manner as to be clearly visible to traffic approaching from any direction.

(b) Excepting public safety vehicles proceeding in accordance with Section 331.21 or when directed otherwise by a police officer, pedestrians and the operators of all vehicles shall yield the right of way to each vehicle that is a part of a funeral procession. Whenever the lead vehicle in a funeral procession lawfully enters an intersection, the remainder of the vehicles in the procession may continue to follow the lead vehicle through the intersection notwithstanding any traffic control devices or right-of-way provisions of this Traffic Code, provided that the operator of each vehicle exercises due care to avoid colliding with any other vehicle or pedestrian.

(c) No person shall operate any vehicle as a part of a funeral procession without having the headlights of the vehicle lighted and without displaying a purple and white or an orange and white pennant in such a manner as to be clearly visible to traffic approaching from any direction.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.451)

331.25 DRIVER'S VIEW AND CONTROL TO BE UNOBSTRUCTED BY LOAD OR PERSONS.

(a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such number of persons, as to obstruct the view of the driver to the front or sides of the vehicle or to interfere with the driver's control over the driving mechanism of the vehicle.

(b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.70(A),(B),(D))

331.26 DRIVING UPON STREET POSTED AS CLOSED FOR REPAIR.

(a) No person shall drive upon, along or across a street or highway, or any part of a street or highway that has been closed in the process of its construction, reconstruction or repair, and posted with appropriate signs by the authority having jurisdiction to close such street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.71)

331.27 FOLLOWING AND PARKING NEAR EMERGENCY OR SAFETY VEHICLES.

(a) The driver of any vehicle, other than an emergency vehicle or public safety vehicle on official business, shall not follow any emergency vehicle or public safety vehicle traveling in response to an alarm closer than 500 feet, or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm, unless directed to do so by a police officer or a firefighter.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.72)

331.28 DRIVING OVER FIRE HOSE.

(a) No vehicle shall, without the consent of the Fire Chief or fire official in command, be driven over any unprotected fire hose that is laid down on any street or private driveway to be used at any fire or alarm of fire.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.73)

331.29 DRIVING THROUGH SAFETY ZONE.

(a) No vehicle shall at any time be driven through or within a safety zone.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.60)

331.30 ONE-WAY STREETS AND ROTARY TRAFFIC ISLANDS.

(a) Upon a roadway designated and posted with signs for one-way traffic a vehicle shall be driven only in the direction designated. A vehicle passing around a rotary traffic island shall be driven only to the right of the rotary traffic island.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.32)

331.31 DRIVING UPON DIVIDED ROADWAYS.

(a) Whenever any street has been divided into two roadways by an intervening space, or by a physical barrier, or clearly indicated dividing section so constructed as to impede vehicular traffic, every vehicle shall be driven only upon the right-hand roadway, and no vehicle shall be driven over, across or within any such dividing space, barrier or median section, except through an opening, crossover or intersection established by public authority. This section does not prohibit the occupancy of such dividing space, barrier or median section for the purpose of an emergency stop or in compliance with an order of a police officer.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.35)

331.32 ENTERING AND EXITING CONTROLLED-ACCESS HIGHWAY.

(a) No person shall drive a vehicle onto or from any controlled-access highway except at such entrances and exits as are established by public authority.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.33 OBSTRUCTING INTERSECTION, CROSSWALK OR GRADE CROSSING.

(a) No driver shall enter an intersection or marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or grade crossing to accommodate the vehicle the driver is operating without obstructing the passage of other vehicles, pedestrians or railroad trains, notwithstanding any traffic control signal indication to proceed.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.712)

331.34 FAILURE TO CONTROL; WEAVING; FULL TIME AND ATTENTION.

(a) No person shall operate a vehicle without exercising reasonable and ordinary control over such vehicle.

(b) No person shall operate a vehicle in a weaving or zigzag course unless such irregular course is necessary for safe operation or in compliance with law.

(c) No person shall operate a vehicle without giving his full time and attention to the operation of such vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.

(a) No person shall occupy any travel trailer or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.701)

331.36 SQUEALING TIRES, "PEELING," CRACKING EXHAUST NOISES.

(a) No person shall unnecessarily race the motor of any vehicle and no person shall operate any motor vehicle, except in an emergency, in such a manner that the vehicle is so rapidly accelerated or started from a stopped position that the exhaust system emits a loud, cracking or chattering noise unusual to its normal operation, or whereby the tires of such vehicle squeal or leave tire marks on the roadway, commonly called "peeling".

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS.

(a) (1) No person shall drive any vehicle, other than a bicycle or an electric bicycle if the motor is not engaged, upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway.

(2) This prohibition does not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle with the motor engaged while in the performance of the officer's duties.

(3) Nothing in this section shall be construed as prohibiting local authorities from regulating the operation of bicycles or electric bicycles, except that no local authority may require that bicycles or electric bicycles be operated on sidewalks.
(ORC 4511.711(A))

(b) No person shall drive a vehicle on a street lawn area or the curb of a street, except upon a permanent or duly authorized temporary driveway or when otherwise lawfully authorized.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.711)

331.38 STOPPING FOR SCHOOL BUS; DISCHARGING CHILDREN.

(a) The driver of a vehicle upon meeting or overtaking from either direction any school bus stopped for the purpose of receiving or discharging any school child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency, shall stop at least ten feet from the front or rear of the school bus and shall not proceed until such school bus resumes motion, or until signaled by the school bus driver to proceed.

It is no defense to a charge under this subsection (a) hereof that the school bus involved failed to display or be equipped with an automatically extended stop warning sign as required by subsection (b) hereof.

(b) Every school bus shall be equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, and an automatically extended stop warning sign of a type approved by the State Board of Education, which shall be actuated by the driver of the bus whenever but only whenever the bus is stopped or stopping on the roadway for the purpose of receiving or discharging school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. A school bus driver shall not actuate the visual signals or the stop warning sign in designated school bus loading areas where the bus is entirely off the roadway or at school buildings when children or persons attending programs offered by community boards of mental health and County boards of developmental disabilities are loading or unloading at curbside or at buildings when children attending programs offered by head start agencies are boarding or unloading at curbside. The visual signals and stop warning sign shall be synchronized or otherwise operated as required by rule of the Board.

(c) Where a highway has been divided into four or more traffic lanes, a driver of a vehicle need not stop for a school bus approaching from the opposite direction which has stopped for the purpose of receiving or discharging any school child, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, or children attending programs offered by head start agencies. The driver of any vehicle overtaking the school bus shall comply with subsection (a) hereof.

(d) School buses operating on divided highways (d) on highways with four or more traffic lanes shall receive and discharge all school children, persons attending programs offered by community boards of mental health and County boards of developmental disabilities, and children attending programs offered by head start agencies on their residence side of the highway.

(e) No school bus driver shall start the driver's bus until after any child, person attending programs offered by community boards of mental health and County boards of developmental disabilities, or child attending a program offered by a head start agency who may have alighted therefrom has reached a place of safety on the child or person's residence side of the road.

(f) As used in this section:

(1) "Head start agency" has the same meaning as in Ohio R.C. 3301.32.

(2) "School bus", as used in relation to children who attend a program offered by a head start agency, means a bus that is owned and operated by a head start agency, is equipped with an automatically extended stop warning sign of a type approved by the State Board of Education, is painted the color and displays the markings described in Ohio R.C. 4511.77,

and is equipped with amber and red visual signals meeting the requirements of Ohio R.C. 4511.771, irrespective of whether or not the bus has fifteen or more children aboard at any time. "School bus" does not include a van owned and operated by a head start agency, irrespective of its color, lights, or markings.

- (g) (1) Whoever violates subsection (a) of this section may be fined an amount not to exceed five hundred dollars (\$500.00). A person who is issued a citation for a violation of subsection (a) of this section is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in a trial but instead must appear in person in the proper court to answer the charge.
- (2) In addition to and independent of any other penalty provided by law, the court or mayor may impose upon an offender who violates this section a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(7) of Ohio R.C. 4510.02. When a license is suspended under this section, the court or mayor shall cause the offender to deliver the license to the court, and the court or clerk of the court immediately shall forward the license to the Registrar of Motor Vehicles, together with notice of the court's action.

(ORC 4511.75)

331.39 DRIVING ACROSS GRADE CROSSING.

- (a) (1) Whenever any person driving a vehicle approaches a railroad grade crossing, the person shall stop within fifty feet, but not less than fifteen feet from the nearest rail of the railroad, if any of the following circumstances exist at the crossing:
- A. A clearly visible electric or mechanical signal device gives warning of the immediate approach of a train.
 - B. A crossing gate is lowered.
 - C. A flagperson gives or continues to give a signal of the approach or passage of a train.
 - D. There is insufficient space on the other side of the railroad grade crossing to accommodate the vehicle the person is operating without obstructing the passage of other vehicles, pedestrians, or railroad trains, notwithstanding any traffic control signal indication to proceed.
 - E. An approaching train is emitting an audible signal or is plainly visible and is in hazardous proximity to the crossing.
 - F. There is insufficient undercarriage clearance to safely negotiate the crossing.
- (2) A person who is driving a vehicle and who approaches a railroad grade crossing shall not proceed as long as any of the circumstances described in divisions (a)(1)A. to F. of this section exist at the crossing.
- (b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while the gate or barrier is closed or is being opened or closed unless the person is signaled by a law enforcement officer or flagperson that it is permissible to do so.
- (c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(ORC 4511.62)

331.40 STOPPING AT GRADE CROSSING.

- (a) (1) Except as provided in subsection (a)(2) hereof, the operator of any bus, any school vehicle, or any vehicle transporting material required to be placarded under 49 CFR Parts 100-185, before crossing at grade any track of a railroad, shall stop the vehicle, and, while so stopped, shall listen through an open door or open window and look in both directions along the track for any approaching train, and for signals indicating the approach of a train, and shall proceed only upon exercising due care after stopping, looking and listening as required by this section. Upon proceeding, the operator of such a vehicle shall cross only in a gear that will ensure there will be no necessity for changing gears while traversing the crossing and shall not shift gears while crossing the tracks.
- (2) This section does not apply at grade crossings when the Ohio Public Utilities Commission has authorized and approved an exempt crossing as provided in this subsection.
- A. Any local authority may file an application with the Commission requesting the approval of an exempt crossing. Upon receipt of such a request, the Commission shall authorize a limited period for the filing of comments by any party regarding the application and then shall conduct a public hearing in the community seeking the exempt crossing designation. The Commission shall provide appropriate prior public notice of the comment period and the public hearing. By registered mail, the Commission shall notify each railroad operating over the crossing of the comment period.
 - B. After considering any comments or other information received, the Commission may approve or reject the application. By order, the Commission may establish conditions for the exempt crossing designation, including compliance with division (b) of 49 C.F.R. Part 392.10, when applicable. An exempt crossing designation becomes effective only when appropriate signs giving notice of the exempt designation are erected at the crossing as ordered by the Commission and any other conditions ordered by the Commission are satisfied.
 - C. By order, the Commission may rescind any exempt crossing designation made under this section if the Commission finds that a condition at the exempt crossing has changed to such an extent that the continuation of the exempt crossing designation compromises public safety. The Commission may conduct a public hearing to investigate and determine whether to rescind the exempt crossing designation. If the Commission rescinds the designation, it shall order the removal of any exempt crossing signs and may make any other necessary order.
- (3) As used in this section:
- A. "School vehicle" means any vehicle used for the transportation of pupils to and from a school or school-related function if the vehicle is owned or operated by, or operated under contract with, a public or nonpublic school.
 - B. "Bus" means any vehicle originally designed by its manufacturer to transport sixteen or more passengers, including the driver, or carries sixteen or more passengers, including the driver.
 - C. "Exempt crossing" means a highway rail grade crossing authorized and approved by the Public Utilities Commission under subsection (a)(2) hereof at which vehicles may cross without making the stop otherwise required by this

section.

- (4) Except as otherwise provided in this subsection (a)(4), whoever violates subsection (a) hereof is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) hereof or Ohio R.C. 4511.76, 4511.761, 4511.762, 4511.764, 4511.77 or 4511.79, or a municipal ordinance that is substantially similar to any of those sections, whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.

(ORC 4511.63)

- (b) (1) When authorized stop signs are erected at railroad grade crossings, the operator of any vehicle shall stop within fifty but not less than fifteen feet from the nearest rail of the railroad tracks and shall exercise due care before proceeding across such grade crossing.
- (2) Except as otherwise provided in this subsection, whoever violates this subsection (b)(1) hereof is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.61)

331.41 SHORTCUTTING; AVOIDING TRAFFIC CONTROL DEVICES.

- (a) No person shall operate a vehicle across public or private property marked with signs "No Through Traffic" or words of similar import for the purpose of passing from one roadway to another.
- (b) No person shall operate a vehicle across public or private property for the purpose of avoiding compliance with a traffic control device.
- (c) It shall be prima-facie evidence of a violation of this section for the operator of a vehicle to cross public or private property as provided herein without using the service of such property, stopping the engine or both.
- (d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

331.42 LITTERING FROM MOTOR VEHICLE.

- (a) No operator or occupant of a motor vehicle shall, regardless of intent, throw, drop, discard or deposit litter from any motor vehicle in operation upon any street, road or highway, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- (b) No operator of a motor vehicle in operation upon any street, road or highway shall allow litter to be thrown, dropped, discarded or deposited from the motor vehicle, except into a litter receptacle in a manner that prevents its being carried away or deposited by the elements.
- (c) As used in this section, "litter" means garbage, trash, waste, rubbish, ashes, cans, bottles, wire, paper, cartons, boxes, automobile parts, furniture, glass or anything else of an unsightly or unsanitary nature.
- (d) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4511.82)

331.43 WEARING EARPLUGS OR EARPHONES PROHIBITED.

- (a) As used in this section:
- (1) "Earphones" means any device that covers all or a portion of both ears and that does either of the following:
- A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection.
- "Earphones" does not include speakers or other listening devices that are built into protective headgear.
- (2) "Earplugs" means any device that can be inserted into one or both ears and that does either of the following:
- A. Through either a physical connection to another device or a wireless connection, provides the listener with radio programs, music, or other information;
 - B. Provides hearing protection.

- (b) No person shall operate a motor vehicle while wearing earphones over, or earplugs in, both ears.
- (c) This section does not apply to:
- (1) Any person wearing a hearing aid;
 - (2) Law enforcement personnel while on duty;
 - (3) Fire Department personnel and emergency medical service personnel while on duty;
 - (4) Any person engaged in the operation of equipment for use in the maintenance or repair of any highway;
 - (5) Any person engaged in the operation of refuse collection equipment;
 - (6) Any person wearing earphones or earplugs for hearing protection while operating a motorcycle.

(ORC 4511.84)

331.44 ADVERTISING FROM VEHICLE.

- (a) No person shall operate or park a vehicle on any street for the primary purpose of advertising.

(Ord. 4-52. Passed 1-22-52.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

331.45 ALLEYS RESTRICTED TO USE FOR ABUTTING LOTS.

(a) Alleys shall be used only for the purpose of ingress and egress to and from lots abutting such alley, and for the purpose of servicing such abutting lots.

(b) No person shall use any alley just as a thoroughfare to go from one street to another.

(Ord. 72-55. Passed 11-28-55.)

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

331.46 FIRE LANE, FIRE DOOR, FIRE EXIT, BLOCKING PROHIBITED.

(a) "Fire lane" means any street, alley, thoroughfare, designated area, or other means of ingress or egress which shall be kept free from any blocking or obstruction in order to permit the ingress or egress of fire and/or emergency vehicles.

(b) The Chief of the Fire Department shall cause to be erected in and about said fire lanes signs designating such places as fire lanes and said signs shall contain at least the following language: "Fire Lane, No Blocking".

(c) It shall be unlawful for any person, except as provided in this section, to block or obstruct a fire lane or permit any vehicle, structure, merchandise, garbage or any other substance to obstruct or block a fire lane.

(d) It shall be unlawful for any person, except as provided in this section to block or park in front of designated fire doors or fire exits.

(e) The Chief of Police or the Fire Chief or an authorized representative, is hereby empowered to remove or cause to be removed any vehicle or other thing obstructing or blocking a fire lane.

(f) Whoever violates this section shall be guilty of a fourth degree misdemeanor.

(Ord. 34-97. Passed 5-12-97.)

331.47 VEHICULAR OPERATION ON STREET CLOSED DUE TO RISE IN WATER LEVEL.

(a) No person shall operate a vehicle on or onto a public street or highway that is temporarily covered by a rise in water level, including groundwater or an overflow of water, and that is clearly marked by a sign that specifies that the road is closed due to the rise in water level and that any person who uses the closed portion of the road may be fined up to two thousand dollars (\$2,000).

(b) A person who is issued a citation for a violation of subsection (a) hereof is not permitted to enter a written plea of guilty and waive the person's right to contest the citation in court, but instead must appear in person in the proper court to answer the charge.

(c) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.

(2) In addition to the financial sanctions authorized or required under Section 501.99 and to any costs otherwise authorized or required under any provision of law, the court imposing the sentence upon an offender who is convicted of or pleads guilty to a violation of subsection (a) hereof shall order the offender to reimburse one or more rescuers for the cost any such rescuer incurred in rescuing the person, excluding any cost of transporting the rescued person to a hospital or other facility for treatment of injuries, up to a cumulative maximum of two thousand dollars (\$2,000). If more than one rescuer was involved in the emergency response, the court shall allocate the reimbursement proportionately, according to the cost each rescuer incurred. A financial sanction imposed under this section is a judgment in favor of the rescuer and, subject to a determination of indigency under division (B) of Ohio R.C. 2929.28, a rescuer may collect the financial sanction in the same manner as provided in Ohio R.C. 2929.28.

(d) As used in this section:

(1) "Emergency medical service organization", "firefighting agency" and "private fire company" have the same meanings as in Ohio R.C. 9.60.

(2) "Rescuer" means a state agency, political subdivision, firefighting service, private fire company, or emergency medical service organization.

(ORC 4511.714.)

CHAPTER 333

OVI; Willful Misconduct; Speed

333.01 Driving or physical control while under the influence.

333.02 Operation in willful or wanton disregard of safety.

333.03 Maximum speed limits; assured clear distance ahead.

333.031 Approaching a stationary public safety, emergency or road service vehicle.

333.04 Stopping vehicle; slow speed; posted minimum speeds.

333.05 Speed limitations over bridges.

333.06 Speed exceptions for emergency or safety vehicles.

333.07 Street racing prohibited.

333.08 Operation without reasonable control.

333.09 Reckless operation on streets, public or private property.

333.10 Operation in violation of immobilization order.

333.11 Texting while driving prohibited.

CROSS REFERENCES

See sectional histories for similar State law

Drug of abuse defined - see Ohio R.C. 3719.011(A)

Alcohol defined - see Ohio R.C. 4301.01(B)(1)

Alteration of prima-facie speed limits - see Ohio R.C. 4511.21, 4511.22(B), 4511.23

Failure to control vehicle - see TRAF. 331.34

Walking on highway while under the influence - see TRAF. 371.09

333.01 DRIVING OR PHYSICAL CONTROL WHILE UNDER THE INFLUENCE.

- (a) (1) Operation Generally. No person shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- A. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 - B. The person has a concentration of eight-hundredths of one percent or more but less than seventeen-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
 - C. The person has a concentration of ninety-six-thousandths of one percent or more but less than two hundred four-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - D. The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - E. The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
 - F. The person has a concentration of seventeen-hundredths of one percent or more by weight per unit volume of alcohol in the person's whole blood.
 - G. The person has a concentration of two hundred four-thousandths of one percent or more by weight per unit volume of alcohol in the person's blood serum or plasma.
 - H. The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.
 - I. The person has a concentration of two hundred thirty-eight- thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.
 - J. Except as provided in subsection (m) of this section, the person has a concentration of any of the following controlled substances or metabolites of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds any of the following:
 1. The person has a concentration of amphetamine in the person's urine of at least five hundred nanograms of amphetamine per milliliter of the person's urine or has a concentration of amphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of amphetamine per milliliter of the person's whole blood or blood serum or plasma.
 2. The person has a concentration of cocaine in the person's urine of at least one hundred fifty nanograms of cocaine per milliliter of the person's urine or has a concentration of cocaine in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine per milliliter of the person's whole blood or blood serum or plasma.
 3. The person has a concentration of cocaine metabolite in the person's urine of at least one hundred fifty nanograms of cocaine metabolite per milliliter of the person's urine or has a concentration of cocaine metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of cocaine metabolite per milliliter of the person's whole blood or blood serum or plasma.
 4. The person has a concentration of heroin in the person's urine of at least two thousand nanograms of heroin per milliliter of the person's urine or has a concentration of heroin in the person's whole blood or blood serum or plasma of at least fifty nanograms of heroin per milliliter of the person's whole blood or blood serum or plasma.
 5. The person has a concentration of heroin metabolite (6- monoacetyl morphine) in the person's urine of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's urine or has a concentration of heroin metabolite (6-monoacetyl morphine) in the person's whole blood or blood serum or plasma of at least ten nanograms of heroin metabolite (6-monoacetyl morphine) per milliliter of the person's whole blood or blood serum or plasma.
 6. The person has a concentration of L.S.D. in the person's urine of at least twenty-five nanograms of L.S.D. per milliliter of the person's urine or a concentration of L.S.D. in the person's whole blood or blood serum or plasma of at least ten nanograms of L.S.D. per milliliter of the person's whole blood or blood serum or plasma.
 7. The person has a concentration of marihuana in the person's urine of at least ten nanograms of marihuana per milliliter of the person's urine or has a concentration of marihuana in the person's whole blood or blood serum or plasma of at least two nanograms of marihuana per milliliter of the person's whole blood or blood serum or plasma.
 8. Either of the following applies:
 - a. The person is under the influence of alcohol, a drug of abuse or a combination of them, and the person has a concentration of marihuana metabolite in the person's urine of at least fifteen nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least five nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.

- b. The person has a concentration of marihuana metabolite in the person's urine of at least thirty-five nanograms of marihuana metabolite per milliliter of the person's urine or has a concentration of marihuana metabolite in the person's whole blood or blood serum or plasma of at least fifty nanograms of marihuana metabolite per milliliter of the person's whole blood or blood serum or plasma.
 9. The person has a concentration of methamphetamine in the person's urine of at least five hundred nanograms of methamphetamine per milliliter of the person's urine or has a concentration of methamphetamine in the person's whole blood or blood serum or plasma of at least one hundred nanograms of methamphetamine per milliliter of the person's whole blood or blood serum or plasma.
 10. The person has a concentration of phencyclidine in the person's urine of at least twenty-five nanograms of phencyclidine per milliliter of the person's urine or has a concentration of phencyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phencyclidine per milliliter of the person's whole blood or blood serum or plasma.
 11. The State Board of Pharmacy has adopted a rule pursuant to Ohio R.C. 4729.041 that specifies the amount of salvia divinorum and the amount of salvinorin A that constitute concentrations of salvia divinorum and salvinorin A in a person's urine, in a person's whole blood, or in a person's blood serum or plasma at or above which the person is impaired for purposes of operating any vehicle within this Municipality, the rule is in effect, and the person has a concentration of salvia divinorum or salvinorin A of at least that amount so specified by rule in the person's urine, in the person's whole blood, or in the person's blood serum or plasma.
- (2) No person who, within twenty years of the conduct described in subsection (a)(2)A. of this section, previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) or (B), or any other equivalent offense shall do both of the following:
- A. Operate any vehicle within this Municipality while under the influence of alcohol, a drug of abuse or a combination of them;
 - B. Subsequent to being arrested for operating the vehicle as described in subsection (a)(2)A. of this section, being asked by a law enforcement officer to submit to a chemical test or tests under Ohio R.C. 4511.191, and being advised by the officer in accordance with Ohio R.C. 4511.192 of the consequences of the person's refusal or submission to the test or tests, refuse to submit to the test or tests.
- (b) Operation After Under-Age Consumption. No person under twenty-one years of age shall operate any vehicle within this Municipality, if, at the time of the operation, any of the following apply:
- (1) The person has a concentration of at least two-hundredths of one percent but less than eight-hundredths of one percent by weight per unit volume of alcohol in the person's whole blood.
 - (2) The person has a concentration of at least three-hundredths of one percent but less than ninety-six-thousandths of one percent by weight per unit volume of alcohol in the person's blood serum or plasma.
 - (3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.
 - (4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.
- (c) One Conviction Limitation. In any proceeding arising out of one incident, a person may be charged with a violation of subsection (a)(1)A. or (a)(2) and a violation of subsection (b)(1), (2) or (3) of this section, but the person may not be convicted of more than one violation of these subsections.
(ORC 4511.99)
- (d) Physical Control.
- (1) As used in this subsection, "physical control" means being in the driver's position of the front seat of a vehicle and having possession of the vehicle's ignition key or other ignition device.
 - (2) A. No person shall be in physical control of a vehicle if, at the time of the physical control, any of the following apply:
 1. The person is under the influence of alcohol, a drug of abuse, or a combination of them.
 2. The person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (a)(1)B., C., D. or E. hereof.
 3. Except as provided in subsection (d)(3) of this section, the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the concentration specified in subsection (a)(1)J. hereof.
 - B. No person under twenty-one years of age shall be in physical control of a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or while the person's whole blood, blood serum or plasma, breath, or urine contains at least the concentration of alcohol specified in subsection (b)(1) to (4) hereof.
 - (3) Subsection (d)(2)A.3. of this section does not apply to a person who is in physical control of a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in subsection (a)(1)J. hereof, if both of the following apply:
 - A. The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
 - B. The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.
- (e) Evidence: Tests.
- (1) A. In any criminal prosecution or juvenile court proceeding for a violation of (a)(1)A. of this section or for any equivalent offense, that is vehicle-related the result of any test of any blood or urine withdrawn and analyzed at any health care provider, as defined in Ohio R.C. 2317.02, may be admitted with expert testimony to be considered with any other relevant and competent evidence in determining the guilt or innocence of the defendant.
 - B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a) or (b) of this section or for an

equivalent offense that is vehicle related, the court may admit evidence on the concentration of alcohol, drugs of abuse, controlled substances, metabolites of a controlled substance, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within three hours of the time of the alleged violation. The three-hour time limit specified in this subsection regarding the admission of evidence does not extend or affect the two-hour time limit specified in Ohio R.C. 4511.192(A) as the maximum period of time during which a person may consent to a chemical test or tests as described in that section.

The court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them as described in this section when a person submits to a blood, breath, urine or other bodily substance test at the request of a law enforcement officer under Ohio R.C. 4511.191, or a blood or urine sample is obtained pursuant to a search warrant. Only a physician, a registered nurse, an emergency medical technician-intermediate, an emergency medical technician-paramedic or a qualified technician, chemist, or phlebotomist shall withdraw a blood sample for the purpose of determining the alcohol, drug, controlled substance, metabolite of a controlled substance, or combination content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this subsection may refuse to withdraw blood under this subsection, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood.

The bodily substance withdrawn under subsection (e)(1)B. hereof shall be analyzed in accordance with methods approved by the Director of Health by an individual possessing a valid permit issued by the Director pursuant to Ohio R.C. 3701.143.

- C. As used in subsection (e)(1)B. of this section, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.
- (2) In a criminal prosecution or juvenile court proceeding for violation of subsection (a) of this section or for an equivalent offense that is vehicle related, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in subsections (a)(1)B., C., D. and E. of this section, or less than the applicable concentration of a listed controlled substance or a listed metabolite of a controlled substance specified for a violation of subsection (a)(1)J. of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This subsection does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of subsection (b) of this section or for an equivalent offense that is substantially equivalent to that subsection.
- (3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis.
If the chemical test was obtained pursuant to subsection (e)(1)B. hereof, the person tested may have a physician, a registered nurse, or a qualified technician, chemist or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. If the person was under arrest as described in division (A)(5) of Ohio R.C. 4511.191, the arresting officer shall advise the person at the time of the arrest that the person may have an independent chemical test taken at the person's own expense. If the person was under arrest other than described in division (A)(5) of Ohio R.C. 4511.191, the form to be read to the person to be tested, as required under Ohio R.C. 4511.192, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.
- (4) A. As used in subsections (e)(4)B. and C. of this section, "national highway traffic safety administration" means the National Traffic Highway Safety Administration established as an administration of the United States Department of Transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.
- B. In any criminal prosecution or juvenile court proceeding for a violation of subsection (a), (b) or (d) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine, if a law enforcement officer has administered a field sobriety test to the operator or person in physical control of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the National Highway Traffic Safety Administration, all of the following apply:
1. The officer may testify concerning the results of the field sobriety test so administered.
 2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.
 3. If testimony is presented or evidence is introduced under subsection (e)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.
- C. Subsection (e)(4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that subsection, from considering evidence or testimony that is not otherwise disallowed by subsection (e)(4)B. of this section. (ORC 4511.19; 4511.194)
- (f) Forensic Laboratory Reports.

- (1) Subject to subsection (f)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of subsection (a)(1)B., C., D., E., F., G., H., I., or J. or (b)(1), (2), (3) or (4) of this section or for an equivalent offense that is substantially equivalent to any of those subsections, a laboratory report from any laboratory personnel issued a permit by the Department of Health authorizing an analysis as described in this subsection that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this subsection shall be admitted as prima- facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:
- A. The signature, under oath, of any person who performed the analysis;
 - B. Any findings as to the identity and quantity of alcohol, a drug of abuse, a controlled substance, a metabolite of a controlled substance, or a combination of them that was found;
 - C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;
 - D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Department of Health.

- (2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in subsection (f) (1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.
- (3) A report of the type described in subsection (f)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(g) Immunity From Liability For Withdrawing Blood. Except as otherwise provided in this subsection, any physician, registered nurse, emergency medical technician-intermediate, emergency medical technician-paramedic, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section or Ohio R.C. 4511.191 or 4511.192, is immune from criminal liability and civil liability based upon a claim of assault and battery or any other claim that is not a claim of malpractice, for any act performed in withdrawing blood from the person. The immunity provided in this subsection also extends to an emergency medical service organization that employs an emergency medical technician-intermediate or emergency medical technician-paramedic who withdraws blood under this section. The immunity provided in this subsection is not available to a person who withdraws blood if the person engaged in willful or wanton misconduct.

As used in this subsection, "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.

(h) General OVI Penalty.

- (1) Whoever violates any provision of subsections (a)(1)A. to I. or (a)(2) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. Whoever violates subsection (a)(1)J. of this section is guilty of operating a vehicle while under the influence of a listed controlled substance or a listed metabolite of a controlled substance. The court shall sentence the offender for either offense under Ohio R.C. Chapter 2929, and this Traffic Code, except as otherwise authorized or required by subsections (h)(1)A. to E. of this section:

A. Except as otherwise provided in subsections (h)(1)B., C., D. or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsections (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of three consecutive days. As used in this subsection, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months.

The court may suspend the execution of the three-day jail term under this subsection if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under Ohio R.C. 5119.38.

The court also may suspend the execution of any part of the three-day jail term under this subsection if it places the offender under a community control sanction pursuant to Ohio R.C. 2929.25 for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022,

all penalties imposed upon the offender by the court under subsection (h)(1)A.1. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.1. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Ohio R.C. 5119.38. As used in this subsection, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a drivers' intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days.

If the court grants unlimited driving privileges to a first-time offender under Ohio R.C. 4510.022, all penalties imposed upon the offender by the court under subsection (h)(1)A.2. of this section for the offense apply, except that the court shall suspend any mandatory or additional jail term imposed by the court under subsection (h)(1)A.2. of this section upon granting unlimited driving privileges in accordance with Ohio R.C. 4510.022.

The court may require the offender, under a community control sanction imposed under Ohio R.C. 2929.25, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than three hundred seventy-five dollars (\$375.00) and not more than one thousand seventy-five dollars (\$1,075).
4. In all cases, a suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege for a definite period of one to three years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022.

- B. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to one violation of subsection (a) or (b) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, except as otherwise provided in this subsection, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months.

In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court shall require the offender to be assessed by a community addiction services provider that is authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The purpose of the assessment is to determine the degree of the offender's alcohol usage and to determine whether or not treatment is warranted. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.

3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than five hundred twenty-five dollars (\$525.00) and not more than one thousand six hundred twenty-five dollars (\$1,625).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of one to seven years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Ohio R.C. 4503.233 and impoundment of the license plates of that vehicle for ninety days. (ORC 4511.193)
- C. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to two violations of subsection (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:
1. If the sentence is being imposed for a violation of subsection (a)(1)A., B., C., D., E., or J. of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 2. If the sentence is being imposed for a violation of subsection (a)(1)F., G., H. or I. or (a)(2) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this subsection unless, subject to subsection (h)(3) of this section, it instead imposes a sentence under that subsection consisting of both a jail term and a term of electronically monitored house arrest with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the sixty-day mandatory jail term. Notwithstanding the terms of imprisonment set forth in Section 303.99, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.
 3. In all cases, notwithstanding the fines set forth in Section 303.99, a fine of not less than eight hundred fifty dollars (\$850.00) and not more than two thousand seven hundred fifty dollars (\$2,750).
 4. In all cases, a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for a definite period of two to twelve years. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. (ORC 4511.19)
 5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Ohio R.C. 4503.234. Subsection (h)(5) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this subsection. (ORC 4511.193)
 6. In all cases, the court shall order the offender to participate with a community addiction services provider authorized by Ohio R.C. 5119.21, subject to subsection (k) of this section, and shall order the offender to follow the treatment recommendations of the services provider. The operator of the services provider shall determine and assess the degree of the offender's alcohol dependency and shall make recommendations for treatment. Upon the request of the court, the services provider shall submit the results of the assessment to the court, including all treatment recommendations and clinical diagnoses related to alcohol use.
- D. Except as otherwise provided in subsection (h)(1)E. of this section, an offender who, within ten years of the offense, previously has been convicted of or pleaded guilty to three or four violations of subsection (a) or (b) of this section or other equivalent offenses or an offender who, within twenty years of the offense, previously has been convicted of or pleaded guilty to five or more violations of that nature is guilty of a felony of the fourth degree and shall be prosecuted under appropriate state law.
- E. An offender who previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 4511.19(A) that was a felony, regardless of when the violation and the conviction or guilty plea occurred, is guilty of a felony of the third degree and shall be prosecuted under appropriate state law.
- (2) An offender who is convicted of or pleads guilty to a violation of subsection (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Ohio R.C. 4511.191.
 - (3) If an offender is sentenced to a jail term under subsection (h)(1)B.1. or 2. or (h)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this subsection that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring.
As an alternative to a mandatory jail term of ten consecutive days required by subsection (h)(1)B.1. of this section, the court, under this subsection, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the five consecutive days

in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of twenty consecutive days required by subsection (h)(1)B.2. of this section, the court, under this subsection, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to a mandatory jail term of thirty consecutive days required by subsection (h)(1)C.1. of this section, the court, under this subsection, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring or both types of monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

As an alternative to the mandatory jail term of sixty consecutive days required by subsection (h)(1)C.2. of this section, the court, under this subsection, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring, continuous alcohol monitoring, or both types of monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

- (4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under subsection (h) of this section and if Ohio R.C. 4510.13 permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Ohio R.C. 4503.231, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Ohio R.C. 4503.231.
- (5) If title to a motor vehicle that is subject to an order of criminal forfeiture under this section is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.
- (6) In all cases in which an offender is sentenced under subsection (h) of this section, the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, the court, in addition to any other penalties provided by law, may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under subsection (h) of this section.
- (7) A court may order an offender to reimburse a law enforcement agency for any costs incurred by the agency with respect to a chemical test or tests administered to the offender if all of the following apply:
 - A. The offender is convicted of or pleads guilty to a violation of subsection (a) of this section.
 - B. The test or tests were of the offender's whole blood, blood serum or plasma, or urine.
 - C. The test or tests indicated that the offender had a prohibited concentration of a controlled substance or a metabolite of a controlled substance in the offender's whole blood, blood serum or plasma, or urine at the time of the offense.
- (8) As used in subsection (h) of this section, "electronic monitoring", "mandatory prison term"
- (i) Vehicle Operation After Underage Alcohol Consumption Penalty. Whoever violates subsection (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:
 - (1) Except as otherwise provided in subsection (i)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and 4510.13. The court may grant unlimited driving privileges with an ignition interlock device relative to the suspension and may reduce the period of suspension as authorized under Ohio R.C. 4510.022. If the court grants unlimited driving privileges under Ohio R.C. 4510.022, the court shall suspend any jail term imposed under subsection (i)(1) of this section as required under that section.
 - (2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of subsection (a) or (b) of this section or other equivalent offenses, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02. The court may grant limited driving privileges relative to the suspension under Ohio R.C. 4510.021 and

4510.13.

- (3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Ohio R.C. 2941.1416 and if the court imposes a jail term for the violation of subsection (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Ohio R.C. 2929.24.
- (4) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28, in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the violation of subsection (b) of this section.

(ORC 4511.19)

(j) Physical Control Penalty. Whoever violates subsection (d) hereof is guilty of having physical control of a vehicle while under the influence, a misdemeanor of the first degree. In addition to other sanctions imposed, the court may impose on the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

(ORC 4511.194)

(k) Compliance With Ohio R.C. Chapter 5119 Standards.

- (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Ohio R.C. Chapter 5119 by the Director of Mental Health and Addiction Services.
- (2) An offender who stays in a driver's intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from the court's indigent drivers' alcohol treatment fund.

(l) Appeal Does Not Stay Operation of License Suspension. If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(m) Subsection (a)(1)J. of this section does not apply to a person who operates a vehicle while the person has a concentration of a listed controlled substance or a listed metabolite of a controlled substance in the person's whole blood, blood serum or plasma, or urine that equals or exceeds the amount specified in that subsection, if both of the following apply:

- (1) The person obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs.
- (2) The person injected, ingested, or inhaled the controlled substance in accordance with the health professional's directions.

(n) The prohibited concentrations of a controlled substance or a metabolite of a controlled substance listed in subsection (a)(1)J. of this section also apply in a prosecution of a violation of Ohio R.C. 2923.16(D) in the same manner as if the offender is being prosecuted for a prohibited concentration of alcohol.

(o) Conflict of Terms. All terms defined in Ohio R.C. 4510.01 apply to this section. If the meaning of a term defined in Ohio R.C. 4510.01 conflicts with the meaning of the same term as defined in Ohio R.C. 4501.01 or this Traffic Code, the term as defined in Ohio R.C. 4510.01 applies to this section. (ORC 4511.19)

(p) Indigent Drivers Alcohol Treatment Fund. Twenty-five dollars (\$25.00) of any fine imposed for a violation of subsection (a) hereof shall be deposited into the municipal or county indigent drivers alcohol treatment fund pursuant to Ohio R.C. 4511.193.

(ORC 4511.193)

(q) Definitions. As used in this section:

(1) "Equivalent offense" means any of the following:

- A. A violation of division (A) or (B) of Ohio R.C. 4511.19;
- B. A violation of a municipal OVI ordinance;
- C. A violation of Ohio R.C. 2903.04 in a case in which the offender was subject to the sanctions described in division (D) of that section;
- D. A violation of division (A)(1) of Ohio R.C. 2903.06 or 2903.08 or a municipal ordinance that is substantially equivalent to either of those divisions;
- E. A violation of division (A)(2), (3) or (4) of Ohio R.C. 2903.06, division (A)(2) of Ohio R.C. 2903.08, or former Ohio R.C. 2903.07, or a municipal ordinance that is substantially equivalent to any of those divisions or that former section, in a case in which a judge or jury as the trier of fact found that the offender was under the influence of alcohol, a drug of abuse, or a combination of them;
- F. A violation of division (A) or (B) of Ohio R.C. 1547.11;
- G. A violation of a municipal ordinance prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating or being in physical control of any vessel underway or from manipulating any water skis, aquaplane or similar device on the waters of this State with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath or urine;
- H. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;
- I. A violation of a former law of this State that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19 or division (A) or (B) of Ohio R.C. 1547.11;

(2) "Mandatory jail term" means the mandatory term in jail of three, six, ten, twenty, thirty, or sixty days that must be imposed under subsection (h)(1)A., B. or C. upon an offender convicted of a violation of subsection (a) hereof and in relation to which all of the following apply:

- A. Except as specifically authorized under this section, the term must be served in a jail.
- B. Except as specifically authorized under this section, the term cannot be suspended, reduced or otherwise modified pursuant to Ohio R.C. 2929.21 to 2929.28, or any other provision of the Ohio Revised Code.
- (3) "Municipal OVI ordinance" and "municipal OVI offense" mean any municipal ordinance prohibiting a person from operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or prohibiting a person from operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum, or plasma, breath or urine.
- (4) "Community residential sanction", "continuous alcohol monitoring", "jail", "mandatory prison term", "mandatory term of local incarceration", "sanction" and "prison term" have the same meanings as in Ohio R.C. 2929.01.
- (5) "Drug of abuse" has the same meaning as in Ohio R.C. 4506.01.
- (6) "Equivalent offense that is vehicle-related" means an equivalent offense that is any of the following:
 - A. A violation described in subsection (q)(1), (2), (3), (4) or (5) hereof;
 - B. A violation of an existing or former municipal ordinance, law of another state, or law of the United States that is substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19;
 - C. A violation of a former law of this state that was substantially equivalent to division (A) or (B) of Ohio R.C. 4511.19. (ORC 4511.181)

333.02 OPERATION IN WILLFUL OR WANTON DISREGARD OF SAFETY.

- (a) No person shall operate a vehicle on any street or highway in willful or wanton disregard of the safety of persons or property. (ORC 4511.20)
- (b) No person shall operate a vehicle on any public or private property other than streets or highways, in willful or wanton disregard of the safety of persons or property.
This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.
- (c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree. (ORC 4511.201)
- (d) Whenever a person is found guilty under this section of operating a motor vehicle in violation of this section relating to reckless operation, the trial court of any court of record, in addition to or independent of all other penalties provided by law, may impose a class five suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. (ORC 4510.15)

333.03 MAXIMUM SPEED LIMITS; ASSURED CLEAR DISTANCE AHEAD.

- (a) No person shall operate a motor vehicle at a speed greater or less than is reasonable or proper, having due regard to the traffic, surface and width of the street or highway and any other conditions, and no person shall drive any motor vehicle in and upon any street or highway at a greater speed than will permit the person to bring it to a stop within the assured clear distance ahead.
- (b) It is prima-facie lawful, in the absence of a lower limit declared or established pursuant to Ohio R.C. 4511.21 by the Ohio Director of Transportation or Council, for the operator of a motor vehicle to operate the same at a speed not exceeding the following:
 - (1) A. Twenty miles per hour in school zones during school recess and while children are going to or leaving school during the opening or closing hours, and when twenty miles per hour school speed limit signs are erected; except, that on controlled-access highways and expressways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(4) hereof and on freeways, if the right-of-way line fence has been erected without pedestrian opening, the speed shall be governed by subsection (b)(7) hereof. The end of every school zone may be marked by a sign indicating the end of the zone. Nothing in this section or in the manual and specifications for a uniform system of traffic control devices shall be construed to require school zones to be indicated by signs equipped with flashing or other lights, or giving other special notice of the hours in which the school zone speed limit is in effect.
- B. As used in this section, "school" means all of the following:
 - 1. Any school chartered under Ohio R.C. 3301.16;
 - 2. Any nonchartered school that during the preceding year filed with the Department of Education in compliance with O.A.C. § 3301-35-08, a copy of the school's report for the parents of the school's pupils certifying that the school meets state minimum standards for nonchartered, nontax-supported schools and presents evidence of this filing to the jurisdiction from which it is requesting the establishment of a school zone;
 - 3. Any special elementary school that in writing requests the County Engineer to create a school zone at the location of the school. Upon receipt of such written request, the County Engineer shall create a school zone at that location by erecting appropriate signs;
 - 4. Any preschool education program operated by an educational service center that is located on a street or highway with a speed limit of forty-five miles per hour or more, when the educational service center in writing requests that the County Engineer create a school zone at the location of that program. Upon receipt of such a written request, the County Engineer shall create a school zone at that location by erecting the appropriate signs.
- C. As used in this section, "school zone" means that portion of a street or highway passing a school fronting upon the street or highway that is encompassed by projecting the school property lines to the fronting street or highway. Upon request from the Municipality for streets and highways under its jurisdiction, the Ohio Director of Transportation may extend the traditional school zone boundaries. The distances in subsections (b)(1)C.1. to 3. hereof shall not exceed 300 feet per approach per direction and are bounded by whichever of the

following distances or combinations thereof the Director approves as most appropriate:

1. The distance encompassed by projecting the school building lines normal to the fronting highway and extending a distance of 300 feet on each approach direction;
2. The distance encompassed by projecting the school property lines intersecting the fronting highway and extending a distance of 300 feet on each approach direction;
3. The distance encompassed by the special marking of the pavement for a principal school pupil crosswalk plus a distance of 300 feet on each approach direction of highway;

Nothing in this section shall be construed to invalidate the Director's initial action on August 9, 1976, establishing all school zones at the traditional school zone boundaries defined by projecting school property lines, except when those boundaries are extended as provided in subsections (b)(1)A. and C. hereof.

D. As used in this subsection, "crosswalk" has the meaning given that term in Section 301.09. The Director may, upon request by resolution of Council, and upon submission by the Municipality of such engineering, traffic and other information as the Director considers necessary, designate a school zone on any portion of a State route lying within the Municipality that includes a crosswalk customarily used by children going to or leaving a school during recess and opening and closing hours, whenever the distance, as measured in a straight line, from the school property line nearest the crosswalk to the nearest point of the crosswalk is no more than 1,320 feet. Such a school zone shall include the distance encompassed by the crosswalk and extending 300 feet on each approach direction of the State route;

- (2) Twenty-five miles per hour in all other portions of the Municipality, except on State routes outside business districts, through highways outside business districts and alleys;
- (3) Thirty-five miles per hour on all State routes or through highways within the Municipality outside business districts, except as provided in subsections (b)(4) and (5) hereof;
- (4) Fifty miles per hour on controlled-access highways and expressways within the Municipality, except as provided in subsections (b)(8) to (b)(12) of this section;
 - (5) Fifty miles per hour on State routes within the Municipality outside urban districts unless a lower prima-facie speed is established as further provided in this section;
- (6) Fifteen miles per hour on all alleys within the Municipality;
- (7) Fifty-five miles per hour on freeways with paved shoulders inside the Municipality other than freeways as provided in subsection (b)(10) and (12);
- (8) Sixty miles per hour on rural expressways with traffic control signals and on all portions of rural divided highways, except as provided in subsections (b)(9) and (10) of this section;
- (9) Sixty-five miles per hour on all rural expressways without traffic control signals;
- (10) Seventy miles per hour on all rural freeways;
- (11) Fifty-five miles per hour on all portions of freeways or expressways in congested areas as determined by the Director and that are located within a municipal corporation or within an interstate freeway outerbelt, except as provided in subsection (b)(12) of this section;
- (12) Sixty-five miles per hour on all portions of freeways or expressways without traffic control signals in urbanized areas.

(c) It is prima-facie unlawful for any person to exceed any of the speed limitations in subsection (b)(1)A. to (b)(6) hereof, or any declared or established pursuant to this section by the Director or local authorities and it is unlawful for any person to exceed any of the speed limitations in subsection (d) hereof. No person shall be convicted of more than one violation of this section for the same conduct, although violations of more than one provision of this section may be charged in the alternative in a single affidavit.

(d) No person shall operate a motor vehicle upon a street or highway as follows:

- (1) At a speed exceeding fifty-five miles per hour, except upon a highway, expressway or freeway as provided in subsection (b)(8), (9), (10) and (12) hereof;
- (2) At a speed exceeding sixty miles per hour upon a highway as provided in subsection (b)(8) hereof;
- (3) At a speed exceeding sixty-five miles per hour upon an expressway as provided in subsection (b)(9) hereof, or upon a freeway as provided in subsection (b)(12) of this section, except upon a freeway as provided in subsection (b)(10) hereof;
- (4) At a speed exceeding seventy miles per hour upon a freeway as provided in subsection (b)(10) hereof;
- (5) At a speed exceeding the posted speed limit upon a highway, expressway or freeway for which the Director has determined and declared a speed limit pursuant to Ohio R.C. 4511.21(I)(2) or (L)(2).

(e) In every charge of violation of this section the affidavit and warrant shall specify the time, place and speed at which the defendant is alleged to have driven, and in charges made in reliance upon subsection (c) hereof also the speed which subsections (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section declares is prima-facie lawful at the time and place of such alleged violation, except that in affidavits where a person is alleged to have driven at a greater speed than will permit the person to bring the vehicle to a stop within the assured clear distance ahead the affidavit and warrant need not specify the speed at which the defendant is alleged to have driven.

(f) When a speed in excess of both a prima-facie limitation and a limitation in subsection (d) hereof is alleged, the defendant shall be charged in a single affidavit, alleging a single act, with a violation indicated of both subsections (b)(1)A. to (b)(6) hereof, or of a limit declared or established pursuant to this section by the Director or local authorities, and of the limitation in subsection (d) hereof. If the court finds a violation of subsection (b)(1)A. to (b)(6) hereof, or a limit declared or established pursuant to this section has occurred, it shall enter a judgment of conviction under such subsection and dismiss the charge under subsection (d) hereof. If it finds no violation of subsections (b)(1)A. to (b)(6) hereof or a limit declared or established pursuant to this section, it shall then consider whether the evidence supports a conviction under subsection (d) hereof.

(g) Points shall be assessed for violation of a limitation under subsection (d) hereof in accordance with Ohio R.C. 4510.036.

(h) Whenever, in accordance with Ohio R.C. 4511.21 or this section, the speed limitations as established herein have been altered, either higher or lower, and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. It is prima-facie unlawful for any person to exceed the speed limits posted upon such signs.

(i) As used in this section:

- (1) "Interstate system" has the same meaning as in 23 U.S.C.A. 101.

- (2) "Commercial bus" means a motor vehicle designed for carrying more than nine passengers and used for the transportation of persons for compensation.
 - (3) "Noncommercial bus" includes but is not limited to a school bus, or a motor vehicle operated solely for the transportation of persons associated with a charitable or nonprofit organization.
 - (4) "Outerbelt" means a portion of a freeway that is part of the interstate system and is located in the outer vicinity of a major municipal corporation or group of municipal corporations, as designated by the Director.
 - (5) "Rural" means an area outside urbanized areas and outside of a business or urban district, and areas that extend within urbanized areas where the roadway characteristics remain mostly unchanged from those outside the urbanized areas.
 - (6) "Urbanized area" has the same meaning as in 23 U.S.C. 101.
 - (7) "Divided" means a roadway having two or more travel lanes for vehicles moving in opposite directions and that is separated by a median of more than four feet, excluding turn lanes.
- (j) (1) A violation of any provision of this section is one of the following:
- A. Except as otherwise provided in subsections (j)(1)B., (1)C., (2) and (3) of this section, a minor misdemeanor;
 - B. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to two violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the fourth degree;
 - C. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of any provision of this section or of any provision of Ohio R.C. 4511.21 or a municipal ordinance that is substantially similar to any provision of this section, a misdemeanor of the third degree.
- (2) If the offender has not previously been convicted of or pleaded guilty to a violation of any provision of Ohio R.C. 4511.21 or of any provision of a municipal ordinance that is substantially similar to Ohio R.C. 4511.21 and operated a motor vehicle faster than thirty-five miles an hour in a business district of a municipal corporation, faster than fifty miles an hour in other portions of a municipal corporation, or faster than thirty-five miles an hour in a school zone during recess or while children are going to or leaving school during the school's opening or closing hours, a misdemeanor of the fourth degree.
 - (3) Notwithstanding subsection (j)(1) of this section, if the offender operated a motor vehicle in a construction zone where a sign was then posted in accordance with Ohio R.C. 4511.98, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two times the usual amount imposed for the violation. No court shall impose a fine of two times the usual amount imposed for the violation upon an offender if the offender alleges, in an affidavit filed with the court prior to the offender's sentencing, that the offender is indigent and is unable to pay the fine imposed pursuant to this subsection and if the court determines that the offender is an indigent person and unable to pay the fine.
 - (4) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.21)

333.031 APPROACHING A STATIONARY PUBLIC SAFETY, EMERGENCY OR ROAD SERVICE VEHICLE.

(a) The driver of a motor vehicle, upon approaching a stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle that is displaying the appropriate visual signals by means of flashing, oscillating or rotating lights, as prescribed in Section 337.16, shall do either of the following:

- (1) If the driver of the motor vehicle is traveling on a street or highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06 or a highway maintenance vehicle.
- (2) If the driver is not traveling on a street or highway of a type described in subsection (a)(1) of this section, or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle, and maintain a safe speed for the road, weather and traffic conditions.

(b) This section does not relieve the driver of a public safety vehicle, emergency vehicle, road service vehicle, waste collection vehicle, vehicle used by the Public Utilities Commission to conduct motor vehicle inspections in accordance with Ohio R.C. 4923.04 and 4923.06, or a highway maintenance vehicle from the duty to drive with due regard for the safety of all persons and property upon the highway.

(c) No person shall fail to drive a motor vehicle in compliance with subsection (a)(1) or (2) of this section when so required by subsection (a) of this section.

- (d) (1) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) Notwithstanding Section 303.99(b), upon a finding that a person operated a motor vehicle in violation of subsection (c) of this section, the court, in addition to all other penalties provided by law, shall impose a fine of two times the usual amount imposed for the violation.
- (3) If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(e) The offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of

culpability, is not a strict liability offense. (ORC 4511.213)

333.04 STOPPING VEHICLE; SLOW SPEED; POSTED MINIMUM SPEEDS.

(a) No person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic, except when stopping or reduced speed is necessary for safe operation or to comply with law.

(b) Whenever, in accordance with Ohio R.C. 4511.22(B), the minimum speed limit of a controlled-access highway, expressway or freeway has been declared and the appropriate signs giving notice have been erected as required, operators of motor vehicles shall be governed by the speed limitations set forth on such signs. No person shall operate a motor vehicle below the speed limits posted upon such signs except when necessary for safe operation or in compliance with law.

(c) In a case involving a violation of this section, the trier of fact, in determining whether the vehicle was being operated at an unreasonably slow speed, shall consider the capabilities of the vehicle and its operator.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.22)

333.05 SPEED LIMITATIONS OVER BRIDGES.

(a) No person shall operate a vehicle over any bridge or other elevated structure constituting a part of a street at a speed which is greater than the maximum speed that can be maintained with safety to such bridge or structure, when such structure is posted with authorized signs stating such maximum speed. Such signs shall be erected and maintained at a distance of at least 100 feet before each end of such structure.

(b) Upon the trial of any person charged with a violation of this section, proof of the determination of the maximum speed and the existence of such signs shall constitute prima-facie evidence of the maximum speed which can be maintained with safety to such bridge or structure.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.23)

333.06 SPEED EXCEPTIONS FOR EMERGENCY OR SAFETY VEHICLES.

The prima-facie speed limitations set forth in Section 333.03 do not apply to emergency vehicles or public safety vehicles when they are responding to emergency calls and are equipped with and displaying at least one flashing, rotating or oscillating light visible under normal atmospheric conditions from a distance of 500 feet to the front of the vehicle and when the drivers thereof sound audible signals by bell, siren or exhaust whistle. This section does not relieve the driver of an emergency vehicle or public safety vehicle from the duty to drive with due regard for the safety of all persons using the street or highway.

(ORC 4511.24)

333.07 STREET RACING PROHIBITED.

(a) As used in this section, "street racing" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other or the operation of one or more vehicles over a common selected course, from the same point to the same point, wherein timing is made of the participating vehicles involving competitive accelerations or speeds.

Persons rendering assistance in any manner to such competitive use of vehicles shall be equally charged as the participants. The operation of two or more vehicles side by side either at speeds in excess of prima-facie lawful speeds established by Section 333.03 or rapidly accelerating from a common starting point to a speed in excess of such prima-facie lawful speeds shall be prima-facie evidence of street racing.

(b) No person shall participate in street racing upon any public road, street or highway in this Municipality.

(c) Whoever violates this section is guilty of street racing, a misdemeanor of the first degree. In addition to any other sanctions, the court shall suspend the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege for not less than thirty days or more than three years. No judge shall suspend the first thirty days of any suspension of an offender's license, permit, or privilege imposed under this subsection.

(ORC 4511.251)

333.08 OPERATION WITHOUT REASONABLE CONTROL.

(a) No person shall operate a motor vehicle, agricultural tractor, or agricultural tractor that is towing, pulling, or otherwise drawing a unit of farm machinery on any street, highway, or property open to the public for vehicular traffic without being in reasonable control of the vehicle, agricultural tractor or unit of farm machinery.

(b) Whoever violates this section is guilty of operating a motor vehicle or agricultural tractor without being in control of it, a minor misdemeanor.

(ORC 4511.202)

333.09 RECKLESS OPERATION ON STREETS, PUBLIC OR PRIVATE PROPERTY.

(a) No person shall operate a vehicle on any street or highway without due regard for the safety of persons or property.

(b) No person shall operate a vehicle on any public or private property other than streets or highways, without due regard for the safety of persons or property.

This subsection does not apply to the competitive operation of vehicles on public or private property when the owner of such property knowingly permits such operation thereon.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

333.10 OPERATION IN VIOLATION OF IMMOBILIZATION ORDER.

(a) No person shall operate a motor vehicle or permit the operation of a motor vehicle upon any public or private property used by the public for vehicular travel or parking knowing or having reasonable cause to believe that the motor vehicle has been ordered immobilized pursuant to an immobilization order issued under Ohio R.C. 4503.233.

(b) A motor vehicle that is operated by a person during a violation of subsection (a) hereof shall be criminally forfeited in accordance with the procedures contained in Ohio R.C. 4503.234.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.
(ORC 4503.236)

333.11 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall drive a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using a handheld electronic wireless communications device to write, send, or read a text-based communication.

(b) Subsection (a) of this section does not apply to any of the following:

- (1) A person using a handheld electronic wireless communications device in that manner for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
- (2) A person driving a public safety vehicle who uses a handheld electronic wireless communications device in that manner in the course of the person's duties;
- (3) A person using a handheld electronic wireless communications device in that manner whose motor vehicle is in a stationary position and who is outside a lane of travel;
- (4) A person reading, selecting, or entering a name or telephone number in a handheld electronic wireless communications device for the purpose of making or receiving a telephone call;
- (5) A person receiving wireless messages on a device regarding the operation or navigation of a motor vehicle; safety-related information, including emergency, traffic or weather alerts; or data used primarily by the motor vehicle;
- (6) A person receiving wireless messages via radio waves;
- (7) A person using a device for navigation purposes;
- (8) A person conducting wireless interpersonal communication with a device that does not require manually entering letters, numbers, or symbols or reading text messages, except to activate, deactivate, or initiate the device or a feature or function of the device;
- (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
- (10) A person using a handheld electronic wireless communications device in conjunction with a voice-operated or hands-free device feature or function of the vehicle.

(c) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (a) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(d) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(e) A prosecution for a violation of Ohio R.C. 4511.204 does not preclude a prosecution for a violation of a substantially equivalent municipal ordinance based on the same conduct. However, if an offender is convicted of or pleads guilty to a violation of Ohio R.C. 4511.204 and is also convicted of or pleads guilty to a violation of a substantially equivalent municipal ordinance based on the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(f) As used in this section:

- (1) "Electronic wireless communications device" includes any of the following:
 - A. A wireless telephone;
 - B. A text-messaging device;
 - C. A personal digital assistant;
 - D. A computer, including a laptop computer and a computer tablet;
 - E. Any other substantially similar wireless device that is designed or used to communicate text.
- (2) "Voice-operated or hands-free device" means a device that allows the user to vocally compose or send, or to listen to a text-based communication without the use of either hand except to activate, or deactivate a feature or function.
- (3) "Write, send or read a text-based communication" means to manually write or send, or read a text-based communication using an electronic wireless communications device, including manually writing or sending, or reading communications referred to as text messages, instant messages, or electronic mail.

(ORC 4511.204)

CHAPTER 335

Licensing; Accidents

335.01 Driver's license or commercial driver's license required.

- 335.02 Permitting operation without valid license; one license permitted.
- 335.021 Ohio driver's license required for in state residents.
- 335.03 Driving with temporary instruction permit; curfew.
- 335.031 Driving with probationary license; curfew.
- 335.032 Use of electronic wireless communication device prohibited while driving.
- 335.04 Certain acts prohibited.
- 335.05 Wrongful entrustment of a motor vehicle.
- 335.06 Display of license.
- 335.07 Driving under suspension or license restriction.
- 335.071 Driving under OVI suspension.
- 335.072 Driving under financial responsibility law suspension or cancellation; driving under a nonpayment of judgment suspension.
- 335.073 Driving without complying with license reinstatement requirements.
- 335.074 Driving under license forfeiture or child support suspension.
- 335.08 Operation or sale without certificate of title.
- 335.09 Display of license plates or validation stickers; registration.
- 335.091 Operating without dealer or manufacturer license plates.
- 335.10 Expired or unlawful license plates.
- 335.11 Use of illegal license plates; transfer of registration.
- 335.111 Registration within thirty days of residency.
- 335.12 Stopping after accident upon streets; collision with unattended vehicle.
- 335.13 Stopping after accident upon property other than street.
- 335.14 Vehicle accident resulting in damage to realty.

CROSS REFERENCES

See sectional histories for similar State law
 Deposit of driver's license as bond - see Ohio R.C. 2937.221
 Motor vehicle licensing law - see Ohio R.C. Ch. 4503
 Driver's license law - see Ohio R.C. Ch. 4507
 Power of trial court of record to suspend or revoke license for certain violations - see Ohio R.C. Ch. 4510
 State point system suspension - see Ohio R.C. 4510.03.6
 State accident reports - see Ohio R.C. 4509.01(J), 4509.06, 4509.74, 5502.11
 Motorized bicycle operator's license - see Ohio R.C. 4511.521
 Glass removal from street after accident - see TRAF. 311.01

335.01 DRIVER'S LICENSE OR COMMERCIAL DRIVER'S LICENSE REQUIRED.

- (a) (1) No person, except those expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motor vehicle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid driver's license issued under Ohio R.C. Chapter 4507 or a commercial driver's license issued under Ohio R.C. Chapter 4506.
 - (2) No person, except a person expressly exempted under Ohio R.C. 4507.03, 4507.04, and 4507.05, shall operate any motorcycle upon a public road or highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality unless the person has a valid license as a motorcycle operator that was issued upon application by the Registrar of Motor Vehicles under Ohio R.C. Chapter 4507. The license shall be in the form of an endorsement, as determined by the Registrar, upon a driver's or commercial driver's license, if the person has a valid license to operate a motor vehicle or commercial motor vehicle, or in the form of a restricted license as provided in Ohio R.C. 4507.14, if the person does not have a valid license to operate a motor vehicle or commercial motor vehicle.
- (b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a)(1) or (2) of this section may be admitted into evidence as prima-facie evidence that the person did not have either a valid driver's or commercial driver's license at the time of the alleged violation of subsection (a)(1) of this section or a valid license as a motorcycle operator either in the form of an endorsement upon a driver's or commercial driver's license or a restricted license at the time of the alleged violation of subsection (a)(2) of this section. The person charged with a violation of subsection (a)(1) or (2) of this section may offer evidence to rebut this prima-facie evidence.
- (c) Whoever violates this section is guilty of operating a motor vehicle or motorcycle without a valid license and shall be punished as follows:
- (1) If the trier of fact finds that the offender never has held a valid driver's or commercial driver's license issued by this state or any other jurisdiction, or, in a case involving the operation of a motorcycle by the offender, if the offender has never held a valid license as a motorcycle operator, either in the form of an endorsement upon a driver's or commercial driver's license or in the form of a restricted license, except as otherwise provided in this subsection, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours.

The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If the offender previously has been convicted of or pleaded guilty to any violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

- (2) If the offender's driver's or commercial driver's license or permit or, in a case involving the operation of a motorcycle by the offender, the offender's driver's or commercial driver's license bearing the motorcycle endorsement or the offender's restricted license was expired at the time of the offense, except as otherwise provided in this subsection, the offense is a minor misdemeanor. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

(d) The court shall not impose a license suspension for a first violation of this section or if more than three years have passed since the offender's last violation of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance.

(e) If the offender is sentenced under subsection (c)(2) hereof, if within three years of the offense the offender previously was convicted of or pleaded guilty to one or more violations of Ohio R.C. 4510.12 or a substantially equivalent municipal ordinance, and if the offender's license was expired for more than six months at the time of the offense, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

(ORC 4510.12)

335.02 PERMITTING OPERATION WITHOUT VALID LICENSE; ONE LICENSE PERMITTED.

(a) No person shall permit the operation of a motor vehicle upon any public or private property used by the public for purposes of vehicular travel or parking knowing the operator does not have a valid driver's license issued to the operator by the Registrar of Motor Vehicles or a Deputy Registrar under Ohio R.C. Chapter 4507 or a valid commercial driver's license issued under Ohio R.C. Chapter 4506.

- (b) (1) No person shall receive a driver's license, or a motorcycle operator's endorsement of a driver's or commercial driver's license, temporary instruction permit, or identification card unless and until the person surrenders to the Registrar or a deputy registrar all valid licenses, temporary instruction permits, and identification cards issued to the person by another jurisdiction recognized by this state.

(2) The Registrar shall report the cancellation of a license, temporary instruction permit, or identification card to the issuing authority, together with information that the license, temporary instruction permit, or identification card is now issued in this state. The Registrar or a deputy registrar shall destroy any such license, temporary instruction permit, or identification card that is not returned to the issuing authority.

- (3) No person shall possess more than one valid license, temporary instruction permit, or identification card at any time.

(ORC 4507.02(A))

- (c) (1) Except as otherwise provided in this subsection, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000) and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case. If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.02 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree.

- (2) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 4507.02; 4507.99)

335.021 OHIO DRIVER'S LICENSE REQUIRED FOR IN STATE RESIDENTS.

(a) Any person who becomes a resident of this State, within thirty days of becoming a resident, shall surrender any driver's license, temporary instruction permit, or identification card issued by another state to the Registrar of Motor Vehicles or a Deputy Registrar. If such a person

intends to operate a motor vehicle upon the public roads or highways, the person shall apply for a temporary instruction permit or driver's license in this State. If the person fails to apply for a driver's license or temporary instruction permit within thirty days of becoming a resident, the person shall not operate any motor vehicle in this municipality under a license or permit issued by another state.

- (b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

- (c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01.

(ORC 4507.213)

335.03 DRIVING WITH TEMPORARY INSTRUCTION PERMIT; CURFEW.

(a) No holder of a temporary instruction permit issued under Ohio R.C. 4507.05(A) shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in violation of the following conditions:

- (1) If the permit is issued to a person who is at least fifteen years six months of age, but less than sixteen years of age:

A. The permit and identification card are in the holder's immediate possession;

B. The holder is accompanied by an eligible adult who actually occupies the seat beside the permit holder and does not have a

prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);

C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(2) If the permit is issued to a person who is at least sixteen years of age:

A. The permit and identification card are in the holder's immediate possession;

B. The holder is accompanied by a licensed operator who is at least twenty-one years of age and is actually occupying a seat beside the driver and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Ohio R.C. 4511.19(A);

C. The total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.

(b) Except as provided in subsection (b) hereof, no holder of a temporary instruction permit that is issued under Ohio R.C. 4507.05(A) and that is issued on or after July 1, 1998, and who has not attained the age of eighteen years, shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m.

The holder of a permit issued under Ohio R.C. 4507.05(A) on or after July 1, 1998, who has not attained the age of eighteen years, may operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. if, at the time of such operation, the holder is accompanied by the holder's parent, guardian, or custodian, and the parent, guardian or custodian holds a current valid driver's or commercial driver's license issued by this State and is actually occupying a seat beside the permit holder, and does not have a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine as provided in Section 333.01(a).

(c) As used in this section:

(1) "Eligible adult" means any of the following:

A. An instructor of a driver education course approved by the Department of Education or a driver training course approved by the Department of Public Safety;

B. Any of the following persons who holds a current valid driver's or commercial driver's license issued by this State:

1. A parent, guardian or custodian of the permit holder;

2. A person twenty-one years of age or older who acts in loco parentis of the permit holder.

(2) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.

(d) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4507.05)

335.031 DRIVING WITH PROBATIONARY LICENSE; CURFEW.

(a) (1) A. No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of midnight and six a.m. unless the holder is accompanied by the holder's parent or guardian.

B. No holder of a probationary driver's license who has held the license for twelve months or longer shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking between the hours of one a.m. and five a.m. unless the holder is accompanied by the holder's parent or guardian.

(2) A. Subject to subsection (c)(1) of this section, subsection (a)(1)A. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of midnight and six a.m. provided that the holder has in the holder's immediate possession written documentation from the holder's employer.

2. Traveling to or from an official function sponsored by the school the holder attends between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

3. Traveling to or from an official religious event between the hours of midnight and six a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

B. Subsection (a)(1)B. of this section does not apply to the holder of a probationary driver's license who is doing either of the following:

1. Traveling to or from work between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from the holder's employer.

2. Traveling to or from an official function sponsored by the school the holder attends between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official of the school;

3. Traveling to or from an official religious event between the hours of one a.m. and five a.m., provided that the holder has in the holder's immediate possession written documentation from an appropriate official affiliated with the event.

(3) An employer, school official or official affiliated with a religious event is not liable in damages in a civil action for any injury, death or loss to person or property that allegedly arises from, or is related to, the fact that the employer, school official, or official affiliated with a religious event provided the holder of a probationary driver's license with the written documentation described in subsection (a)(2) of this section.

The Registrar of Motor Vehicles shall make available at no cost a form to serve as the written documentation described in subsection (a)(2) of this section, and employers, school officials, officials affiliated with religious

events, and holders of probationary driver's licenses may utilize that form or may choose to utilize any other written documentation to meet the requirements of that subsection.

- (4) No holder of a probationary driver's license who has held the license for less than twelve months shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking with more than one person who is not a family member occupying the vehicle unless the probationary license holder is accompanied by the probationary license holder's parent, guardian or custodian.
- (b) It is an affirmative defense to a violation of subsection (a)(1)A. or B. of this section if, at the time of the violation, an emergency existed that required the holder of the probationary driver's license to operate a motor vehicle in violation of subsection (a)(1)A. or B. of this section; or the holder was an emancipated minor.
- (c) (1) If a person is issued a probationary driver's license prior to attaining the age of seventeen years and the person pleads guilty to, is convicted of, or is adjudicated in juvenile court of having committed a moving violation during the six-month period commencing on the date on which the person is issued the probationary driver's license, the court with jurisdiction over the violation may order that the holder must be accompanied by the holder's parent or guardian whenever the holder is operating a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking for a period not to exceed six months or the date the holder attains the age of seventeen years, whichever occurs first.
- (2) Any person who is subject to the operating restrictions established under subsection (c)(1) of this section as a result of a first moving violation may petition the court for driving privileges without being accompanied by the holder's parent or guardian during the period of time determined by the court under that subsection. In granting the driving privileges, the court shall specify the purposes of the privileges and shall issue the person appropriate forms setting forth the privileges granted. If a person is convicted of, pleads guilty to, or is adjudicated in juvenile court of having committed a second or subsequent moving violation, the court with jurisdiction over the violation may terminate any driving privileges previously granted under this division.
- (3) No person shall violate any operating restriction imposed under subsection (c)(1) or (2) of this section.
- (d) No holder of a probationary license shall operate a motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking unless the total number of occupants of the vehicle does not exceed the total number of occupant restraining devices originally installed in the motor vehicle by its manufacturer, and each occupant of the vehicle is wearing all of the available elements of a properly adjusted occupant restraining device.
- (e) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether each occupant of the motor vehicle is wearing all of the available elements of a properly adjusted occupant restraining device as required by subsection (d) hereof, or for the sole purpose of issuing a ticket, citation, or summons if the requirement in that subsection has been or is being violated, or for causing the arrest of or commencing a prosecution of a person for a violation of that requirement.
- (f) Notwithstanding any other provision of law to the contrary, no law enforcement officer shall cause the operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (a)(1)A. or B. hereof has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for such a violation or for causing the arrest of or commencing a prosecution of a person for such violation.
- (g) As used in this section:
- (1) "Occupant restraining device" has the same meaning as in Ohio R.C. 4513.263.
- (2) "Family member" of a probationary license holder includes any of the following:
- A. A spouse;
 - B. A child or stepchild;
 - C. A parent, stepparent, grandparent, or parent-in-law;
 - D. An aunt or uncle;
 - E. A sibling, whether or the whole or half blood or by adoption, a brother-in-law or a sister-in-law;
 - F. A son or daughter of the probationary license holder's stepparent if the stepparent has not adopted the probationary license holder;
 - G. An eligible adult, as defined in Ohio R.C. 4507.05.
- (3) "Moving violation" means any violation of any statute or ordinance that regulates the operation of vehicles, streetcars, or trackless trolleys on the highways or streets. "Moving violation" does not include a violation of Ohio R.C. 4513.263 or a substantially equivalent municipal ordinance, or a violation of any statute or ordinance regulating pedestrians or the parking of vehicles, vehicle size or load limitations, vehicle fitness requirements, or vehicle registration.
- (h) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4507.071)

335.032 USE OF ELECTRONIC WIRELESS COMMUNICATION DEVICE PROHIBITED WHILE DRIVING.

- (a) No holder of a temporary instruction permit who has not attained the age of eighteen years and no holder of a probationary driver's license shall drive a motor vehicle on any street, highway, or property used by the public for purposes of vehicular traffic or parking while using in any manner an electronic wireless communications device.
- (b) Subsection (a) of this section does not apply to either of the following:
- (1) A person using an electronic wireless communications device for emergency purposes, including an emergency contact with a law enforcement agency, hospital or health care provider, fire department, or other similar emergency agency or entity;
 - (2) A person using an electronic wireless communications device whose motor vehicle is in a stationary position and the motor vehicle is outside a lane of travel;
 - (3) A person using a navigation device in a voice-operated or hands-free manner who does not manipulate the device while driving.
- (c) (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) of this section shall be fined one hundred fifty dollars (\$150.00). In addition, the court shall impose a class seven suspension of the offender's

driver's license or permit for a definite period of sixty days.

- (2) If the person previously has been adjudicated a delinquent child or a juvenile traffic offender for a violation of this section, whoever violates this section shall be fined three hundred dollars (\$300.00). In addition, the court shall impose a class seven suspension of the person's driver's license or permit for a definite period of one year.

(d) The filing of a sworn complaint against a person for a violation of Ohio R.C. 4511.205 does not preclude the filing of a sworn complaint for a violation of a substantially equivalent municipal ordinance for the same conduct. However, if a person is adjudicated a delinquent child or a juvenile traffic offender for a violation of Ohio R.C. 4511.205 and is also adjudicated a delinquent child or a juvenile traffic offender for a violation of a substantially equivalent municipal ordinance for the same conduct, the two offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(e) As used in this section, "electronic wireless communications device" includes any of the following:

- (1) A wireless telephone;
- (2) A personal digital assistant;
- (3) A computer, including a laptop computer and a computer tablet;
- (4) A text-messaging device;
- (5) Any other substantially similar electronic wireless device that is designed or used to communicate via voice, image, or written word.

(ORC 4511.205)

335.04 CERTAIN ACTS PROHIBITED.

(a) No person shall do any of the following:

- (1) Display, or cause or permit to be displayed, or possess any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit knowing the same to be fictitious, or to have been canceled, suspended or altered;
- (2) Lend to a person not entitled thereto, or knowingly permit a person not entitled thereto to use any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit issued to the person so lending or permitting the use thereof;
- (3) Display or represent as one's own, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit not issued to the person so displaying the same;
- (4) Fail to surrender to the Registrar of Motor Vehicles, upon the Registrar's demand, any identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit that has been suspended or canceled;
- (5) In any application for an identification card, driver's or commercial driver's license, temporary instruction permit or commercial driver's license temporary instruction permit, or any renewal, reprint, or duplicate thereof, knowingly conceal a material fact, or present any physician's statement required under Ohio R.C. 4507.08 or 4507.081 when knowing the same to be false or fictitious.

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 4507.30)

335.05 WRONGFUL ENTRUSTMENT OF A MOTOR VEHICLE.

(a) No person shall permit a motor vehicle owned by the person or under the person's control to be driven by another if any of the following apply:

- (1) The offender knows or has reasonable cause to believe that the other person does not have a valid driver's or commercial driver's license or permit or valid nonresident driving privileges.
- (2) The offender knows or has reasonable cause to believe that the other person's driver's or commercial driver's license or permit or nonresident operating privileges have been suspended or canceled under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or this Traffic Code.
- (3) The offender knows or has reasonable cause to believe that the other person's act of driving the motor vehicle would violate any prohibition contained in Ohio R.C. Chapter 4509.
- (4) The offender knows or has reasonable cause to believe that the other person's act of driving would violate Ohio R.C. 4511.19 or any substantially equivalent municipal ordinance.
- (5) The offender knows or has reasonable cause to believe that the vehicle is the subject of an immobilization waiver order issued under Ohio R.C. 4503.235 and the other person is prohibited from operating the vehicle under that order.

(b) Without limiting or precluding the consideration of any other evidence in determining whether a violation of subsection (a)(1), (2), (3), (4) or (5) of this section has occurred, it shall be prima-facie evidence that the offender knows or has reasonable cause to believe that the operator of the motor vehicle owned by the offender or under the offender's control is in a category described in subsection (a) (1), (2), (3), (4) or (5) of this section if any of the following applies:

- (1) Regarding an operator allegedly in the category described in subsection (a)(1), (3) or (5) of this section, the offender and the operator of the motor vehicle reside in the same household and are related by consanguinity or affinity.
- (2) Regarding an operator allegedly in the category described in subsection (a)(2) of this section, the offender and the operator of the motor vehicle reside in the same household, and the offender knows or has reasonable cause to believe that the operator has been charged with or convicted of any violation of law or ordinance, or has committed any other act or omission, that would or could result in the suspension or cancellation of the operator's license, permit or privilege.
- (3) Regarding an operator allegedly in the category described in subsection (a)(4) of this section, the offender and the operator of the motor vehicle occupied the motor vehicle together at the time of the offense.

(c) Whoever violates this section is guilty of wrongful entrustment of a motor vehicle and shall be punished as provided in subsections (c) to (h) of this section.

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a)(1), (2) or (3) of this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the

offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02.

- (2) A. If, within three years of a violation of subsection (a)(1), (2) or (3) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of division (A)(1), (2) or (3) of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- B. Whoever violates subsection (a)(4) or (5) of this section is guilty of a misdemeanor of the first degree.
- (3) For any violation of this section, in addition to the penalties imposed under Section 303.99, the court may impose a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02, and, if the vehicle involved in the offense is registered in the name of the offender, the court may order one of the following:
- A. Except as otherwise provided in subsection (c)(3)B. or C. of this section, the court may order, for thirty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
- B. If the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order, for sixty days, the immobilization of the vehicle involved in the offense and the impoundment of that vehicle's license plates. If issued, the order shall be issued and enforced under Ohio R.C. 4503.233.
- C. If the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4511.203 or a substantially equivalent municipal ordinance, the court may order the criminal forfeiture to the state of the vehicle involved in the offense. If issued, the order shall be issued and enforced under Ohio R.C. 4503.234.
- If title to a motor vehicle that is subject to an order for criminal forfeiture under this subsection is assigned or transferred and division (B)(2) or (3) of Ohio R.C. 4503.234 applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national automobile dealer's association. The proceeds from any fine imposed under this subsection shall be distributed in accordance with division (C)(2) of Ohio R.C. 4503.234.
- (d) If a court orders the immobilization of a vehicle under subsection (c) of this section, the court shall not release the vehicle from the immobilization before the termination of the period of immobilization ordered unless the court is presented with current proof of financial responsibility with respect to that vehicle.
- (e) If a court orders the criminal forfeiture of a vehicle under subsection (c) of this section, upon receipt of the order from the court, neither the Registrar of Motor Vehicles nor any deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the order. The period of denial shall be five years after the date the order is issued, unless, during that five-year period, the court with jurisdiction of the offense that resulted in the order terminates the forfeiture and notifies the Registrar of the termination. If the court terminates the forfeiture and notifies the Registrar, the Registrar shall take all necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer the registration of the vehicle.
- (f) This section does not apply to motor vehicle rental dealers or motor vehicle leasing dealers, as defined in Ohio R.C. 4549.65.
- (g) Evidence of a conviction of, plea of guilty to, or adjudication as a delinquent child for a violation of this section or a substantially similar municipal ordinance shall not be admissible as evidence in any civil action that involves the offender or delinquent child who is the subject of the conviction, plea, or adjudication and that arises from the wrongful entrustment of a motor vehicle.
- (h) For purposes of this section, a vehicle is owned by a person if, at the time of a violation of this section, the vehicle is registered in the person's name.
- (ORC 4511.203)

335.06 DISPLAY OF LICENSE.

(a) The operator of a motor vehicle shall display the operator's driver's license, or furnish satisfactory proof that the operator has a driver's license, upon demand of any peace officer or of any person damaged or injured in any collision in which the licensee may be involved. When a demand is properly made and the operator has the operator's driver's license on or about the operator's person, the operator shall not refuse to display the license. A person's failure to furnish satisfactory evidence that the person is licensed under Ohio R.C. Chapter 4507 when the person does not have the person's license on or about the person's person shall be prima- facie evidence of the person's not having obtained a driver's license.

- (b) (1) Except as provided in subsection (b)(2) hereof, whoever violates this section is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4507.35 or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the first degree. (ORC 4507.35)

335.07 DRIVING UNDER SUSPENSION OR LICENSE RESTRICTION.

- (a) Except as provided under subsection (b) hereof and Sections 335.072 and 335.074, no person whose driver's or commercial

driver's license or permit or nonresident operating privilege has been suspended under any provision of the Ohio Revised Code, other than Ohio R.C. Chapter 4509, or under any applicable law in any other jurisdiction in which the person's license or permit was issued shall operate any motor vehicle upon the public roads and highways or upon any public or private property used by the public for purposes of vehicular travel or parking within this Municipality during the period of suspension unless the person is granted limited driving privileges and is operating the vehicle in accordance with the terms of the limited driving privileges.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality in violation of any restriction of the person's driver's or commercial driver's license or permit imposed under division (D) of Ohio R.C. 4506.10 or under Ohio R.C. 4507.14.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section or the person operated a motor vehicle in violation of a restriction at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) (1) Whoever violates subsection (a) or (b) hereof, is guilty of a misdemeanor of the first degree. The court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A) (7) of Ohio R.C. 4510.02.

(2) A. Except as provided in subsection (d)(2)B. or C. of this section, the court, in addition to any other penalty that it imposes on the offender and if the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or a substantially equivalent municipal ordinance, the court, in addition to or independent of any other sentence that it imposes upon the offender, may order the immobilization of the vehicle involved in the offense for thirty days and the impoundment of that vehicle's license plates for thirty days in accordance with Ohio R.C. 4503.233.

B. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to two violations of Ohio R.C. 4510.11 or any combination of two violations of Ohio R.C. 4510.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the immobilization of the vehicle involved in the offense for sixty days and the impoundment of that vehicle's license plates for sixty days in accordance with Ohio R.C. 4503.233.

C. If the vehicle is registered in the offender's name and if, within three years of the offense, the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 4510.11, or any combination of three or more violations of Ohio R.C. 4501.11 or Ohio R.C. 4510.111 or 4510.16, or of a substantially similar municipal ordinance, the court, in addition to any other sentence that it imposes on the offender may order the criminal forfeiture of the vehicle involved in the offense to the State.

(e) Any order for immobilization and impoundment under this section shall be issued and enforced under Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

(f) Any order of criminal forfeiture under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of the copy of the order from the court, neither the Ohio Registrar of Motor Vehicles nor a deputy registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order, unless, during that period, the court having jurisdiction of the offense that lead to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar shall then take necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(g) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense for which the offender is sentenced under this section. (ORC 4510.11)

(h) Any person whose driver's or commercial driver's license or permit or nonresident operating privileges are suspended as a repeat traffic offender under this section and who, during the suspension, operates any motor vehicle upon any public roads and highways is guilty of driving under a twelve-point suspension, a misdemeanor of the first degree. The court shall sentence the offender to a minimum term of three days in jail. No court shall suspend the first three days of jail time imposed pursuant to this subsection. (ORC 4510.037)

335.071 DRIVING UNDER OVI SUSPENSION.

(a) No person whose driver's or commercial driver's license or permit or nonresident operating privilege has been suspended under Ohio R.C. 4511.19, 4511.191, or 4511.196 or under Ohio R.C. 4510.07 for a conviction of a violation of a municipal OVI ordinance shall operate any motor vehicle upon the public roads or highways within this Municipality during the period of the suspension.

(b) Whoever violates this section is guilty of driving under OVI suspension. The court shall sentence the offender under Ohio R.C. Chapter 2929, subject to the differences authorized or required by this section.

(1) Except as otherwise provided in subsection (b)(2) or (3) of this section, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of three consecutive days. The three-day term shall be imposed, unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than thirty consecutive days of house arrest with electronic monitoring. A period of house arrest with electronic monitoring imposed under this subsection shall not exceed six months. If the court imposes a mandatory three-day jail term under this subsection, the court may impose a jail term in addition to that term, provided that in no case shall the cumulative jail term imposed for the offense exceed six months.

B. A fine of not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000).

C. A license suspension under subsection (e) of this section.

(2) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to one violation of this section or one equivalent offense, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of ten consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The ten-day mandatory jail term shall be imposed unless, subject to subsection (c) of this section, the court instead imposes a sentence of not less than ninety consecutive days of house arrest with electronic monitoring. The period of house arrest with electronic monitoring shall not exceed one year.

B. Notwithstanding the fines provided for in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).

C. A license suspension under subsection (e) of this section.

(3) If, within six years of the offense, the offender previously has been convicted of or pleaded guilty to two or more violations of this section or two or more equivalent offenses, driving under OVI suspension is a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

A. A mandatory jail term of thirty consecutive days. Notwithstanding the jail terms provided in Ohio R.C. Chapter 2929, the court may sentence the offender to a longer jail term of not more than one year. The court shall not sentence the offender to a term of house arrest with electronic monitoring in lieu of the mandatory portion of the jail term.

B. Notwithstanding the fines set forth in Ohio R.C. Chapter 2929, a fine of not less than five hundred dollars (\$500.00) and not more than two thousand five hundred dollars (\$2,500).

C. A license suspension under subsection (e) of this section.

(c) No court shall impose an alternative sentence of house arrest with electronic monitoring under subsection (b)(1) or (2) of this section unless, within sixty days of the date of sentencing, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the jail term imposed, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing.

An offender sentenced under this section to a period of house arrest with electronic monitoring shall be permitted work release during that period.

(d) Fifty percent of any fine imposed by a court under subsection (b)(1), (2) or (3) of this section shall be deposited into the county indigent drivers alcohol treatment fund or municipal indigent drivers alcohol treatment fund under the control of that court, as created by the county or municipal corporation pursuant to division (H) of Ohio R.C. 4511.191.

(e) In addition to or independent of all other penalties provided by law or ordinance, the trial judge of any court of record or the mayor of a mayor's court shall impose on an offender who is convicted of or pleads guilty to a violation of this section a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02.

When permitted as specified in Ohio R.C. 4510.021, if the court grants limited driving privileges during a suspension imposed under this section, the privileges shall be granted on the additional condition that the offender must display restricted license plates, issued under Ohio R.C. 4503.231, on the vehicle driven subject to the privileges, except as provided in division (B) of that section.

A suspension of a commercial driver's license under this section shall be concurrent with any period of suspension or disqualification under Ohio R.C. 3123.58 or 4506.16. No person who is disqualified for life from holding a commercial driver's license under Ohio R.C. 4506.16 shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period for which the commercial driver's license was suspended under this section, and no person whose commercial driver's license is suspended under this section shall be issued a driver's license under Ohio R.C. Chapter 4507 during the period of the suspension.

(f) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during, or after committing the offense that is a misdemeanor of the first degree under this section for which the offender is sentenced. (ORC 4510.14)

(g) (1) If a person is convicted of or pleads guilty to a violation of a municipal ordinance that is substantially equivalent to Ohio R.C. 4510.14, the court, in addition to and independent of any sentence that it imposes upon the offender for the offense, if the vehicle the offender was operating at the time of the offense is registered in the offender's name, shall do whichever of the following is applicable:

A. If, within six years of the current offense, the offender has not been convicted of or pleaded guilty to a violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for thirty days of the vehicle involved in the offense and the impoundment for thirty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

B. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to one violation of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02, or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the immobilization for sixty days of the vehicle involved in the offense and the impoundment for sixty days of the license plates of that vehicle in accordance with Ohio R.C. 4503.233.

C. If, within six years of the current offense, the offender has been convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.14 or former division (D)(2) of Ohio R.C. 4507.02 or a municipal ordinance that is substantially equivalent to that section or former division, the court shall order the criminal forfeiture to the State of the vehicle the offender was operating at the time of the offense.

(2) An order for immobilization and impoundment of a vehicle under this section shall be issued and enforced in accordance with

Ohio R.C. 4503.233 and 4507.02, as applicable. The court shall not release a vehicle from immobilization ordered under this section unless the court is presented with current proof of financial responsibility with respect to that vehicle.

- (3) An order for criminal forfeiture of a vehicle under this section shall be issued and enforced under Ohio R.C. 4503.234. Upon receipt of a copy of the order from the court, neither the Registrar of Motor Vehicles nor a Deputy Registrar shall accept any application for the registration or transfer of registration of any motor vehicle owned or leased by the person named in the declaration of forfeiture. The period of registration denial shall be five years after the date of the order unless, during that period, the court having jurisdiction of the offense that led to the order terminates the forfeiture and notifies the Registrar of the termination. The Registrar then shall take the necessary measures to permit the person to register a vehicle owned or leased by the person or to transfer registration of the vehicle.

(ORC 4510.161)

(h) As used in this section:

(1) "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.

(2) "Equivalent offense" means any of the following:

A. A violation of a municipal ordinance, law of another state, or law of the United States that is substantially equivalent to subsection (a) of this section;

B. A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.

(3) "Jail" has the same meaning as in Ohio R.C. 2929.01.

(4) "Mandatory jail term" means the mandatory term in jail of three, ten, or thirty consecutive days that must be imposed under subsection (b)(1), (2) or (3) of this section upon an offender convicted of a violation of subsection (a) of this section and in relation to which all of the following apply:

A. Except as specifically authorized under this section, the term must be served in a jail.

B. Except as specifically authorized under this section, the term cannot be suspended, reduced, or otherwise modified pursuant to any provision of the Ohio Revised Code.

(ORC 4510.14)

335.072 DRIVING UNDER FINANCIAL RESPONSIBILITY LAW SUSPENSION OR CANCELLATION; DRIVING UNDER A NONPAYMENT OF JUDGMENT SUSPENSION.

(a) No person, whose driver's or commercial driver's license or temporary instruction permit or nonresident's operating privilege has been suspended or canceled pursuant to Ohio R.C. Chapter 4509, shall operate any motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period of the suspension or cancellation, except as specifically authorized by Ohio R.C. Chapter 4509. No person shall operate a motor vehicle within this Municipality, or knowingly permit any motor vehicle owned by the person to be operated by another person in the Municipality, during the period in which the person is required by Ohio R.C. 4509.45 to file and maintain proof of financial responsibility for a violation of Ohio R.C. 4509.101, unless proof of financial responsibility is maintained with respect to that vehicle.

(b) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality if the person's driver's or commercial driver's license or temporary instruction permit or nonresident operating privilege has been suspended pursuant to Ohio R.C. 4509.37 or 4509.40 for nonpayment of a judgment.

(c) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth and social security number of a person charged with a violation of subsection (a) or (b) of this section may be admitted into evidence as prima-facie evidence that the license of the person was under either a financial responsibility law suspension at the time of the alleged violation of subsection (a) of this section or a nonpayment of judgment suspension at the time of the alleged violation of subsection (b) of this section. The person charged with a violation of subsection (a) or (b) of this section may offer evidence to rebut this prima-facie evidence.

(d) Whoever violates subsection (a) of this section is guilty of driving under financial responsibility law suspension or cancellation and shall be punished as provided in subsection (d) hereof. Whoever violates subsection (b) of this section is guilty of driving under a nonpayment of judgment suspension and shall be punished as provided in subsection (d) hereof.

(1) Except as otherwise provided in subsection (d)(2) of this section, the offense is an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.

(2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of Ohio R.C. 4510.16, or any combination of two violations of Ohio R.C. 4510.16 or Ohio R.C. 4510.11 or 4510.111, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree.

(3) The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.16)

(e) No person who has knowingly failed to maintain proof of financial responsibility in accordance with Ohio R.C. 4509.101 shall produce any document or present to a peace officer an electronic wireless communications device that is displaying any text or images with the purpose to mislead a peace officer upon the request of a peace officer for proof of financial responsibility made in accordance with Ohio R.C. 4509.101. Whoever violates this subsection (e) hereof is guilty of falsification, a misdemeanor of the first degree. (ORC

335.073 DRIVING WITHOUT COMPLYING WITH LICENSE REINSTATEMENT REQUIREMENTS.

(a) No person whose driver's license, commercial driver's license, temporary instruction permit, or nonresident's operating privilege has been suspended shall operate any motor vehicle upon a public road or highway or any public or private property after the suspension has expired unless the person has complied with all license reinstatement requirements imposed by the court, the Bureau of Motor Vehicles, or another provision of the Ohio Revised Code.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima- facie evidence that the license of the person had not been reinstated by the person at the time of the alleged violation of subsection (a) hereof. The person charged with a violation of subsection (a) hereof may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates this section is guilty of failure to reinstate a license and shall be punished as follows:

- (1) Except as provided in subsection (c)(2) of this section, whoever violates subsection (a) hereof is guilty of an unclassified misdemeanor. When the offense is an unclassified misdemeanor, the offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of a violation of subsection (a) of this section, the offender previously has pleaded guilty to or been convicted of two or more violations of Ohio R.C. 4510.21(A) or a substantially equivalent municipal ordinance, the offender is guilty of a misdemeanor of the first degree.
- (3) In all cases, the court may impose upon the offender a class seven suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary driver's license, or nonresident operating privilege from the range specified in division (A)(7) of Ohio R.C. 4510.02. (ORC 4510.21)

335.074 DRIVING UNDER LICENSE FORFEITURE OR CHILD SUPPORT SUSPENSION.

(a) No person shall operate any motor vehicle upon a highway or any public or private property used by the public for purposes of vehicular travel or parking in this Municipality whose driver's or commercial driver's license has been suspended pursuant to Ohio R.C. 2151.354, 2151.87, 2935.27, 3123.58, 4301.99, 4510.032, 4510.22 or 4510.33.

(b) Upon the request or motion of the prosecuting authority, a noncertified copy of the law enforcement automated data system report or a noncertified copy of a record of the Registrar of Motor Vehicles that shows the name, date of birth, and social security number of a person charged with a violation of subsection (a) of this section may be admitted into evidence as prima- facie evidence that the license of the person was under suspension at the time of the alleged violation of subsection (a) of this section. The person charged with a violation of subsection (a) of this section may offer evidence to rebut this prima-facie evidence.

(c) Whoever violates subsection (a) of this section is guilty of driving under suspension and shall be punished as provided in subsection (c) of this section.

- (1) Except as otherwise provided in subsection (c)(2) of this section, the offense is an unclassified misdemeanor. The offender shall be sentenced pursuant to Ohio R.C. 2929.21 to 2929.28, except that the offender shall not be sentenced to a jail term; the offender shall not be sentenced to a community residential sanction pursuant to Ohio R.C. 2929.26; notwithstanding division (A)(2)(a) of Ohio R.C. 2929.28, the offender may be fined up to one thousand dollars (\$1,000); and, notwithstanding division (A)(3) of Ohio R.C. 2929.27, the offender may be ordered pursuant to division (C) of that section to serve a term of community service of up to five hundred hours. The failure of an offender to complete a term of community service imposed by the court may be punished as indirect criminal contempt under division (A) of Ohio R.C. 2705.02 that may be filed in the underlying case.
- (2) If, within three years of the offense, the offender previously was convicted of or pleaded guilty to two or more violations of subsection (A) of Ohio R.C. 4510.111, or any combination of two or more violations of subsection (A) of Ohio R.C. 4510.111, or Ohio R.C. 4510.11 or 4510.16, or a substantially equivalent municipal ordinance, the offense is a misdemeanor of the fourth degree and the offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the vehicle before, during or after committing the offense for which the offender is sentenced under this section. (ORC 4510.111)

335.08 OPERATION OR SALE WITHOUT CERTIFICATE OF TITLE.

(a) No person shall do any of the following:

- (1) Operate in this Municipality a motor vehicle for which a certificate of title is required without having that certificate in accordance with Ohio R.C. Chapter 4505 or, if a physical certificate of title has not been issued for a motor vehicle, operate the motor vehicle in this Municipality knowing that the ownership information relating to the vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Display or display for sale or sell as a dealer or acting on behalf of a dealer, a motor vehicle without having obtained a manufacturer's or importer's certificate, a certificate of title, or an assignment of a certificate of title for it as provided in Ohio R.C. Chapter 4505;
- (3) Fail to surrender any certificate of title or any certificate of registration or license plates upon cancellation of the same by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4505;
- (4) Fail to surrender the certificate of title to a clerk of a court of common pleas as provided in Ohio R.C. Chapter 4505 in case of

the destruction or dismantling or change of a motor vehicle in such respect that it is not the motor vehicle described in the certificate of title;

(5) Violate any rules adopted pursuant to Ohio R.C. Chapter 4505;

(6) Except as otherwise provided in Ohio R.C. Chapter 4505 and Chapter 4517, sell at wholesale a motor vehicle the ownership of which is not evidenced by an Ohio certificate of title, or the current certificate of title issued for the motor vehicle, or the manufacturer's certificate of origin, and all title assignments that evidence the seller's ownership of the motor vehicle, and an odometer disclosure statement that complies with Ohio R.C. 4505.06 and subchapter IV of the "Motor Vehicle Information and Cost Savings Act", 86 Stat. 961 (1972), 15 U.S.C. 1981;

(7) Operate in this Municipality a motor vehicle knowing that the certificate of title to the vehicle or ownership of the vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) This section does not apply to persons engaged in the business of warehousing or transporting motor vehicles for the purpose of salvage disposition.

(c) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both.

(ORC 4505.18)

335.09 DISPLAY OF LICENSE PLATES OR VALIDATION STICKERS; REGISTRATION.

(a) (1) No person who is the owner or operator of a motor vehicle shall fail to display in plain view on the rear of the motor vehicle a license plate that displays the distinctive number and registration mark assigned to the motor vehicle by the Ohio Director of Public Safety, including any county identification sticker and any validation sticker when required by and issued under Ohio R.C. 4503.19 and 4503.191. However a commercial tractor shall display the license plate on the front of the commercial tractor.

(2) The license plate shall be securely fastened so as not to swing, and shall not be covered by any material that obstructs its visibility.

(3) No person to whom a temporary motor vehicle license registration has been issued for the use of a motor vehicle under Ohio R.C. 4503.182, and no operator of that motor vehicle, shall fail to display the temporary motor vehicle license registration in plain view from the rear of the vehicle either in the rear window or on an external rear surface of the motor vehicle.

(4) No person shall cover a temporary motor vehicle license registration by any material that obstructs its visibility.

(ORC 4503.21(A))

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offenses established under subsection (a) of this section are strict liability offenses and Ohio R.C. 2901.20 does not apply. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(ORC 4503.21(B), (C))

335.091 OPERATING WITHOUT DEALER OR MANUFACTURER LICENSE PLATES.

(a) No person shall operate or cause to be operated upon a public road or highway a motor vehicle of a manufacturer or dealer unless the vehicle carries and displays a placard, except as provided in Ohio R.C. 4503.21, issued by the Director of Public Safety that displays the registration number of its manufacturer or dealer.

(b) Whoever violates subsection (a) of this section is guilty of illegal operation of a manufacturer's or dealer's motor vehicle, a minor misdemeanor.

(ORC 4549.10)

335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

(a) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503. (ORC 4503.11)

(b) No person shall operate, drive or park upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration. (ORC 4549.11)

(c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, drive or park the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles.

(ORC 4549.12)

(d) No person shall park or operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.

(e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.

(f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.

(2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.

(3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.

(ORC 4549.11; 4549.12)

335.11 USE OF ILLEGAL LICENSE PLATES; TRANSFER OF REGISTRATION.

(a) No person shall operate or drive a motor vehicle upon the streets in this Municipality if it displays a license plate or a distinctive number or identification mark that meets any of the following criteria:

(1) Is fictitious;

(2) Is a counterfeit or an unlawfully made copy of any distinctive number or identification mark;

(3) Belongs to another motor vehicle, provided that this section does not apply to a motor vehicle that is operated on the streets in this Municipality when the motor vehicle displays license plates that originally were issued for a motor vehicle that previously was owned by the same person who owns the motor vehicle that is operated on the streets in this Municipality, during the thirty-day period described in subsection (c) hereof.

(b) Whoever violates subsection (a)(1), (2) or (3) of this section is guilty of operating a motor vehicle bearing an invalid license plate or identification mark, a misdemeanor of the fourth degree on a first offense and a misdemeanor of the third degree on each subsequent offense.

(ORC 4549.08)

(c) Upon the transfer of ownership of a motor vehicle, the registration of the motor vehicle expires, and the original owner shall immediately remove the license plates from the motor vehicle. The transfer of the registration and, where applicable, the license plates from the motor vehicle for which they originally were issued to a succeeding motor vehicle purchased by the same person in whose name the original registration and license plates were issued shall be done within a period not to exceed thirty days. During that thirty-day period, the license plates from the motor vehicle for which they originally were issued may be displayed on the succeeding motor vehicle, and the succeeding motor vehicle may be operated on the streets of the Municipality.

(d) Whoever violates subsection (c) of this section is guilty of a misdemeanor of the fourth degree.

(ORC 4503.12)

335.111 REGISTRATION WITHIN THIRTY DAYS OF RESIDENCY.

(a) Within thirty days of becoming a resident of this State, any person who owns a motor vehicle operated or driven upon the public roads or highways shall register the vehicle in this State. If such a person fails to register a vehicle owned by the person, the person shall not operate any motor vehicle in this Municipality under a license issued by another state.

(b) (1) Whoever violates subsection (a) of this section is guilty of a minor misdemeanor.

(2) The offense established under subsection (b)(1) of this section is a strict liability offense and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of this offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(c) For purposes of subsection (a) of this section, "resident" means any person to whom any of the following applies:

(1) The person maintains their principal residence in this State and does not reside in this State as a result of the person's active service in the United States Armed Forces.

(2) The person is determined by the Registrar of Motor Vehicles to be a resident in accordance with standards adopted by the Registrar under Ohio R.C. 4507.01.

(ORC 4503.111)

335.12 STOPPING AFTER ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.

(a) (1) In the case of a motor vehicle accident or collision with persons or property on a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, immediately shall stop the operator's motor vehicle at the scene of the accident or collision. The operator shall remain at the scene of the accident or collision until the operator has given the operator's name and address and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, to all of the following:

A. Any person injured in the accident or collision;

B. The operator, occupant, owner or attendant of any motor vehicle damaged in the accident or collision;

C. The police officer at the scene of the accident or collision.

(2) In the event an injured person is unable to comprehend and record the information required to be given under subsection (a)(1) of this section, the other operator involved in the accident or collision shall notify the nearest police authority concerning the location of the accident or collision, and the operator's name, address and the registered number of the motor vehicle the operator was operating. The operator shall remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance.

(3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.

(b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after an accident is a misdemeanor of the first degree.

(2) If the accident or collision results in serious physical harm to a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.

(3) If the accident or collision results in the death of a person, failure to stop after an accident is a felony and shall be prosecuted under appropriate State law.

(4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.02)

335.13 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREET.

(a) (1) In the case of a motor vehicle accident or collision resulting in injury or damage to persons or property on any public or private property other than a public road or highway, the operator of the motor vehicle, having knowledge of the accident or collision, shall stop at the scene of the accident or collision. Upon request of any person who is

injured or damaged, or any other person, the operator shall give that person the operator's name and address, and, if the operator is not the owner, the name and address of the owner of that motor vehicle, together with the registered number of that motor vehicle, and, if available, exhibit the operator's driver's or commercial driver's license.

- (2) If the operator of the motor vehicle involved in the accident or collision does not provide the information specified in subsection (a)(1) of this section, the operator shall give that information, within twenty-four hours after the accident or collision, to the Police Department.
 - (3) If the accident or collision is with an unoccupied or unattended motor vehicle, the operator who collides with the motor vehicle shall securely attach the information required under subsection (a)(1) of this section, in writing, to a conspicuous place in or on the unoccupied or unattended motor vehicle.
- (b) (1) Whoever violates subsection (a) of this section is guilty of failure to stop after a nonpublic road accident. Except as otherwise provided in subsection (b)(2) or (3) of this section, failure to stop after a nonpublic road accident is a misdemeanor of the first degree.
- (2) If the accident or collision results in serious physical harm to a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (3) If the accident or collision results in the death of a person, failure to stop after a nonpublic road accident is a felony and shall be prosecuted under appropriate State law.
 - (4) In all cases, the court, in addition to any other penalties provided by law, shall impose upon the offender a class five suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(5) of Ohio R.C. 4510.02. No judge shall suspend the first six months of suspension of an offender's license, permit, or privilege required by this subsection.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.18 or 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.021)

335.14 VEHICLE ACCIDENT RESULTING IN DAMAGE TO REALTY.

(a) The driver of any vehicle involved in an accident resulting in damage to real property, or personal property attached to real property, legally upon or adjacent to a public road or highway immediately shall stop and take reasonable steps to locate and notify the owner or person in charge of the property of that fact, of the driver's name and address, and of the registration number of the vehicle the driver is driving and, upon request and if available, shall exhibit the driver's or commercial driver's license.

If the owner or person in charge of the property cannot be located after reasonable search, the driver of the vehicle involved in the accident resulting in damage to the property, within twenty-four hours after the accident, shall forward to the police authority in the municipality in which the accident or collision occurred, the same information required to be given to the owner or person in control of the property and give the location of the accident and a description of the damage insofar as it is known.

(b) Whoever violates subsection (a) of this section is guilty of failure to stop after an accident involving the property of others, a misdemeanor of the first degree.

The offender shall provide the court with proof of financial responsibility as defined in Ohio R.C. 4509.01. If the offender fails to provide that proof of financial responsibility, then, in addition to any other penalties provided by law, the court may order restitution pursuant to Ohio R.C. 2929.28 in an amount not exceeding five thousand dollars (\$5,000) for any economic loss arising from an accident or collision that was the direct and proximate result of the offender's operation of the motor vehicle before, during or after committing the offense charged under this section. (ORC 4549.03)

CHAPTER 337

Safety and Equipment

- 337.01 Driving unsafe vehicles.**
- 337.02 Lighted lights; measurement of distances and heights.**
- 337.03 Headlights on motor vehicles and motorcycles.**
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- 337.26 Child restraint system usage.**
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- 337.28 Use of suncreening, nontransparent and reflectorized materials.**
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CROSS REFERENCES

See sectional histories for similar State law
 Warning devices for commercial vehicles disabled upon freeways - see Ohio R.C. 4513.28
 Slow moving vehicle emblem - see OAC Ch. 4501.13
 Motorized bicycle lights and equipment - see Ohio R.C. 4511.521
 Vehicle lighting - see OAC 4501-15
 Use of stop and turn signals - see TRAF. 331.14
 Wheel protectors for commercial vehicles - see TRAF. 339.05
 Vehicles transporting explosives - see TRAF. 339.06
 Towing requirements - see TRAF. 339.07
 Use of studded tires and chains - see TRAF. 339.11
 Bicycle equipment - see TRAF. 373.05 et seq.

337.01 DRIVING UNSAFE VEHICLES.

- (a) No person shall drive or move, or cause or knowingly permit to be driven or moved, on any street any vehicle or combination of vehicles which is in such unsafe condition as to endanger any person or property.
- (b) Nothing contained in this chapter shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this chapter.
- (c) The provisions of this chapter with respect to equipment on vehicles do not apply to implements of husbandry, road machinery, road rollers or agricultural tractors except as made applicable to such articles of machinery. (ORC 4513.02)
- (d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.02 LIGHTED LIGHTS; MEASUREMENT OF DISTANCES AND HEIGHTS.

- (a) Every vehicle, other than a motorized bicycle, operated upon a street or highway shall display lighted lights and illuminating devices as required by this chapter during all of the following times:
 - (1) The time from sunset to sunrise;
 - (2) At any other time when, due to insufficient natural light or unfavorable atmospheric conditions, persons, vehicles, and substantial objects on the street or highway are not discernible at a distance of one thousand feet ahead;
 - (3) At any time when the windshield wipers of the vehicle are in use because of precipitation on the windshield.
 Every motorized bicycle shall display at such times lighted lights meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521. No motor vehicle, during any time specified in this section, shall be operated upon a street or highway using only parking lights as illumination.
- (b) Whenever in this chapter a requirement is declared as to the distance from which certain lights and devices shall render objects visible, or within which such lights or devices shall be visible, such distance shall be measured upon a straight level unlighted street under normal atmospheric conditions unless a different condition is expressly stated.
- (c) Whenever in this chapter a requirement is declared as to the mounted height of lights or devices, it shall mean from the center of such light or device to the level ground upon which the vehicle stands.
- (d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause the operator of a vehicle being operated upon a street or highway to stop the vehicle solely because the officer observes that a violation of subsection (a)(3) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that subsection, or causing the arrest of or commencing a prosecution of a person for a violation of that subsection.
- (e) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.03)

337.03 HEADLIGHTS ON MOTOR VEHICLES AND MOTORCYCLES.

- (a) Every motor vehicle, other than a motorcycle, shall be equipped with at least two headlights with at least one near each side of the front of the motor vehicle.
- (b) Every motorcycle shall be equipped with at least one and not more than two headlights.
- (c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.04)

337.04 TAIL LIGHT; ILLUMINATION OF REAR LICENSE PLATE.

- (a) Every motor vehicle, trailer, semitrailer, pole trailer or vehicle which is being drawn at the end of a train of vehicles shall be equipped with at least one tail light mounted on the rear which, when lighted, shall emit a red light visible from a distance of 500 feet to the rear, provided that in the case of a train of vehicles only the tail light on the rear-most vehicle need be visible from the distance specified.
- (b) Either a tail light or a separate light shall be so constructed and placed as to illuminate with a white light the rear registration plate,

when such registration plate is required, and render it legible from a distance of fifty feet to the rear. Any tail light, together with any separate light for illuminating the rear registration plate, shall be so wired as to be lighted whenever the headlights or auxiliary driving lights are lighted, except where separate lighting systems are provided for trailers for the purpose of illuminating such registration plate.

(c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.05)

337.05 REAR RED REFLECTORS.

(a) Every new motor vehicle sold after September 6, 1941, and operated on a street, other than vehicles of the type mentioned in Section 337.06 or a commercial tractor to which a trailer or semitrailer is attached, shall carry at the rear, either as a part of the tail lights or separately, two red reflectors of such size and characteristics and so maintained as to be visible at night from all distances within 300 feet to fifty feet from such vehicle.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.06)

337.06 SAFETY LIGHTING ON COMMERCIAL VEHICLES.

(a) Buses, trucks, commercial tractors, trailers, semitrailers and pole trailers, when operated upon any street, shall be equipped with clearance lights, marker lights, reflectors and stop lights as required by State regulations. Such equipment shall be lighted at all times mentioned in Section 337.02 except that clearance lights and side marker lights need not be lighted on a vehicle operated where there is sufficient light to reveal any person or substantial object on the street at a distance of 500 feet.

Such equipment shall be in addition to all other lights specifically required by Section 337.02 to Section 337.15, inclusive. Vehicles operated under the jurisdiction of the Ohio Public Utilities Commission are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.07)

337.07 OBSCURED LIGHTS ON VEHICLES IN COMBINATION.

(a) Whenever motor and other vehicles are operated in combination during the time that lights are required, any light, except tail lights, which by reason of its location on a vehicle of the combination would be obscured by another vehicle of the combination need not be lighted, but this section does not affect the requirement that lighted clearance lights be displayed on the front of the foremost vehicle required to have clearance lights or that all lights required on the rear of the rearmost vehicle of any combination shall be lighted.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

(ORC 4513.08)

337.08 RED LIGHT OR RED FLAG ON EXTENDED LOADS.

(a) Whenever the load upon any vehicle extends to the rear four feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in Section 337.02, a red light or lantern plainly visible from a distance of at least 500 feet to the side and rear. The red light or lantern required by this section is in addition to the red rear light required upon every vehicle. At any other time there shall be displayed at the extreme rear end of such load a red flag or cloth not less than sixteen inches square.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.09)

337.09 LIGHTS ON PARKED OR STOPPED VEHICLES.

(a) Except in case of an emergency, whenever a vehicle is parked or stopped upon a roadway open to traffic or shoulder adjacent thereto, whether attended or unattended during the times mentioned in Section 337.02, such vehicle shall be equipped with one or more lights which shall exhibit a white or amber light on the roadway side visible from a distance of 500 feet to the front of such vehicle, and a red light visible from a distance of 500 feet to the rear. No lights need be displayed upon any such vehicle when it is stopped or parked where there is sufficient light to reveal any person or substantial object within a distance of 500 feet upon such street. Any lighted headlights upon a parked vehicle shall be depressed or dimmed.

(ORC 4513.10)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.99)

337.10 LIGHTS ON SLOW-MOVING VEHICLES; EMBLEM REQUIRED.

(a) All vehicles other than bicycles, including animal-drawn vehicles and vehicles referred to in Section 337.01(c), not specifically required to be equipped with lights or other lighting devices by Section 337.02 to 337.09, shall at all times specified in Section 337.02, be equipped with at least one light displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle, and also shall be equipped with two lights displaying red light visible from a distance of not less than 1,000 feet to the rear of the vehicle, or as an alternative, one light displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 feet to 100 feet to the rear when illuminated by the lawful lower beams of headlights.

Lights and reflectors required or authorized by this section shall meet standards adopted by the Ohio Director of Public Safety.

(b) All boat trailers, farm machinery and other machinery, including all road construction machinery, upon a street or highway, except when being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used, or when operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, or the Municipal or County Engineer, when such construction area is marked in accordance with requirements of the Director and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09, which is designed for operation at a speed of twenty-five miles per hour or

less shall be operated at a speed not exceeding twenty-five miles per hour, and shall display a triangular slow-moving vehicle emblem (SMV). The emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. The Ohio Director of Public Safety shall adopt standards and specifications for the design and position of mounting the SMV emblem. The standards and specifications for SMV emblems referred to in this section shall correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.

A unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour may be operated on a street or highway at a speed greater than twenty-five miles per hour provided it is operated in accordance with this section.

As used in this subsection (b), "machinery" does not include any vehicle designed to be drawn by an animal.

(c) The use of the SMV emblem shall be restricted to animal-drawn vehicles, and to the slow-moving vehicles specified in subsection (b) hereof operating or traveling within the limits of the highway. Its use on slow-moving vehicles being transported upon other types of vehicles or on any other type of vehicle or stationary object on the highway is prohibited.

(d) (1) No person shall sell, lease, rent or operate any boat trailer, farm machinery or other machinery defined as a slow-moving vehicle in subsection (b) hereof, except those units designed to be completely mounted on a primary power unit, which is manufactured or assembled on or after April 1, 1966, unless the vehicle is equipped with a slow-moving vehicle emblem mounting device as specified in subsection (b) hereof.

(2) No person shall sell, lease, rent, or operate on a street or highway any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the unit displays a slow-moving vehicle emblem as specified in subsection (b) of this section and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS).

(e) Any boat trailer, farm machinery, or other machinery defined as a slow-moving vehicle in subsection (b) of this section, in addition to the use of the slow-moving vehicle emblem, and any unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour, in addition to the display of a speed identification symbol may be equipped with a red flashing light that shall be visible from a distance of not less than one thousand feet to the rear at all times specified in Section 337.02. When a double-faced light is used, it shall display amber light to the front and red light to the rear.

In addition to the lights described in this subsection, farm machinery and motor vehicles escorting farm machinery may display a flashing, oscillating or rotating amber light, as permitted by Section 337.16, and also may display simultaneously flashing turn signals or warning lights, as permitted by that section.

(f) Every animal-drawn vehicle upon a street or highway shall at all times be equipped in one of the following ways:

(1) With a slow-moving vehicle emblem complying with subsection (b) hereof;

(2) With alternate reflective material complying with rules adopted under this subsection (f);

(3) With both a slow-moving vehicle emblem and alternate reflective material as specified in this subsection (f).

The Ohio Director of Public Safety, subject to Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position of mounting of the alternate reflective material authorized by this subsection (f). The rules shall permit, as a minimum, the alternate reflective material to be black, gray or silver in color. The alternate reflective material shall be mounted on the animal-drawn vehicle so as to be visible at all times specified in Section 337.02, from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps.

(g) Every unit of farm machinery that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour shall display a slow-moving vehicle emblem and a speed identification symbol that meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, agricultural equipment; speed identification symbol (SIS) when the unit is operated upon a street or highway, irrespective of the speed at which the unit is operated on the street or highway. The speed identification symbol shall indicate the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate. The display of the speed identification symbol shall be in accordance with the standard prescribed in this subsection.

If an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour and is towing, pulling or otherwise drawing a unit of farm machinery, the unit of farm machinery shall display a slow-moving vehicle emblem and a speed identification symbol that is the same as the speed identification symbol that is displayed on the agricultural tractor.

(h) When an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour is being operated on a street or highway at a speed greater than twenty-five miles per hour, the operator shall possess some documentation published or provided by the manufacturer indicating the maximum speed in miles per hour at which the manufacturer designed the agricultural tractor to operate.

(i) As used in this section, "boat trailer" means any vehicle 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.

(j) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.11)

337.11 SPOTLIGHT AND AUXILIARY LIGHTS.

(a) Any motor vehicle may be equipped with not more than one spotlight and every lighted spotlight shall be so aimed and used upon approaching another vehicle that no part of the high-intensity portion of the beam will be directed to the left of the prolongation of the extreme left side of the vehicle, nor more than 100 feet ahead of the vehicle.

(b) Any motor vehicle may be equipped with not more than three State approved auxiliary driving lights mounted on the front of the vehicle, which when used shall conform to State regulations.

(c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.12)

337.12 COWL, FENDER AND BACK-UP LIGHTS.

(a) Any motor vehicle may be equipped with side cowl or fender lights or lights on each side thereof which shall emit a white or amber light without glare.

(b) Any motor vehicle may be equipped with back-up lights, either separately or in combination with another light. No back-up lights shall be continuously lighted when the motor vehicle is in forward motion.

(c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.13)

337.13 DISPLAY OF LIGHTED LIGHTS.

(a) At all times mentioned in Section 337.02 at least two State approved lighted lights shall be displayed conforming to State regulations, one near each side of the front of every motor vehicle, except when such vehicle is parked subject to the regulations governing lights on parked vehicles.

(ORC 4513.14)

(b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein.

(c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.14)

337.14 USE OF HEADLIGHT BEAMS.

(a) Whenever a motor vehicle is being operated on a roadway or shoulder adjacent thereto during the times specified in Section 337.02, the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons, vehicles and substantial objects at a safe distance in advance of the vehicle, except that upon approaching an oncoming vehicle, the lights or beams shall be so aimed that the glaring rays are not projected into the eyes of the oncoming driver.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.15)

337.15 LIGHTS OF LESS INTENSITY ON SLOW-MOVING VEHICLES.

(a) Any motor vehicle may be operated under the conditions specified in Section 337.02 when it is equipped with two lighted lights upon the front thereof capable of revealing persons and substantial objects seventy-five feet ahead in lieu of lights required in Section 337.13, provided that such vehicle shall not be operated at a speed in excess of twenty miles per hour.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.16)

337.16 NUMBER OF LIGHTS; LIMITATIONS ON FLASHING, OSCILLATING OR ROTATING LIGHTS.

(a) Whenever a motor vehicle equipped with headlights also is equipped with any auxiliary lights or spotlight or any other light on the front thereof projecting a beam of an intensity greater than 300 candle power, not more than a total of five of any such lights on the front of a vehicle shall be lighted at any one time when the vehicle is upon a highway.

(b) Any lighted light or illuminating device upon a motor vehicle, other than headlights, spotlights, signal lights or auxiliary driving lights, that projects a beam of light of an intensity greater than 300 candle power, shall be so directed that no part of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

(c) (1) Flashing lights are prohibited on motor vehicles, except as a means for indicating a right or a left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing. This prohibition does not apply to emergency vehicles, road service vehicles servicing or towing a disabled vehicle, stationary waste collection vehicles actively collecting garbage, refuse, trash or recyclable materials on the roadside, rural mail delivery vehicles, vehicles transporting preschool children as provided in Ohio R.C. 4513.182, highway maintenance vehicles, funeral hearses, funeral escort vehicles and similar equipment operated by the Department or local authorities, which shall be equipped with and display, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating amber light, but shall not display a flashing, oscillating or rotating light of any other color, nor to vehicles or machinery permitted by Section 337.10 to have a flashing red light.

(2) When used on a street or highway, farm machinery and vehicles escorting farm machinery may be equipped with and display a flashing, oscillating, or rotating amber light, and the prohibition contained in subsection (c)(1) hereof does not apply to such machinery or vehicles. Farm machinery also may display the lights described in Section 337.10.

(d) Except a person operating a public safety vehicle, as defined in Section 301.27, or a school bus, no person shall operate, move or park upon or permit to stand within the right of way of any public street or highway any vehicle or equipment that is equipped with and displaying a flashing red or a flashing combination red and white light, or an oscillating or rotating red light, or a combination red and white oscillating or rotating light; and except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the State or Municipality, operating a public safety vehicle when on duty, no person shall operate, move or park upon, or permit to stand within the right of way of any street or highway any vehicle or equipment that is equipped with, or upon which is mounted, and displaying a flashing blue or a flashing combination blue and white light, or an oscillating or rotating blue light, or a combination blue and white oscillating or rotating light.

(e) This section does not prohibit the use of warning lights required by law or the simultaneous flashing of turn signals on disabled vehicles or on vehicles being operated in unfavorable atmospheric conditions in order to enhance their visibility. This section also does not prohibit the simultaneous flashing of turn signals or warning lights either on farm machinery or vehicles escorting farm machinery, when used on a street or highway.

(f) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.17)

337.17 FOCUS AND AIM OF HEADLIGHTS.

(a) No person shall use any lights mentioned in Section 337.02 to 337.16, inclusive, upon any motor vehicle, trailer or semitrailer unless the lights are equipped, mounted and adjusted as to focus and aim in accordance with State regulations.

(b) The headlights on any motor vehicle shall comply with the headlamp color requirements contained in federal motor vehicle safety standard number 108, 49 C.F.R. 571.108. No person shall operate a motor vehicle in violation of this subsection.

(c) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.19)

337.18 MOTOR VEHICLE AND MOTORCYCLE BRAKES.

(a) The following requirements govern as to brake equipment on vehicles:

- (1) Every motor vehicle, other than a motorcycle, when operated upon a street or highway, shall be equipped with brakes adequate to control the movement of and to stop and hold such motor vehicle, including two separate means of applying the brakes, each of which means shall be effective to apply the brakes to at least two wheels. If these two separate means of applying the brakes are connected in any way, then on such motor vehicles manufactured or assembled after January 1, 1942, they shall be so constructed that failure of any one part of the operating mechanism shall not leave the motor vehicle without brakes on at least two wheels.
- (2) Every motorcycle, when operated upon a street or highway, shall be equipped with at least one adequate brake, which may be operated by hand or by foot.
- (3) Every motorized bicycle shall be equipped with brakes meeting the rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4511.521.
- (4) When operated upon the streets or highways of this Municipality, the following vehicles shall be equipped with brakes adequate to control the movement of and to stop and to hold the vehicle designed to be applied by the driver of the towing motor vehicle from its cab, and also designed and connected so that, in case of a breakaway of the towed vehicle, the brakes shall be automatically applied:
 - A. Except as otherwise provided in this section, every trailer or semitrailer, except a pole trailer, with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 1942;
 - B. Every manufactured home or travel trailer with an empty weight of two thousand pounds or more, manufactured or assembled on or after January 1, 2001.
- (5) Every watercraft trailer with a gross weight or manufacturer's gross vehicle weight rating of three thousand pounds or more that is manufactured or assembled on or after January 1, 2008, shall have separate brakes equipped with hydraulic surge or electrically operated brakes on two wheels.
- (6) In any combination of motor-drawn trailers or semitrailers equipped with brakes, means shall be provided for applying the rearmost brakes in approximate synchronism with the brakes on the towing vehicle, and developing the required braking effort on the rearmost wheels at the fastest rate; or means shall be provided for applying braking effort first on the rearmost brakes; or both of the above means, capable of being used alternatively, may be employed.
- (7) Every vehicle and combination of vehicles, except motorcycles and motorized bicycles, and except trailers and semitrailers of a gross weight of less than 2,000 pounds, and pole trailers, shall be equipped with parking brakes adequate to hold the vehicle on any grade on which it is operated, under all conditions of loading, on a surface free from snow, ice or loose material. The parking brakes shall be capable of being applied in conformance with the foregoing requirements by the driver's muscular effort or by spring action or by equivalent means. Their operation may be assisted by the service brakes or other sources of power provided that failure of the service brake actuation system or other power assisting mechanism will not prevent the parking brakes from being applied in conformance with the foregoing requirements. The parking brakes shall be so designed that when once applied they shall remain applied with the required effectiveness despite exhaustion of any source of energy or leakage of any kind.
- (8) The same brake drums, brake shoes and lining assemblies, brake shoe anchors, and mechanical brake shoe actuation mechanism normally associated with the wheel brake assemblies may be used for both the service brakes and the parking brakes. If the means of applying the parking brakes and the service brakes are connected in any way, they shall be so constructed that failure of any one part shall not leave the vehicle without operative brakes.
- (9) Every motor vehicle or combination of motor-drawn vehicles shall be capable at all times and under all conditions of loading of being stopped on a dry, smooth, level road free from loose material, upon application of the service or foot brake, within the following specified distances, or shall be capable of being decelerated at a sustained rate corresponding to these distances:

From a speed of 20 miles per hour

	<u>Stopping distance</u>	<u>Deceleration in feet per second</u>
	<u>in feet</u>	<u>per second</u>
Brakes on all wheels	30	14
Brakes not on all four wheels	40	10.7

(10) All brakes shall be maintained in good working order and shall be so adjusted as to operate as equally as practicable with respect to the wheels on opposite sides of the vehicle. (ORC 4513.20)

(b) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4513.99)

337.19 HORN, SIREN AND THEFT ALARM SIGNAL.

(a) Every motor vehicle when operated upon a street shall be equipped with a horn which is in good working order and capable of

emitting sound audible, under normal conditions, from a distance of not less than 200 feet.

(b) No motor vehicle shall be equipped with, nor shall any person use upon a vehicle, any siren, whistle or bell. Any vehicle may be equipped with a theft alarm signal device which shall be so arranged that it cannot be used as an ordinary warning signal. Every emergency or public safety vehicle shall be equipped with a siren, whistle or bell capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the Ohio Director of Public Safety. Such equipment shall not be used except when such vehicle is operated in response to an emergency call or is in the immediate pursuit of an actual or suspected violator of the law, in which case the driver of the emergency or public safety vehicle shall sound such equipment when it is necessary to warn pedestrians and other drivers of the approach thereof.

(c) No person shall use the horn of a motor vehicle except to give warning to other drivers or pedestrians.

(d) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.21)

337.20 MUFFLER; MUFFLER CUTOUT; EXCESSIVE SMOKE, GAS OR NOISE.

(a) Every motor vehicle and motorcycle with an internal combustion engine shall at all times be equipped with a muffler which is in good working order and in constant operation to prevent excessive or unusual noise, and no person shall use a muffler cutout, by-pass or similar device upon a motor vehicle on a highway. Every motorcycle muffler shall be equipped with baffle plates.

(b) No person shall own, operate or have in the person's possession any motor vehicle or motorcycle equipped with a device for producing excessive smoke or gas, or so equipped as to permit oil or any other chemical to flow into or upon the exhaust pipe or muffler of such vehicle, or equipped in any other way to produce or emit smoke or dangerous or annoying gases from any portion of such vehicle, other than the ordinary gases emitted by the exhaust of an internal combustion engine under normal operation.

(c) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.22)

337.21 REAR-VIEW MIRROR; CLEAR VIEW TO FRONT, BOTH SIDES AND REAR.

(a) Every motor vehicle and motorcycle shall be equipped with a mirror so located as to reflect to the operator a view of the street to the rear of such vehicle or motorcycle. Operators of vehicles and motorcycles shall have a clear and unobstructed view to the front and to both sides of their vehicles or motorcycles and shall have a clear view to the rear of their vehicles or motorcycles by mirror.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.23)

337.22 WINDSHIELD AND WINDSHIELD WIPER; SIGN OR POSTER THEREON.

(a) No person shall drive any motor vehicle on a street or highway, other than a motorcycle or motorized bicycle, that is not equipped with a windshield.

(b) (1) No person shall drive any motor vehicle, other than a bus, with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of such vehicle other than a certificate or other paper required to be displayed by law, except that there may be in the lower left-hand or right-hand corner of the windshield a sign, poster or decal not to exceed four inches in height by six inches in width. No sign, poster or decal shall be displayed in the front windshield in such a manner as to conceal the vehicle identification number for the motor vehicle when in accordance with federal law, that number is located inside the vehicle passenger compartment and so placed as to be readable through the vehicle glazing without moving any part of the vehicle.

(2) Subsection (b)(1) of this section does not apply to a person who is driving a passenger car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.

B. It does not conceal the vehicle identification number.

(3) Subsection (b)(1) of this section does not apply to a person who is driving a commercial car with an electronic device, including an antenna, electronic tolling or other transponder, camera, directional navigation device, or other similar electronic device located in the front windshield if the device meets both of the following:

A. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals.

B. It is mounted not more than six inches below the upper edge of the windshield and is outside the area swept by the vehicle's windshield wipers.

(c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be maintained in good working order and so constructed as to be controlled or operated by the operator of the vehicle.

(d) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.24)

337.23 LIMITED LOAD EXTENSION ON LEFT SIDE OF PASSENGER VEHICLE.

(a) No passenger-type vehicle shall be operated on a street with any load carried on such vehicle which extends more than six inches beyond the line of the fenders on the vehicle's left side. (ORC 4513.30)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.99)

337.24 MOTOR VEHICLE STOP LIGHTS.

(a) Every motor vehicle, trailer, semitrailer, and pole trailer when operated upon a street or highway shall be equipped with two or more stop lights, except that passenger cars manufactured or assembled prior to January 1, 1967, motorcycles, and motor-driven cycles shall be equipped with at least one stop light. Stop lights shall be mounted on the rear of the vehicle, actuated upon application of the

service brake, and may be incorporated with other rear lights. Such stop lights when actuated shall emit a red light visible from a distance of five hundred feet to the rear, provided that in the case of a train of vehicles only the stop lights on the rear-most vehicle need be visible from the distance specified.

Such stop lights when actuated shall give a steady warning light to the rear of a vehicle or train of vehicles to indicate the intention of the operator to diminish the speed of or stop a vehicle or train of vehicles.

When stop lights are used as required by this section, they shall be constructed or installed so as to provide adequate and reliable illumination and shall conform to the appropriate rules and regulations established under Ohio R.C. 4513.19.

Historical motor vehicles as defined in Ohio R.C. 4503.181, not originally manufactured with stop lights, are not subject to this section.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.071)

337.25 AIR CLEANER REQUIRED.

(a) No person shall operate a motor vehicle with an internal combustion engine unless the carburetion system of the vehicle is protected with an air filter, a flame arresting device, or any other accepted method of protection that is adequate for this purpose. If the original device or system is replaced, it shall be replaced with one that is equal to or better than the original equipment.

(b) This section does not apply to a person doing automotive repair work on a motor vehicle that necessitates this device being removed while the work is performed.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

337.26 CHILD RESTRAINT SYSTEM USAGE.

(a) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(b) When any child who is in either or both of the following categories is being transported in a motor vehicle, other than a taxicab, that is owned, leased or otherwise under the control of a nursery school, or day-care center, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards:

- (1) A child who is less than four years of age;
- (2) A child who weighs less than forty pounds.

(c) When any child who is less than eight years of age and less than four feet nine inches in height, who is not required by subsection (a) or (b) of this section to be secured in a child restraint system, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01 or a vehicle that is regulated under Ohio R.C. 5104.011, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly secured in accordance with the manufacturer's instructions on a booster seat that meets federal motor vehicle safety standards.

(d) When any child who is at least eight years of age but not older than fifteen years of age and who is not otherwise required by subsection (a), (b) or (c) hereof to be secured in a child restraint system or booster seat, is being transported in a motor vehicle, other than a taxicab or public safety vehicle as defined in Ohio R.C. 4511.01, that is required by the United States Department of Transportation to be equipped with seat belts at the time of manufacture or assembly, the operator of the motor vehicle shall have the child properly restrained either in accordance with the manufacturer's instructions in a child restraint system that meets federal motor vehicle safety standards or in an occupant restraining device as defined in Ohio R.C. 4513.263.

(e) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of a motor vehicle being operated on any street or highway to stop the motor vehicle for the sole purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed or for the sole purpose of issuing a ticket, citation, or summons for a violation of subsection (c) or (d) of this section or causing the arrest of or commencing a prosecution of a person for a violation of subsection (c) or (d) of this section, and absent another violation of law, a law enforcement officer's view of the interior or visual inspection of a motor vehicle being operated on any street or highway may not be used for the purpose of determining whether a violation of subsection (c) or (d) of this section has been or is being committed.

(f) The Ohio Director of Public Safety shall adopt such rules as are necessary to carry out this section.

(g) The failure of an operator of a motor vehicle to secure a child in a child restraint system, a booster seat or an occupant restraining device as required by this section is not negligence imputable to the child, is not admissible as evidence in any civil action involving the rights of the child against any other person allegedly liable for injuries to the child, is not to be used as a basis for a criminal prosecution of the operator of the motor vehicle other than a prosecution for a violation of this section, and is not admissible as evidence in any criminal action involving the operator of the motor vehicle other than a prosecution for a violation of this section.

(h) This section does not apply when an emergency exists that threatens the life of any person operating or occupying a motor vehicle that is being used to transport a child who otherwise would be required to be restrained under this section. This section does not apply to

a person operating a motor vehicle who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states that the child who otherwise would be required to be restrained under this section has a physical impairment that makes use of a child restraint system, booster seat or an occupant restraining device impossible or impractical, provided that the person operating the vehicle has safely and appropriately restrained the child in accordance with any recommendations of the physician or chiropractor as noted on the affidavit.

(i) Nothing in this section shall be construed to require any person to carry with the person the birth certificate of a child to prove the age of the child, but the production of a valid birth certificate for a child showing that the child was not of an age to which this section applies is a defense against any ticket, citation or summons issued for violating this section.

(j) Whoever violates subsection (a), (b), (c) or (d) of this section shall be punished as follows, provided that the failure of an operator of a motor vehicle to secure more than one child in a child restraint system, booster seat, or occupant restraining device as required by this section that occurred at the same time, on the same day, and at the same location is deemed to be a single violation of this section:

- (1) Except as otherwise provided in subsection (j)(2) of this section, the offender is guilty of a minor misdemeanor and shall be fined not less than twenty-five dollars (\$25.00) nor more than seventy-five dollars (\$75.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a), (b), (c) or (d) of this section or of a state law or municipal ordinance that is substantially similar to any of those subsections, the offender is guilty of a misdemeanor of the fourth degree.

(ORC 4511.81)

337.27 DRIVERS AND PASSENGERS REQUIRED TO WEAR SEAT BELTS.

(a) As used in this section:

- (1) "Automobile" means any commercial tractor, passenger car, commercial car or truck that is required to be factory-equipped with an occupant restraining device for the operator or any passenger by regulations adopted by the United States Secretary of Transportation pursuant to the "National Traffic and Motor Vehicle Safety Act of 1966," 80 Stat. 719, 15 U.S.C.A. 1392.
- (2) "Occupant restraining device" means a seat safety belt, shoulder belt, harness or other safety device for restraining a person who is an operator of or passenger in an automobile and that satisfies the minimum Federal vehicle safety standards established by the United States Department of Transportation.
- (3) "Passenger" means any person in an automobile, other than its operator, who is occupying a seating position for which an occupant restraining device is provided.
- (4) "Commercial tractor," "passenger car," and "commercial car" have the same meanings as provided in Ohio R.C. 4501.01.
- (5) "Vehicle" and "motor vehicle", as used in the definitions of the terms set forth in subsection (a)(4) hereof, have the same meanings as provided in Chapter 301.
- (6) "Tort action" means a civil action for damages for injury, death, or loss to person or property. "Tort action" includes a product liability claim, as defined in Ohio R.C. 2307.71 and an asbestos claim, as defined in Ohio R.C. 2307.91, but does not include a civil action for damages for breach of contract or another agreement between persons.

(b) No person shall do either of the following:

- (1) Operate an automobile on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device, or operate a school bus that has an occupant restraining device installed for use in its operator's seat unless that person is wearing all of the available elements of the device, as properly adjusted;
- (2) Operate an automobile on any street or highway unless each passenger in the automobile who is subject to the requirement set forth in subsection (b)(3) hereof is wearing all of the available elements of a properly adjusted occupant restraining device;
- (3) Occupy, as a passenger, a seating position on the front seat of an automobile being operated on any street or highway unless that person is wearing all of the available elements of a properly adjusted occupant restraining device;
- (4) Operate a taxicab on any street or highway unless all factory-equipped occupant restraining devices in the taxicab are maintained in usable form.

(c) (1) Subsection (b)(3) hereof does not apply to a person who is required by Section 337.26 to be secured in a child restraint device or booster seat.

(2) Subsection (b)(1) hereof does not apply to a person who is an employee of the United States Postal Service or of a newspaper home delivery service, during any period in which the person is engaged in the operation of an automobile to deliver mail or newspapers to addressees.

(3) Subsections (b)(1) and (3) hereof do not apply to a person who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or a chiropractor licensed to practice in this State under Ohio R.C. Chapter 4734 that states the following:

A. That the person has a physical impairment that makes use of an occupant restraining device impossible or impractical;

B. Whether the physical impairment is temporary, permanent or reasonably expected to be permanent;

C. If the physical impairment is temporary, how long the physical impairment is expected to make the use of an occupant restraining device impossible or impractical.

(4) Subsections (b)(1) and (3) of this section do not apply to a person who has registered with the Registrar of Motor Vehicles in accordance with subsection (c)(5) of this section.

(5) A person who has received an affidavit under subsection (c)(3) of this section stating that the person has a permanent or reasonably expected to be permanent physical impairment that makes use of an occupant restraining device impossible or impracticable may register with the Registrar attesting to that fact. Upon such registration, the Registrar shall make that information available in the law enforcement automated data system. A person included in the database under subsection (c)(5) of this section is not required to have the affidavit obtained in accordance with subsection (c)(3) of this section in their possession while operating or occupying an automobile.

(6) A physician or chiropractor who issues an affidavit for the purposes of subsection (c)(3) or (4) of this section is immune from civil liability arising from any injury or death sustained by the person who was issued the affidavit due to the failure of the person to wear an occupant restraining device unless the physician or chiropractor, in issuing the affidavit, acted in a manner that constituted willful, wanton or reckless misconduct.

(7) The Registrar shall adopt rules in accordance with Ohio R.C. Chapter 119, establishing a process for a person to be included in the database under subsection (c)(5) of this section. The information provided and included in the database under subsection (c)(5) of this section is not a public record subject to inspection or copying under Ohio R.C. 149.43.

(d) Notwithstanding any provision of law to the contrary, no law enforcement officer shall cause an operator of an automobile being operated on any street or highway to stop the automobile for the sole purpose of determining whether a violation of subsection (b) hereof has been or is being committed or for the sole purpose of issuing a ticket, citation or summons for a violation of that nature or causing the arrest of or commencing a prosecution of a person for a violation of that nature, and no law enforcement officer shall view the interior or visually inspect any automobile being operated on any street or highway for the sole purpose of determining whether a violation of that nature has been or is being committed.

(e) All fines collected for violations of subsection (b) hereof shall be forwarded to the Treasurer of State for deposit as provided in Ohio R.C. 4513.263.

(f) (1) Subject to subsection (f)(2) of this section, the failure of a person to wear all of the available elements of a properly adjusted occupant restraining device in violation of subsection (b)(1) or (3) or the failure of a person to ensure that each minor who is a passenger of an automobile being operated by that person is wearing all of the available elements of a properly adjusted occupant restraining device, in violation of subsection (b)(2) of this section, shall not be considered or used by the trier of fact in a tort action as evidence of negligence or contributory negligence. But the trier of fact may determine based on evidence admitted consistent with the Ohio rules of evidence that the failure contributed to the harm alleged in the tort action and may diminish a recovery of compensatory damages that represents noneconomic loss, as defined in Ohio R.C. 2307.011 in a tort action that could have been recovered but for the plaintiff's failure to wear all of the available elements of a properly adjusted occupant restraining device. Evidence of that failure shall not be used as a basis for a criminal prosecution of the person other than a prosecution for a violation of this section; and shall not be admissible as evidence in a criminal action involving the person other than a prosecution for a violation of this section.

(2) If, at the time of an accident involving a passenger car equipped with occupant restraining devices, any occupant of the passenger car who sustained injury or death was not wearing an available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted, then, consistent with the Rules of Evidence, the fact that the occupant was not wearing the available occupant restraining device, was not wearing all of the available elements of such a device, or was not wearing such a device as properly adjusted is admissible in evidence in relation to any claim for relief in a tort action to the extent that the claim for relief satisfies all of the following:

A. It seeks to recover damages for injury or death to the occupant.

B. The defendant in question is the manufacturer, designer, distributor or seller of the passenger car.

C. The claim for relief against the defendant in question is that the injury or death sustained by the occupant was enhanced or aggravated by some design defect in the passenger car or that the passenger car was not crashworthy.

(g) (1) Whoever violates subsection (b)(1) of this section shall be fined thirty dollars (\$30.00).

(2) Whoever violates subsection (b)(3) of this section shall be fined twenty dollars (\$20.00).

(3) Except as otherwise provided in this subsection, whoever violates subsection (b)(4) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(4) of this section, whoever violates subsection (b)(4) of this section is guilty of a misdemeanor of the third degree.

(ORC 4513.263)

337.28 USE OF SUNSCREENING, NONTRANSPARENT AND REFLECTORIZED MATERIALS.

(a) Requirements.

(1) No person shall operate, on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State with any suncreening material, or other product or material which has the effect of making the windshield or windows nontransparent or would alter the windows' color, increase its reflectivity, or reduce its light transmittance, unless the product or material satisfies one of the following exceptions:

A. Any manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle until such standard is subsequently repealed or reduced. In "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) "manufacturer" means any person engaged in the manufacturing or assembling of motor vehicles or motor vehicle equipment, including any person importing motor vehicles or motor vehicle equipment for resale. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>.

B. Any sunscreening material or other product or material applied to the windshield when used in conjunction with the safety glazing materials of such window, has a light transmittance of not less than seventy percent plus or minus three percent and is not red or yellow in color.

C. Any sunscreening material or other product or material applied to the side windows to the immediate right or left of the driver, so long as such material, when used in conjunction with the safety glazing materials of such windows, has a light transmittance of not less than fifty percent plus or minus three percent and is not red or yellow in color.

D. Any sunscreening material or other product or material applied to a window not otherwise listed in subsections (a)(1)A. to C. or E. of this section, except that outside left and right rear view mirrors are required if the sunscreening material is applied to the rear window and the sunscreening material, when used in conjunction with the safety glazing material of such window, has a light transmittance of less than fifty percent plus or minus three percent.

E. Any sunscreening material or other product or material applied along the top of the windshield and that does not extend

downward beyond the AS-1 line or five inches from the top of the windshield, whichever is closer to the top, is not regulated by this section.

- (2) No person shall install in any motor vehicle any glass or other material that fails to conform to the specifications of this section.
- (3) No used motor vehicle dealer or new motor vehicle dealer, as defined in Ohio R.C. 4517.01, shall sell any motor vehicle that fails to conform to the specifications of this section.
- (4) No reflectorized materials shall be permitted upon or in any front windshield, side windows, sidewings or rear window.
- (5) No person shall operate on any highway or other public or private property open to the public for vehicular travel or parking, lease, or rent any motor vehicle that is required to be registered in this State that is equipped with privacy drapes, louvers, curtains or blinds unless the drapes, louvers, curtains or blinds are open and secure during vehicle operation.
- (6) All motor vehicles, beginning with the 1990 model year, must be equipped with labels identifying sunscreening material. All sunscreening material must indicate the manufacturer's name and the percentage level of light transmission of the material permanently installed between the material and the surface to which the material is applied or affixed. Such label must be legible and must be placed in the lower left-hand corner of the vehicle window when viewed from the outside.

(OAC 4501-41-03)

(b) Exemptions. The provisions of this section do not apply to:

- (1) A motor vehicle registered in this State in the name of a person, or the person's parent, legal guardian or spouse who has an affidavit signed by a physician licensed to practice in this State under Ohio R.C. Chapter 4731 or an affidavit signed by an optometrist licensed to practice in this State under Ohio R.C. Chapter 4725 that states that the person has a physical condition that makes it necessary to equip such motor vehicle with sunscreening material which would be of a light transmittance and/or luminous reflectance in violation of this section. Such affidavit shall be in the possession of the person so afflicted or the driver at all times while in the motor vehicle;
- (2) The windows to the rear of the driver in chauffeured limousines as defined herein;
- (3) The windows to the rear of the driver in those vehicles designed and used to transport corpses which include hearses and other vehicles adapted for such use; and
- (4) The manufacturer's tinting or glazing of motor vehicle windows or windshields that is otherwise in compliance with or permitted by "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205) in effect at the time of the manufacture of the motor vehicle as provided in subsection (a) hereof. "Federal Motor Vehicle Safety Standard Number 205" (FMVSS 205), Code of Federal Regulations, Title 49, Part 571, can be obtained online at web site <http://www.gpo.gov>. (OAC 4501-41-05)

(c) Definitions. As used in this section, certain terms are defined as follows:

- (1) "Motor vehicle" has the same meaning as specified in Section 301.20.
- (2) "Sunscreening material" means products or materials, including film, glazing and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduce the effects of the sun with respect to light reflectance or transmittance.
- (3) "Transmittance" means the ratio of the amount of total light, expressed in percentages, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.
- (4) "Windshield" means the front exterior viewing device of a motor vehicle.
- (5) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield or any roof-mounted viewing device.
- (6) "Manufacturer" unless otherwise specified in this section, means any person who engages in the manufacturing or assembling of sunscreening products or materials or any person who fabricates, laminates or tempers a safety glazing material, incorporating, during the manufacturing process, the capacity to reflect or reduce the transmission of light.
- (7) "Chauffeured limousine" means a motor vehicle that is designed to carry nine or fewer passengers and is operated for hire on an hourly basis pursuant to a prearranged contract for the transportation of passengers on public roads and highways along a route under the control of the person hiring the vehicle and not over a defined and regular route. "Prearranged contract" means an arrangement, made in advance of boarding, to provide transportation from a specific location in a chauffeured limousine at a fixed rate per hour or trip. "Chauffeured limousine" does not include any vehicle that is used exclusively in the business of funeral directing.

(OAC 4501-41-02)

(d) Penalty. Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.241)

337.29 BUMPER HEIGHTS.

(a) Definitions.

- (1) "Passenger car" means any motor vehicle with motive power, designed for carrying ten persons or less, except a multipurpose passenger vehicle or motorcycle.
- (2) "Multipurpose passenger vehicle" means a motor vehicle with motive power, except a motorcycle, designed to carry ten persons or less, that is constructed either on a truck chassis or with special features for occasional off-road operation.
- (3) "Truck" means every motor vehicle, except trailers and semitrailers, designed and used to carry property and having a gross vehicle weight rating of 10,000 pounds or less.
- (4) "Manufacturer" has the same meaning as in Ohio R.C. 4501.01.
- (5) "Gross vehicle weight rating" means the manufacturer's gross vehicle weight rating established for the vehicle.
- (6) "Body floor height" means the vertical distance between top of the frame rail and the bottom of the passenger compartment (cab) floor. In the event that the vehicle is a truck body, floor height will be measured by the vertical distance between the passenger compartment (cab) floor and the floor of the truck bed.

- (7) "Bumper height" means the vertical distance between the ground and the highest point of the bottom of the bumper, measured when the vehicle is laden on a level surface with the vehicle tires inflated to the manufacturer's recommended pressure.
- (8) "Frame" means the main longitudinal structural members of the chassis of the vehicle or, for vehicles with unitized body construction, the lowest main longitudinal structural members of the body of the vehicle.
- (9) "Wheel track distance" means the distance on the ground between the center of the tire tread on one side of the vehicle, and the center of the tire tread on the opposite side. (OAC 4501-43-02)

(b) Prohibitions; Application.

- (1) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State that does not conform to the requirements of this section.
- (2) No person shall modify any motor vehicle registered in this State in such a manner as to cause the vehicle body or chassis to come in contact with the ground, expose the fuel tank to damage from collision, or cause the wheels to come in contact with the body under normal operation, and no person shall disconnect any part of the original suspension system of the vehicle to defeat the safe operation of that system including the installation of inverted, altered or modified suspension system component parts which results in elevation of the height of the vehicle bumper or frame unit which is not in compliance with this section.
- (3) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State without a bumper on the front and rear of the vehicle if such vehicle was equipped with bumpers as standard equipment by the manufacturer.
- (4) No person shall operate upon a street or highway any passenger car, multipurpose passenger vehicle or truck registered in this State if the difference in height between the body floor and the top of the frame exceeds four inches.
- (5) Nothing contained in this section shall be construed to prohibit either of the following:
 - A. The installation upon a passenger car, multipurpose passenger vehicle or truck registered in this State of heavy duty equipment, including shock absorbers and overload springs as long as such equipment does not cause the vehicle to be in violation of this section;
 - B. The operation on a street or highway of a passenger car, multipurpose passenger vehicle or truck registered in this State with normal wear to the suspension system if the normal wear does not adversely affect the control of the vehicle.
- (6) This section does not apply to any specially designed or modified passenger car, multipurpose passenger vehicle or truck when operated off a street or highway in races and similar events.
- (7) A specially designed or modified passenger car, multipurpose passenger vehicle or truck which does not conform to this section shall not be operated on a street or highway.

(OAC 4501-43-03)

(c) Specifications.

- (1) The horizontal bumper shall be at least 4.5 inches in vertical height, centered on the vehicle's centerline, and extend no less than the width of the respective wheel track distances. Bumpers shall be horizontal load bearing bumpers and attached to the vehicle frame to effectively transfer impact when engaged.
- (2) Maximum bumper heights shall be determined by the type of vehicle at time of manufacture. If other than a passenger vehicle, the maximum bumper height shall be determined by the gross vehicle weight rating (GVWR) at the time of manufacture. The height shall be measured in terms of the vertical distance between the ground and the bottom of the bumper. Maximum bumper heights are as follows:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (3) If the body and/or truck bed height is altered the difference in height between the body floor and/or the truck bed floor to the top of the frame rail shall not exceed four inches.
- (4) For any vehicle with bumpers or attaching components which have been modified or altered from the original manufacturer's design in order to conform with the maximum bumper requirements of this section, the bumper height shall be measured from a level surface to the bottom of the vehicle frame rail at the most forward and rearward points of the frame rail. Frame rail height if bumper modified or altered:

	<u>Front (inches)</u>	<u>Rear (inches)</u>
Passenger Vehicles	22	22
All Other Vehicles:		
4,500 lbs. and under GVWR	24	26
4,501 lbs. to 7,500 lbs. GVWR	27	29
7,501 lbs. to 10,000 lbs. GVWR	28	31

- (5) The height restriction in this subsection (c) applies to the distance from the ground to the bottom of the frame rail under any one or more of the following conditions:
 - A. A motor vehicle is not equipped with a front and rear bumper.
 - B. The bumper height relative to the frame rails has been altered.
 - C. A supplemental bumper has been installed or an addition to the original or replacement has been made.

(OAC 4501-43-04)

(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.99)

337.30 DIRECTIONAL SIGNALS REQUIRED.

- (a) (1) No person shall operate any motor vehicle manufactured or assembled on or after January 1, 1954, unless the vehicle is equipped with electrical or mechanical directional signals.
(2) No person shall operate any motorcycle or motor-driven cycle manufactured or assembled on or after January 1, 1968, unless the vehicle is equipped with electrical or mechanical directional signals.
(b) "Directional signals" means an electrical or mechanical signal device capable of clearly indicating an intention to turn either to the right or to the left and which shall be visible from both the front and rear.
(c) All mechanical signal devices shall be self-illuminating devices when in use at the times mentioned in Section 337.02.
(d) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.261)

CHAPTER 339

Commercial and Heavy Vehicles

- 339.01 Oversize or overweight vehicle operation on State routes; State permit.**
339.02 Local permit for overweight vehicles; through trucks to follow State routes.
339.021 Five ton truck limit on City streets.
339.03 Maximum width, height and length.
339.04 Route and load information.
339.05 Wheel protectors.
339.06 Vehicles transporting explosives.
339.07 Towing requirements.
339.08 Loads dropping or leaking; removal required; tracking mud.
339.09 Shifting load; loose loads.
339.10 Vehicles with spikes, lugs and chains.
339.11 Use of studded tires and chains.
339.12 Weighing vehicle and removing excess load.
339.13 Engine retarders prohibited.

CROSS REFERENCES

See sectional histories for similar State law
Weighing vehicle; removal of excess load - see Ohio R.C. 4513.33
Arrest notice of driver - see Ohio R.C. 5577.14
Slower moving vehicles to be driven in right-hand lane - see TRAF. 331.01(b)

339.01 OVERSIZE OR OVERWEIGHT VEHICLE OPERATION ON STATE ROUTES; STATE PERMIT.

(a) No person shall operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in Ohio R.C. 5577.01 to 5577.09, inclusive, or otherwise not in conformity with Ohio R.C. 4513.01 to 4513.37, inclusive, upon any State route within the Municipality, except pursuant to special written permit issued by the Ohio Director of Transportation, or upon any local truck route. Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer.

No holder of a permit issued by the Ohio Director of Transportation shall be required to obtain any local permit or license or pay any local fee or charge for movement on any State route within the Municipality; however, it shall be unlawful to operate any such vehicle or combination of vehicles upon any roadway within the Municipality which is not a State route, except as provided in Section 339.02.

(ORC 4513.34)

- (b) (1) No person shall violate the terms of a permit issued under this section that relate to gross load limits.
(2) No person shall violate the terms of a permit issued under this section that relate to axle load by more than 2000 pounds per axle or group of axles.
(3) No person shall violate the terms of a permit issued under this section that relate to an approved route except upon order of a law enforcement officer or authorized agent of the issuing authority.
(c) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.

(ORC 4513.99)

339.02 LOCAL PERMIT FOR OVERWEIGHT VEHICLES; THROUGH TRUCKS TO FOLLOW STATE ROUTES.

(a) The Safety-Service Director with respect to roadways under his jurisdiction may in his discretion, upon application in writing and good cause being shown therefor, issue a special permit in writing authorizing the applicant to operate or move a vehicle or combination of vehicles of a size or weight of vehicle or load exceeding the maximum specified in Ohio R.C. 5577.01 et seq., or otherwise not in conformity with the provisions of this Traffic Code upon any roadway under the jurisdiction of the authority granting such permit and for the maintenance of which such authority is responsible. Any such permit may be issued for a single or round trip or in special instances for a certain period of time.

(b) The application for any such permit shall be in such form as the Safety-Service Director may prescribe.

(c) The Safety-Service Director is authorized to issue or withhold such permit at his discretion, or, if such permit is issued, to limit or prescribe conditions of operation of such vehicle or vehicles, and may require such bond or other security as may be deemed necessary to compensate for any damage to any roadway or road structure.

(d) Every such permit shall be carried in the vehicle or combination of vehicles to which it refers and shall be open to inspection by any police officer or authorized agent of any authority granting such permit, and no person shall violate any of the terms or conditions of such permit.

(ORC 4513.34; Ord. 4-52. Passed 1-22-52.)

(e) All vehicular trucks not intending to discharge cargo within the City shall follow designated State routes through the City. The Safety-Service Director is hereby authorized and directed to erect signs at appropriate designations to carry out the intent and purpose of this subsection.

(Ord. 65-59. Passed 9-14-59.)

(f) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

339.021 FIVE TON TRUCK LIMIT ON CITY STREETS.

(a) No person, partnership, firm, corporation or association shall operate a commercial tractor, semitrailer or any vehicle weighing five tons or more, including its load upon any of the streets in the City, with the exception only of State routes, unless the journey of such truck shall originate or terminate upon such a City street, or unless such truck shall stop on such a City street for the purpose of picking up or making delivery of a shipment or partial load.

(b) If such a truck does not find it necessary to drive or operate on a City street because of one of the exceptions enumerated in subsection (a) hereof, it shall use the shortest possible route to enter from, and leave to, the closest State route available; and it shall not travel at a speed in excess of the posted limit while operating on City streets.

(c) In order to notify truck drivers of the existence of this section, the Service Department shall post signs at the entrance of all State routes into the City warning drivers of trucks as to the provisions of this section, but if, for any reason, there are no such signs posted or if such signs are posted and the same are removed, broken or destroyed, the absence of such signs shall not relieve any truck driver of the responsibility of complying with the terms of this section and shall not prevent the driver of such truck, if he does not comply with the terms of this section, being found guilty of violating the same.

(d) It is a minor misdemeanor for any person, partnership, firm, corporation or association to violate any provision of this section.

(Ord. 47-84. Passed 11-26-84.)

339.03 MAXIMUM WIDTH, HEIGHT AND LENGTH.

(a) No vehicle shall be operated upon the public highways, streets, bridges and culverts within the Municipality, whose dimensions exceed those specified in this section.

(b) No such vehicle shall have a width in excess of:

- (1) 104 inches for passenger bus type vehicles operated exclusively within municipal corporations;
- (2) 102 inches, excluding such safety devices as are required by law, for passenger bus type vehicles operated over freeways, and such other State roads with minimum pavement widths of twenty-two feet, except those roads or portions of roads over which operation of 102-inch buses is prohibited by order of the Ohio Director of Transportation;
- (3) 132 inches for traction engines;
- (4) 102 inches for recreational vehicles, excluding safety devices and retracted awnings and other appurtenances of six inches or less in width and except that the Director may prohibit the operation of 102-inch recreational vehicles on designated State highways or portions of highways;
- (5) 102 inches, including load, for all other vehicles, except that the Director may prohibit the operation of 102-inch vehicles on such State highways or portions of State highways as the Director designates.

(c) No such vehicle shall have a length in excess of:

- (1) 66 feet for passenger bus type vehicles and articulated passenger bus type vehicles operated by a regional transit authority pursuant to Ohio R.C. 306.30 to 306.54;
- (2) 45 feet for all other passenger bus type vehicles;
- (3) 53 feet for any semitrailer when operated in a commercial tractor- semitrailer combination, with or without load, except that the Director may, by journal entry, prohibit the operation of any such commercial tractor- semitrailer combination on such State highways or portions of State highways as the Director designates;
- (4) 28.5 feet for any semitrailer or trailer when operated in a commercial tractor-semi-trailer-trailer or commercial tractor-semi-trailer-semi-trailer combination, except that the Director may prohibit the operation of any such commercial tractor-semi-trailer-trailer or commercial tractor- semi-trailer-semi-trailer combination on such State highways or portions of State highways as the Director designates;
- (5) A. 97 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations when operated on any interstate, United States route, or State route, including reasonable access travel on all other roadways for a distance not to exceed one road mile from any interstate, United States route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;
- B. 75 feet for drive-away saddlemount vehicle transporter combinations and drive-away saddlemount with fullmount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States

route, or State route, not to exceed three saddlemounted vehicles, but which may include one fullmount;

- (6) 65 feet for any other combination of vehicles coupled together, with or without load, except as provided in subsections (c)(3) and (4) and in subsection (e) hereof;
- (7) 45 feet for recreational vehicles.
- (8) 50 feet for all other vehicles except trailers and semitrailers, with or without load.

(d) No such vehicle shall have a height in excess of thirteen feet six inches, with or without load.

(e) An automobile transporter or boat transporter shall be allowed a length of sixty-five feet and a stinger-steered automobile transporter or stinger-steered boat transporter shall be allowed a length of seventy-five feet, except that the load thereon may extend no more than four feet beyond the rear of such vehicles and may extend no more than three feet beyond the front of such vehicles, and except further that the Director may prohibit the operation of any stinger-steered automobile transporter or stinger-steered boat transporter or a B-train assembly on any State highway or portion of any State highway that the Director designates.

(f) The widths prescribed in subsection (b) shall not include side mirrors, turn signal lamps, marker lamps, handholds for cab entry and egress, flexible fender extensions, mud flaps, splash and spray suppressant devices, and load-induced tire bulge.

The width prescribed in subsection (b)(5) shall not include automatic covering devices, tarp and tarp hardware, and tiedown assemblies, provided these safety devices do not extend more than three inches from each side of the vehicle.

The lengths prescribed in subsections (c)(2) to (8) hereof shall not include safety devices, bumpers attached to the front or rear of such bus or combination, nonproperty carrying devices or components that do not extend more than twenty-four inches beyond the rear of the vehicle and are needed for loading or unloading, B-train assembly used between the first and second semitrailer of a commercial tractor-semi-trailer-semi-trailer combination, energy conservation devices as provided in any regulations adopted by the Secretary of the United States Department of Transportation, or any noncargo-carrying refrigeration equipment attached to the front of trailers and semitrailers. In special cases, vehicles whose dimensions exceed those prescribed by this section may operate in accordance with rules adopted by the Ohio Director of Transportation.

(g) This section does not apply to fire engines, fire trucks or other vehicles or apparatus belonging to any municipal corporation or to the volunteer fire department of any municipal corporation or used by such department in the discharge of its functions. This section does not apply to vehicles and pole trailers used in the transportation of wooden and metal poles, nor to the transportation of pipes or well-drilling equipment, nor to farm machinery and equipment. The owner or operator of any vehicle, machinery or equipment not specifically enumerated in this

section but the dimensions of which exceed the dimensions provided by this section, when operating the same on the highways and streets of this State shall comply with the rules of the Director governing such movement, that the Director may adopt. Ohio R.C. 119.01 to 119.13 apply to any rules the Director adopts under this section, or the amendment or rescission of the rules, and any person adversely affected shall have the same right of appeal as provided in those sections.

This section does not require the State, the Municipality, County, township or any railroad or other private corporation to provide sufficient vertical clearance to permit the operation of such vehicle, or to make any changes in or about existing structures now crossing streets, roads and other public thoroughfares in the Municipality.

(h) As used in this section, "recreational vehicle" has the same meaning as in Ohio R.C. 4501.01. (ORC 5577.05)

(i) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense or subsequent offense, the person is guilty of a misdemeanor of the fourth degree. (ORC 5577.99)

339.04 ROUTE AND LOAD INFORMATION.

Drivers of vehicles described in this chapter shall be required, upon request by a police officer, to give full and true information as to the route they are following and the name of the consignor and consignee and place of delivery or removal and the location of any consignment being hauled or goods being removed, and upon a designation by such police officer of a route to be followed, shall immediately adopt and pursue such route.

339.05 WHEEL PROTECTORS.

(a) No person shall drive or operate, or cause to be driven or operated, any commercial car, trailer or semitrailer, used for the transportation of goods or property, the gross weight of which, with load, exceeds three tons, upon the streets, bridges and culverts within this Municipality unless such vehicle is equipped with suitable metal protectors or substantial flexible flaps on the rearmost wheels of such vehicle or combination of vehicles to prevent, as far as practicable, the wheels from throwing dirt, water or other materials on the windshields of following vehicles. Such protectors or flaps shall have a ground clearance of not more than one-third of the distance from the center of the rearmost axle to the center of the flaps under any conditions of loading of the vehicle, and they shall be at least as wide as the tires they are protecting. If the vehicle is so designed and constructed that such requirements are accomplished by means of fenders, body construction or other means of enclosure, then no such protectors or flaps are required. Rear wheels not covered at the top by fenders, bodies or other parts of the vehicle shall be covered at the top by protective means extending at least to the center line of the rearmost axle.

(ORC 5577.11)

(b) Whoever violates this section is guilty of a minor misdemeanor.

339.06 VEHICLES TRANSPORTING EXPLOSIVES.

(a) Any person operating any vehicle transporting explosives upon a street or highway shall at all times comply with the following requirements:

(1) Such vehicle shall be marked or placarded on each side and on the rear with the word "EXPLOSIVES" in letters not less than eight inches high, or there shall be displayed on the rear of such vehicle a red flag not less than twenty-four inches square marked with the word "DANGER" in white letters six inches high, or shall be marked or placarded in accordance with Section 177.823 of the United States Department of Transportation Regulations.

(2) Such vehicle shall be equipped with not less than two fire extinguishers, filled and ready for immediate use, and placed at convenient points on such vehicle. (ORC 4513.29)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.99)

339.07 TOWING REQUIREMENTS.

(a) When one vehicle is towing another vehicle, the drawbar or other connection shall be of sufficient strength to pull all weight towed thereby, and such drawbar or other connection shall not exceed fifteen feet from one vehicle to the other, except the connection between any two vehicles transporting poles, pipe, machinery or other objects of structural nature which cannot readily be dismembered.

(b) When one vehicle is towing another and the connection consists only of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than twelve inches square.

(c) In addition to such drawbar or other connection, each trailer and each semitrailer which is not connected to a commercial tractor by means of a fifth wheel shall be coupled with stay chains or cables to the vehicle by which it is being drawn. The chains or cables shall be of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle in case the drawbar or other connection should break or become disengaged. In case of a loaded pole trailer, the connecting pole to the drawing vehicle shall be coupled to the drawing vehicle with stay chains or cables of sufficient size and strength to prevent the towed vehicle's parting from the drawing vehicle.

(d) Every trailer or semitrailer, except pole and cable trailers and pole and cable dollies operated by a public utility, as defined in Ohio R.C. 5727.01, shall be equipped with a coupling device which shall be so designed and constructed that the trailer will follow substantially in the path of the vehicle drawing it, without whipping or swerving from side to side. Vehicles used to transport agricultural produce or agricultural production materials between a local place of storage and supply and the farm, when drawn or towed on a street or highway at a speed of twenty-five miles per hour or less, and vehicles 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 shall have a drawbar or other connection, including the hitch mounted on the towing vehicle, which shall be of sufficient strength to pull all the weight towed thereby. Only one such vehicle used to transport agricultural produce or agricultural production materials as provided in this section may be towed or drawn at one time, except as follows:

(1) An agricultural tractor may tow or draw more than one such vehicle;

(2) A pickup truck or straight truck designed by the manufacturer to carry a load of not less than one-half ton and not more than two tons may tow or draw not more than two such vehicles that are being used to transport agricultural produce from the farm to a local place of storage. No vehicle being so towed by such a pickup truck or straight truck shall be considered to be a motor vehicle. (ORC 4513.32)

(e) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.99)

339.08 LOADS DROPPING OR LEAKING; REMOVAL REQUIRED; TRACKING MUD.

(a) No vehicle shall be driven or moved on any street, highway or other public place unless such vehicle is so constructed, loaded or covered as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that sand or other substances may be dropped for the purpose of securing traction, or water or other substances may be sprinkled on a roadway in cleaning or maintaining such roadway.

(b) Except for a farm vehicle used to transport agricultural produce or agricultural production materials or a rubbish vehicle in the process of acquiring its load, no vehicle loaded with garbage, swill, cans, bottles, waste paper, ashes, refuse, trash, rubbish, waste, wire, paper, cartons, boxes, glass, solid waste or any other material of an unsanitary nature that is susceptible to blowing or bouncing from a moving vehicle shall be driven or moved on any street, highway or other public place unless the load is covered with a sufficient cover to prevent the load or any part of the load from spilling onto the street, highway or other public place.

(ORC 4513.31)

(c) No person shall operate any vehicle so as to track or drop mud, stones, gravel or other similar material on any street, highway or other public place.

(d) It shall be the duty of the driver of a vehicle who unlawfully drops or deposits mud, stones, gravel or other similar material or permits the load or any portion thereof to be dropped or deposited upon any street, highway or other public place to immediately remove the same or cause it to be removed. (ORC 4513.31)

(e) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4513.99)

339.09 SHIFTING LOAD; LOOSE LOADS.

(a) In addition to any other lawful requirements of load distribution, no person shall operate any vehicle upon a street or highway unless such vehicle is so laden as to prevent its contents from shifting or otherwise unbalancing the vehicle to such an extent as to interfere with the safe operation of the same.

(b) No motor vehicle or trailer shall be driven unless the tailboard or tailgate, tarpaulins, chains (except ground or contact chains), ropes, stakes, poles, and the like, or any part of the load, are securely fastened to prevent dangling, flapping, swinging or falling from the side, end or top of the load or body. All projecting cargo shall be properly guarded by a red flag or cloth or a red light or lantern as required by Section 337.08.

(c) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

339.10 VEHICLES WITH SPIKES, LUGS AND CHAINS.

(a) No person shall drive over the improved streets of this Municipality a traction engine or tractor with tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind extending beyond the cleats, or no person shall tow or in any way pull another vehicle over the improved streets of this Municipality, which towed or pulled vehicle has tires or wheels equipped with ice picks, spuds, spikes, chains or other projections of any kind. "Traction engine" or "tractor," as used in this section, applies to all self-propelling engines equipped with metal-tired wheels operated or propelled by any form of engine, motor or mechanical power.

(ORC 5589.08)

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 5589.99)

339.11 USE OF STUDED TIRES AND CHAINS.

(a) For purposes of this section, "studded tire" means any tire designed for use on a vehicle, and equipped with metal studs or studs of wear-resisting material that project beyond the tread of the traction surface of the tire. "Motor vehicle," "street or highway," "public safety vehicle" and "school bus" have the same meanings as given those terms in Chapter 301.

(b) (1) Except as provided in subsection (b)(2) hereof, no person shall operate any motor vehicle, other than a public safety vehicle or bus, that is equipped with studded tires on any street or highway, except during the period extending from November 1 of each year through April 15 of the succeeding year.

(2) A person may operate a motor vehicle that is equipped with retractable studded tires with the studs retracted at any time of the year, but shall operate the motor vehicle with the studs extended only as provided in subsection (b)(1) hereof.

(c) This section does not apply to the use of tire chains when there is snow or ice on the streets or highways where such chains are being used, or the immediate vicinity thereof. (ORC 5589.081)

(d) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 5589.99)

339.12 WEIGHING VEHICLE AND REMOVING EXCESS LOAD.

(a) Any police officer having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same either by means of portable or stationary scales, and may require that such vehicle be driven to the nearest public scales, provided such scales are within three miles of the point where such vehicle is stopped.

(b) Whenever such officer upon weighing a vehicle and load, as above provided, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the weight of such vehicle to such limit as is permitted under this Traffic Code.

(ORC 4513.33; Ord. 4-52. Passed 1-22-52.)

339.13 ENGINE RETARDERS PROHIBITED.

(a) The usage of any and all "Engine Retarders" shall be prohibited within the City of Lancaster.

(b) "Engine Retarders" shall be defined to include, but not limited to C Brakes, PacBrakes, TekBrakes, Jake Brakes, and any other type of engine retarder commonly utilized within the trucking industry.

(c) Any violation of this prohibition shall be deemed a minor misdemeanor.

(d) Emergency vehicles and school buses as defined and regulated in Ohio R.C. Chapter 4511 are exempted from this section.
(Ord. 10-10. Passed 7-20-10.)

CHAPTER 341

Commercial Drivers

341.01 Definitions.

341.02 Exemptions.

341.03 Prerequisites to operation of a commercial motor vehicle.

341.04 Prohibitions.

341.05 Criminal offenses.

341.06 Employment of drivers of commercial vehicles.

CROSS REFERENCES

See sectional histories for similar State law

Disqualification - see Ohio R.C. 4506.16

Suspension or revocation of license - see Ohio R.C. 4507.16

Warning devices when disabled on freeways - see Ohio R.C. 4513.28

Arrest notice of driver - see Ohio R.C. 5577.14

Load limits - see TRAF. Ch. 339

341.01 DEFINITIONS.

As used in this chapter:

- (a) "Alcohol concentration" means the concentration of alcohol in a person's blood, breath or urine. When expressed as a percentage, it means grams of alcohol per the following:
- (1) One hundred milliliters of whole blood, blood serum, or blood plasma;
 - (2) Two hundred ten liters of breath;
 - (3) One hundred milliliters of urine.
- (b) "Commercial driver's license" means a license issued in accordance with Ohio R.C. Chapter 4506 that authorizes an individual to drive a commercial motor vehicle.
- (c) "Commercial motor vehicle" means any motor vehicle designed or used to transport persons or property that meets any of the following qualifications:
- (1) Any combination of vehicles with a gross vehicle weight or combined gross vehicle weight rating of 26,001 pounds or more, provided the gross vehicle weight or gross vehicle weight rating of the vehicle or vehicles being towed is in excess of 10,000 pounds;
 - (2) Any single vehicle with a gross vehicle weight or gross vehicle weight rating of 26,001 pounds or more;
 - (3) Any single vehicle or combination of vehicles that is not a class A or class B vehicle, but is designed to transport sixteen or more passengers including the driver;
 - (4) Any school bus with a gross vehicle weight or gross vehicle weight rating of less than 26,001 pounds that is designed to transport fewer than sixteen passengers including the driver;
 - (5) Is transporting hazardous materials for which placarding is required under subpart F of 49 C.F.R. part 172, as amended;
 - (6) Any single vehicle or combination of vehicles that is designed to be operated and to travel on a public street or highway and is considered by the Federal Motor Carrier Safety Administration to be a commercial motor vehicle, including, but not limited to, a motorized crane, a vehicle whose function is to pump cement, a rig for drilling wells, and a portable crane.
- (d) "Controlled substance" means all of the following:
- (1) Any substance classified as a controlled substance under the "Controlled Substances Act," 80 Stat. 1242 (1970), 21 U.S.C.A. 802(6), as amended;
 - (2) Any substance included in schedules I through V of 21 C.F.R. part 1308, as amended;
 - (3) Any drug of abuse.
- (e) "Disqualification" means any of the following:
- (1) The suspension, revocation, or cancellation of a person's privileges to operate a commercial motor vehicle;
 - (2) Any withdrawal of a person's privileges to operate a commercial motor vehicle as the result of a violation of state or local law relating to motor vehicle traffic control other than parking, vehicle weight, or vehicle defect violations;
 - (3) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. 391.
- (f) "Drive" means to drive, operate or be in physical control of a motor vehicle.
- (g) "Driver" means any person who drives, operates or is in physical control of a commercial motor vehicle or is required to have a commercial driver's license.
- (h) "Driver's license" means a license issued by the Ohio Bureau of Motor Vehicles that authorizes an individual to drive.
- (i) "Drug of abuse" means any controlled substance, dangerous drug as defined in Ohio R.C. 4729.01 or over-the-counter medication that, when taken in quantities exceeding the recommended dosage, can result in impairment of judgment or reflexes.
- (j) "Employer" means any person, including the Federal Government, any state and a political subdivision of any state, that owns or leases a commercial motor vehicle or assigns a person to drive such a motor vehicle.
- (k) "Endorsement" means an authorization on a person's commercial driver's license that is required to permit the person to operate a specified type of commercial motor vehicle.
- (l) "Farm truck" means a truck controlled and operated by a farmer for use in the transportation to or from a farm, for a distance of not more than one hundred fifty miles, of products of the farm, including livestock and its products, poultry and its products, floricultural and horticultural products, and in the transportation to the farm, from a distance of not more than one hundred

fifty miles, of supplies for the farm, including tile, fence, and every other thing or commodity used in agricultural, floricultural, horticultural, livestock and poultry production, and livestock, poultry and other animals and things used for breeding, feeding, or other purposes connected with the operation of the farm, when the truck is operated in accordance with this subsection and is not used in the operations of a motor carrier, as defined in Ohio R.C. 4923.01.

- (m) "Fatality" means the death of a person as the result of a motor vehicle accident occurring not more than three hundred sixty-five days prior to the date of a death.
- (n) "Felony" means any offense under federal or state law that is punishable by death or specifically classified as a felony under the law of this State, regardless of the penalty that may be imposed.
- (o) "Foreign jurisdiction" means any jurisdiction other than a state.
- (p) "Gross vehicle weight rating" means the value specified by the manufacturer as the maximum loaded weight of a single or a combination vehicle. The gross vehicle weight rating of a combination vehicle is the gross vehicle weight rating of the power unit plus the gross vehicle weight rating of each towed unit.
- (q) "Hazardous materials" means any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 C.F.R. part 172 or any quantity of a material listed as a select agent or toxin in 42 C.F.R. part 73, as amended.
- (r) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, except that such term does not include a vehicle, machine, tractor, trailer or semitrailer operated exclusively on a rail.
- (s) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, local, Canadian or Mexican jurisdiction declaring that a driver, commercial motor vehicle or commercial motor carrier operation is out of service as defined in 49 C.F.R. 390.5.
- (t) "Public safety vehicle" has the same meaning as in divisions (E)(1) and (3) of Ohio R.C. 4511.01.
- (u) "Recreational vehicle" includes every vehicle that is defined as a recreational vehicle in Ohio R.C. 4501.01 and is used exclusively for purposes other than engaging in business for profit.
- (v) "School bus" has the same meaning as in Ohio R.C. 4511.01.
- (w) "State" means a state of the United States and includes the District of Columbia.
- (x) "Tester" means a person or entity acting pursuant to a valid agreement entered into pursuant to Ohio R.C. 4506.09.
- (y) "United States" means the fifty states and the District of Columbia.
- (z) "Vehicle" has the same meaning as in Ohio R.C. 4511.01.
(ORC 4506.01)

341.02 EXEMPTIONS.

Section 341.02 has been deleted from the Codified Ordinances. Former Ohio R.C. 4506.02 from which Section 341.02 was derived was repealed by Am. Sub. H.B. No. 68, effective June 29, 2005. The exemptions are now contained in Section 341.03.

341.03 PREREQUISITES TO OPERATION OF A COMMERCIAL MOTOR VEHICLE.

- (a) Except as provided in subsections (b) and (c) of this section, the following shall apply:
 - (1) No person shall drive a commercial motor vehicle on a highway in this Municipality unless the person holds, and has in the person's possession, any of the following:
 - A. A valid commercial driver's license with proper endorsements for the motor vehicle being driven, issued by the Registrar of Motor Vehicles, or by another jurisdiction recognized by this State;
 - B. A valid examiner's commercial driving permit issued under Ohio R.C. 4506.13;
 - C. A valid restricted commercial driver's license and waiver for farm-related service industries issued under Ohio R.C. 4506.24;
 - D. A valid commercial driver's license temporary instruction permit issued by the Registrar, provided that the person is accompanied by an authorized state driver's license examiner or tester or a person who has been issued and has in the person's immediate possession a current, valid commercial driver's license and who meets the requirements of Ohio R.C. 4506.06(B).
 - (2) No person who has been a resident of this State for thirty days or longer shall drive a commercial motor vehicle under the authority of a commercial driver's license issued by another jurisdiction.
- (b) Nothing in subsection (a) of this section applies to any qualified person when engaged in the operation of any of the following:
 - (1) A farm truck;
 - (2) Fire equipment for a fire department, volunteer or nonvolunteer fire company, fire district, joint fire district or the Ohio Fire Marshal;
 - (3) A public safety vehicle used to provide transportation or emergency medical service for ill or injured persons;
 - (4) A recreational vehicle;
 - (5) A commercial motor vehicle within the boundaries of an eligible unit of local government, if the person is employed by the eligible unit of local government and is operating the commercial motor vehicle for the purpose of removing snow or ice from a roadway by plowing, sanding, or salting, but only if either the employee who holds a commercial driver's license issued under Ohio R.C. Chapter 4506 and ordinarily operates a commercial motor vehicle for these purposes is unable to operate the vehicle, or the employing eligible unit of local government determines that a snow or ice emergency exists that requires additional assistance;
 - (6) A vehicle operated for military purposes by any member or uniformed employee of the armed forces of the United States or their reserve components, including the Ohio national guard. This exception does not apply to United States reserved technicians.
 - (7) A commercial motor vehicle that is operated for nonbusiness purposes. "Operated for nonbusiness purposes" means that the commercial motor vehicle is not used in commerce as "commerce" is defined in 49 C.F.R. 383.5, as amended, and is not regulated by the Public Utilities Commission pursuant to Ohio R.C. Chapter 4905, 4921, or 4923.
 - (8) A motor vehicle that is designed primarily for the transportation of goods and not persons, while that motor vehicle is being used for the occasional transportation of personal property by individuals not for compensation and not in the furtherance of a commercial enterprise.

- (9) A police SWAT team vehicle.
 - (10) A police vehicle used to transport prisoners.
 - (c) Nothing contained in subsection (b)(5) of this section shall be construed as preempting or superseding any law, rule, or regulation of this State concerning the safe operation of commercial motor vehicles.
 - (d) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (ORC 4506.03)

341.04 PROHIBITIONS.

- (a) No person shall do any of the following:
 - (1) Drive a commercial motor vehicle while having in the person's possession or otherwise under the person's control more than one valid driver's license issued by this State, any other state or by a foreign jurisdiction;
 - (2) Drive a commercial motor vehicle on a highway in this Municipality in violation of an out-of-service order, while the person's driving privilege is suspended, revoked or canceled, or while the person is subject to disqualification;
 - (3) Drive a motor vehicle on a highway in this Municipality under authority of a commercial driver's license issued by another state or a foreign jurisdiction, after having been a resident of this State for thirty days or longer.
 - (b) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (ORC 4506.04)

341.05 CRIMINAL OFFENSES.

- (a) No person who holds a commercial driver's license, or commercial driver's license temporary instruction permit or who operates a motor vehicle for which a commercial driver's license or permit is required shall do any of the following:
 - (1) Drive a commercial motor vehicle while having a measureable or detectable amount of alcohol or of a controlled substance in the person's blood, breath or urine;
 - (2) Drive a commercial motor vehicle while having an alcohol concentration of four-hundredths of one per cent or more by whole blood or breath;
 - (3) Drive a commercial motor vehicle while having an alcohol concentration of forty-eight-thousandths of one per cent or more by blood serum or blood plasma;
 - (4) Drive a commercial motor vehicle while having an alcohol concentration of fifty-six-thousandths of one per cent or more by urine;
 - (5) Drive a motor vehicle while under the influence of a controlled substance;
 - (6) Drive a motor vehicle in violation of Ohio R.C. 4511.19 or a municipal OVI ordinance as defined in Ohio R.C. 4511.181;
 - (7) Use a motor vehicle in the commission of a felony;
 - (8) Refuse to submit to a test under Ohio R.C. 4506.17 or 4511.191;
 - (9) Operate a commercial motor vehicle while the person's commercial driver's license or permit or other commercial driving privileges are revoked, suspended, canceled, or disqualified;
 - (10) Cause a fatality through the negligent operation of a commercial motor vehicle, including, but not limited to, the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular manslaughter;
 - (11) Fail to stop after an accident in violation of Sections 335.12 to 335.14;
 - (12) Drive a commercial motor vehicle in violation of any provision of Ohio R.C. 4511.61 to 4511.63 or any federal or local law or ordinance pertaining to railroad-highway grade crossings;
 - (13) Use a motor vehicle in the commission of a felony involving the manufacture, distribution, or dispensing of a controlled substance as defined in Ohio R.C. 3719.01 or the possession with intent to manufacture, distribute, or dispose a controlled substance.
 - (b) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (ORC 4506.15)

341.06 EMPLOYMENT OF DRIVERS OF COMMERCIAL VEHICLES.

- (a) Each employer shall require every applicant for employment as a driver of a commercial motor vehicle to provide the applicant's employment history for the ten years preceding the date the employment application is submitted to the prospective employer. The following information shall be submitted:
 - (1) A list of the names and addresses of the applicant's previous employers for which the applicant was the operator of a commercial motor vehicle;
 - (2) The dates the applicant was employed by these employers;
 - (3) The reason for leaving each of these employers.
- (b) No employer shall knowingly permit or authorize any driver employed by the employer to drive a commercial motor vehicle during any period in which any of the following apply:
 - (1) The driver's commercial driver's license is suspended, revoked or canceled by any state or a foreign jurisdiction;
 - (2) The driver has lost the privilege to drive, or currently is disqualified from driving, a commercial motor vehicle in any state or foreign jurisdiction;
 - (3) The driver, the commercial motor vehicle the driver is driving, or the motor carrier operation is subject to an out-of-service order in any state or foreign jurisdiction;
 - (4) The driver has more than one driver's license.
- (c) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of Section 341.05.
- (d) No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle if the driver does not hold a valid, current commercial driver's license or commercial driver's license temporary instruction permit bearing the proper class or endorsements for the vehicle. No employer shall knowingly permit or authorize a driver to operate a commercial motor vehicle in violation of the restrictions on the driver's commercial driver's license or commercial driver's license temporary instruction permit.
- (e) (1) Whoever violates subsection (a), (b) or (d) of this section is guilty of a misdemeanor of the first degree.
- (2) Whoever violates subsection (c) of this section may be assessed a fine not to exceed ten thousand dollars.

CHAPTER 343

Storage of Junk and Other Motor Vehicles

343.01 Definitions.

343.02 Prohibitions.

343.03 Collectors vehicles.

343.04 Storage and disposal of junk motor vehicles.

343.05 Board of Motor Vehicle Evaluation.

343.06 Exemptions.

343.99 Penalty.

CROSS REFERENCES

Impounding of vehicles; redemption - see TRAF. 303.08 et seq.

343.01 DEFINITIONS.

(a) "Junk motor vehicle" means any motor vehicle which meets any three of the following requirements:

- (1) Is three years old or older;
- (2) Is extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission;
- (3) Is not able to be legally operated upon a public street, road, or highway for any reason whether mechanical, operational or otherwise.
- (4) Does not have validly issued license plates and a valid registration which allow it to be operated legally upon public streets, roads, or highway.
- (5) Has a fair market value of fifteen hundred dollars (\$1,500.00), or less.
- (6) Is not running and not operable ("operable" meaning able to be started and driven under its own power).

(Ord. 18-98. Passed 2-23-98.)

(b) A junk motor vehicle left in the open for 72 hours is declared a nuisance and shall be abated in accordance with provisions of this chapter.

(Ord. 53-99. Passed 10-11-99.)

(c) "Motor vehicle" shall be defined as in Section 301.20 of the Lancaster Codified Ordinances.

(d) "In the open" shall be defined as not garaged.

(Ord. 21-97. Passed 4-28-97; Ord. 18-98. Passed 2-23-98.)

343.02 PROHIBITIONS.

(a) No person shall willfully permit a junk motor vehicle to remain in the open on private property which the person owns, occupies, or controls after receipt of an order to remove the junk motor vehicle. The order shall state that a hearing appealing the order to remove the junk motor vehicle may be had, shall describe the vehicle to be removed, and shall be served by a code official designated by the Mayor or by the Director of Public Service or his designee in any manner provided by the Ohio Rules of Civil Procedure.

(b) If any recipient of an order to remove a junk motor vehicle shall fail to appeal the same to the Service-Safety Director in writing within ten days after the receipt of the order, it shall be conclusively presumed to establish the junk motor vehicle as a nuisance and the junk motor vehicle shall be removed immediately upon order by a code official designated by the Mayor, the Fire Department, Police Department, or their designee. The fact that a junk motor vehicle is left on private property without the filing of an appeal by the recipient of an order to remove a junk motor vehicle is prima facie evidence of willful failure to comply with the order.

(Ord. 12-02. Passed 4-22-02.)

(c) No person shall leave a junk motor vehicle for any period of time on private property to which such person does not have the right of possession without the authorization of the person having the right of possession of such property.

(Ord. 21-97. Passed 4-28-97.)

343.03 COLLECTORS VEHICLES.

A collectors vehicle as defined by Ohio R.C. 4501.01 is a junk motor vehicle for purposes of this section, regardless if it is licensed or unlicensed, if the collector's vehicle meets the criteria contained in Section 343.01.

(ORC 505.173; Ord. 21-97. Passed 4-28-97.)

343.04 STORAGE AND DISPOSAL OF JUNK MOTOR VEHICLES.

(a) After a motor vehicle has been determined to be a junk motor vehicle, as provided herein, the Health Department, Fire Department, Code Enforcement Officer or their designee shall immediately cause the junk motor vehicle to be removed from the property where the junk motor vehicle is located. The place of storage for any junk motor vehicle which has been removed by this section shall be designated by the Service-Safety Director.

(b) Any junk motor vehicle which has been stored by the Police Division pursuant to this section, shall be disposed of in accordance with the procedures set forth in Ohio R.C. 4513.63.

(Ord. 81-05. Passed 12-12-05.)

343.05 BOARD OF MOTOR VEHICLE EVALUATION.

(a) There is established a Board of Motor Vehicle Evaluation which shall consist of three members of the community at large, chosen

by the Mayor subject to the approval of Council, each of which shall serve for one year and until a successor is appointed and qualified. Such members shall constitute an impartial board and shall serve without compensation unless otherwise provided by ordinance.

(b) The Board of Motor Vehicle Evaluation shall hear any appeals within 30 days of the filing of an appeal by the recipient of an order to remove a junk motor vehicle left in the open made pursuant to Section 343.02(a). The Board shall rule whether or not the motor vehicle is a junk motor vehicle left in the open pursuant to Sections 343.01 and 343.02. If the vehicle is declared to be a junk motor vehicle left in the open by the Board, the Board shall order the removal of the particular vehicle by the Police Division.

(c) Any appeal from a decision of the Board of Motor Vehicle Evaluation shall be made pursuant to Ohio R.C. 2506.

(Ord. 21-97. Passed 4-28-97.)

343.06 EXEMPTIONS.

This chapter shall not apply to vehicles stored inside a garage, in a licensed towing service, in a licensed motor vehicle salvage facility, in a licensed scrap processing yard, in a licensed auto repair garage yard, in a licensed paint spray shop yard, in a licensed gasoline station yard, or in a licensed vehicle dealership yard, or any other lawful storage area not within the public view as prescribed by Ohio R.C. 4737.09.

(Ord. 21-97. Passed 4-28-97.)

343.99 PENALTY.

Whoever fails to remove a junk motor vehicle left in the open, after receipt of a proper order to remove the same, is guilty of a fourth degree misdemeanor. Each junk motor vehicle left in the open in violation of Section 343.02 hereof shall constitute a separate offense. Every 20 days that this section is violated shall constitute a separate offense.

(Ord. 21-97. Passed 4-28-97.)

CHAPTER 345

Low-Speed Vehicles

345.01 **Definitions.**

345.02 **Operation prohibited.**

345.99 **Penalty.**

345.01 DEFINITIONS.

As used in this chapter, "low-speed vehicle" means a three or four-wheeled motor vehicle with an attainable speed in one mile on a paved level surface of more than twenty miles per hour but not more than twenty-five miles per hour and with a gross vehicle weight rating less than three thousand pounds as defined in Ohio Revised Code Section 4501.01(WW).

(Ord. 40-16. Passed 12-12-16.)

345.02 OPERATION PROHIBITED.

No person shall operate or be a passenger in a Low-speed vehicle on any public street or highway or public right-of-way within the City of Lancaster.

(Ord. 40-16. Passed 12-12-16.)

345.99 PENALTY.

Except as otherwise provided in this division, whoever violates Section 345.02 is guilty of a minor misdemeanor. If within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(Ord. 40-16. Passed 12-12-16.)

TITLE SEVEN - Parking

Chap. 351. Parking Generally.

Chap. 353. Loading and Unloading Zones.

Chap. 355. Parking Meters. (Repealed)

CHAPTER 351

Parking Generally

351.01 Police may remove unattended vehicle which obstructs traffic.

351.02 Registered owner prima-facie liable for unlawful parking.

351.03 Prohibited standing or parking places.

351.04 Parking near curb.

351.05 Manner of angle parking.

351.06 Selling, washing or repairing vehicle upon roadway.

351.07 Unattended vehicle: duty to stop engine, remove key, set brake and turn wheels.

351.08 Opening vehicle door on traffic side.

351.09 Truck loading zones.

351.10 Bus stops and taxicab stands.

351.11 Parked vehicle not to block right of way.

351.12 Prohibition against parking on streets or highways.

351.13 Maximum consecutive 48 hour street parking.

351.14 Vehicles containing offensive substances.

351.15 Parking during snow removal or street cleaning.

- 351.16 Trucks on residential streets.**
- 351.17 Street parking of house trailers and campers.**
- 351.18 Handicapped parking spaces.**
- 351.19 Handicapped parking only signs. (Repealed)**
- 351.20 Parking on posted private property.**
- 351.21 Time limited parking spaces.**

CROSS REFERENCES

See sectional histories for similar State law
 Owner nonliability, lease defense - see Ohio R.C. 4511.071
 Police may remove ignition key from unattended vehicle - see TRAF. 303.03
 Parking near stopped fire apparatus - see TRAF. 331.27
 Lights on parked or stopped vehicles - see TRAF. 337.09

351.01 POLICE MAY REMOVE UNATTENDED VEHICLE WHICH OBSTRUCTS TRAFFIC.

Whenever any police officer finds a vehicle unattended upon any street, bridge or causeway, or in any tunnel, where such vehicle constitutes an obstruction to traffic, such officer may provide for the removal of such vehicle to the nearest garage or other place of safety.

(ORC 4511.67)

351.02 REGISTERED OWNER PRIMA-FACIE LIABLE FOR UNLAWFUL PARKING.

In any hearing on a charge of illegally parking a motor vehicle, testimony that a vehicle bearing a certain license plate was found unlawfully parked as prohibited by the provisions of this Traffic Code, and further testimony that the record of the Ohio Registrar of Motor Vehicles shows that the license plate was issued to the defendant, shall be prima-facie evidence that the vehicle which was unlawfully parked, was so parked by the defendant. A certified registration copy, showing such fact, from the Registrar shall be proof of such ownership.

351.03 PROHIBITED STANDING OR PARKING PLACES.

(a) No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:

- (1) On a sidewalk, curb or street lawn area, except a bicycle;
- (2) In front of a public or private driveway, or within five (5) feet of the edge (apron) of any single wide (13' or less) public or private driveway, or three (3) feet of the edge (apron) of any double wide (more than 13') public or private driveway;
- (3) Within an intersection;
- (4) Within ten feet of a fire hydrant;
- (5) On a crosswalk;
- (6) Within twenty feet of a crosswalk at an intersection;
- (7) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (8) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
- (9) Within fifty feet of the nearest rail of a railroad crossing;
- (10) Within twenty feet 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 of the entrance when it is properly posted with signs;
- (11) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (12) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (13) Upon any bridge or other elevated structure upon a street, or within a street tunnel;
- (14) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs;
- (15) Within one foot of another parked vehicle;
- (16) On the roadway portion of a freeway, expressway or thruway.
- (17) In any private driveway, alleyway or areaway between buildings when, in the opinion of the Fire Chief, such parking constitutes a fire hazard or an obstruction to or interference with operation of fire-fighting equipment;
- (18) In front of any theater or in front of or within ten feet of any theater exit when such theater is open for business when signs are erected giving notice thereof.
- (19) Entirely or partially within a front yard of any residential property unless such vehicle is entirely within a driveway or parking area that has been approved as such by the Building Department, Zoning Inspector, or the Board of Zoning Appeals. The front yard shall extend from the residence to the edge of a sidewalk. In the event there is no sidewalk, the front yard shall extend eight feet from the edge of the paved street to the residence.
 In case of any parcel of land which borders on more than one street, front yard means those yards which extend along all streets which border such parcel.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(Ord. 25-13. Passed 12-16-13.)

351.04 PARKING NEAR CURB.

- (a) Every vehicle stopped or parked upon a roadway where there is an adjacent curb shall be stopped or parked with the curb side

wheels of the vehicle parallel with and not more than twelve inches from the curb, unless it is impossible to approach so close to the curb; in such case the stop shall be as close to the curb as possible and only for the time necessary to discharge and receive passengers or to load or unload merchandise.

- (b) (1) This subsection does not apply to streets or parts thereof where angle parking is lawfully permitted. However, no angle parking shall be permitted on a state route unless an unoccupied roadway width of not less than twenty-five feet is available for free-moving traffic.
- (2) A. No angled parking space that is located on a state route within a municipal corporation is subject to elimination, irrespective of whether there is or is not at least twenty-five feet of unoccupied roadway width available for free-moving traffic at the location of that angled parking space, unless the municipal corporation approves of the elimination of the angled parking space.
- B. Replacement, repainting or any other repair performed by or on behalf of the municipal corporation of the lines that indicate the angled parking space does not constitute an intent by the municipal corporation to eliminate the angled parking space.
- (c) (1) A. Except as provided in subsection (c)(1)B. hereof, no vehicle shall be stopped or parked on a road or highway with the vehicle facing in a direction other than the direction of travel on that side of the road or highway.
- B. The operator of a motorcycle may back the motorcycle into an angled parking space so that when the motorcycle is parked it is facing in a direction other than the direction of travel on the side of the road or highway.
- (2) The operator of a motorcycle may back the motorcycle into a parking space that is located on the side of, and parallel to, a road or highway. The motorcycle may face any direction when so parked. Not more than two motorcycles at a time shall be parked in a parking space as described in subsection (c)(2) of this section irrespective of whether or not the space is metered.
- (d) Notwithstanding any provision of this Code or any rule, air compressors, tractors, trucks and other equipment, while being used in the construction, reconstruction, installation, repair or removal of facilities near, on, over or under a street, may stop, stand or park where necessary in order to perform such work, provided a flagperson is on duty, or warning signs or lights are displayed as may be prescribed by the Ohio Director of Transportation.

351.05 MANNER OF ANGLE PARKING.

- (a) Upon streets where angle parking is permitted, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway as is indicated by appropriate signs or markings.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.06 SELLING, WASHING OR REPAIRING VEHICLE UPON ROADWAY.

- (a) No person shall stop, stand or park a vehicle upon any roadway for the principal purpose of:
- (1) Displaying such vehicle for sale;
 - (2) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.
- (b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.07 UNATTENDED VEHICLE: DUTY TO STOP ENGINE, REMOVE KEY, SET BRAKE AND TURN WHEELS.

- (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, effectively setting the parking brake, and, when the motor vehicle is standing upon any grade, turning the front wheels to the curb or side of the highway.

The requirements of this section relating to the stopping of the engine, locking of the ignition and removing the key from the ignition of a motor vehicle do not apply to any of the following:

- (1) A motor vehicle that is parked on residential property;
- (2) A motor vehicle that is locked, regardless of where it is parked;
- (3) An emergency vehicle;
- (4) A public safety vehicle.

- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.661)

351.08 OPENING VEHICLE DOOR ON TRAFFIC SIDE.

- (a) No person shall open the door of a vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

- (b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.70(C), (D))

351.09 TRUCK LOADING ZONES.

- (a) No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious unloading and

delivery or pickup and loading of materials in any place marked as a truck loading zone during hours when the provisions applicable to such zones are in effect. In no case shall the stop for loading and unloading of materials exceed thirty minutes.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.10 BUS STOPS AND TAXICAB STANDS.

(a) No person shall stop, stand or park a vehicle other than a bus in a bus stop, or other than a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately posted, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus or taxicab waiting to enter or about to enter such zone, and then only for a period not to exceed three minutes, if such stopping is not prohibited therein by posted signs.

(b) The operator of a bus shall not stop, stand or park such vehicle upon any street at any place for the purpose of loading or unloading passengers or their baggage other than at a bus stop so designated and posted as such, except in case of an emergency.

(c) The operator of a bus shall enter a bus stop on a public street in such a manner that the bus when stopped to load or unload passengers or baggage shall be in a position with the right front wheel of such vehicle not further than eighteen inches from the curb and the bus approximately parallel to the curb so as not to unduly impede the movement of other vehicular traffic.

(d) The operator of a taxicab shall not stand or park such vehicle upon any street at any place other than in a taxicab stand so designated and posted as such. This provision shall not prevent the operator of a taxicab from temporarily stopping in accordance with other stopping or parking provisions at any place for the purpose of and while actually engaged in the expeditious loading or unloading of passengers.

(e) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

351.11 PARKED VEHICLE NOT TO BLOCK RIGHT OF WAY.

(a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free moving of vehicular traffic, or to require moving vehicular traffic to change lanes of traffic in the multi-lane street, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic control devices or directions of a police officer. No person shall park any vehicle upon a street other than an alley, in such manner or under such conditions as to leave available less than ten feet of the width of the roadway for the free movement of vehicular traffic.

(Ord. 57-57. Passed 7-22-57.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

351.12 PROHIBITION AGAINST PARKING ON STREETS OR HIGHWAYS.

(a) Upon any street or highway outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the paved or main traveled part of the street or highway if it is practicable to stop, park or so leave such vehicle off the paved or main traveled part of such street or highway. In every event, a clear and unobstructed portion of the street or highway opposite such standing vehicle shall be left for the free passage of other vehicles, and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such street or highway.

This section does not apply to the driver of any vehicle which is disabled while on the paved or improved or main traveled portion of a street or highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the disabled vehicle in such position.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.66)

351.13 MAXIMUM CONSECUTIVE 48 HOUR STREET PARKING.

(a) No person shall park a motor vehicle nor shall any vehicle be parked, left standing or abandoned upon any street or alley in the City for a continuous period longer than forty-eight hours. This subsection shall not be construed as affecting any other parking regulations now in effect or than may hereafter become effective, but shall be construed as an additional parking limitation. The purpose of this subsection is to prohibit continuous long-time parking and the storage of vehicles on the streets and alleys in the City.

(Ord. 60-56. Passed 10-8-56.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

351.14 VEHICLES CONTAINING OFFENSIVE SUBSTANCES.

(a) No person shall park any truck, trailer or other vehicle which contains any excrement, dung, offal or any other filth which produces offensive or unwholesome odors or smells nearer than 100 feet to any residence within the City.

(Ord. 1944. Passed 6-26-39.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

351.15 PARKING DURING SNOW REMOVAL OR STREET CLEANING.

(a) The Service-Safety Director is hereby authorized to prohibit parking temporarily on City streets where the City is in the process of removing snow or cleaning the streets.

(b) The Service-Safety Director shall clearly designate and mark such streets on which parking will be prohibited temporarily for such purposes.

(c) Vehicles parked on the streets in violation of subsections (a) and (b) hereof shall be removed and impounded in accordance with Section 303.08.

(Ord. 9-68. Passed 2-26-68.)

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

351.16 TRUCKS ON RESIDENTIAL STREETS.

(a) No person shall park a truck over three-quarter ton, trailer or semitrailer in a roadway at any time in front of or alongside of property used for residential purpose, except in cases of a breakdown or for loading or unloading purposes.

(Ord. 26-76. Passed 9-8-75.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

351.17 STREET PARKING OF HOUSE TRAILERS AND CAMPERS.

(a) No person shall park a house trailer, motor home, camping trailer, travel trailer, truck camper, or any other recreational vehicle designed for or capable of human habitation, in a City street, alley, or roadway except for loading or unloading purposes, and no vehicle so parked shall remain for more than 48 consecutive hours. Moving the vehicle during the 48 consecutive hours shall not constitute another 48 hours.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 6-15. Passed 3-23-15.)

351.18 HANDICAPPED PARKING SPACES.

(a) No person shall stop, stand, or park a motor vehicle in a parking space on either public or private streets or public or private parking lots which are designated for handicapped parking and designated in accordance with subsection (e) or (f) unless the motor vehicle being operated by or for the transport of a handicapped person is displaying a removable windshield placard or special license plate.

(b) Any motor vehicle that is parked in a special marked parking location in violation of subsection (a) of this section may be towed or otherwise removed from the parking location by the Police Department. A motor vehicle that is so towed or removed shall not be released to its owner until the owner presents proof of ownership of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles. If the motor vehicle is a leased vehicle, it shall not be released to the lessee until the lessee presents proof that that person is the lessee of the motor vehicle and pays all towing and storage fees normally imposed by the Municipality for towing and storing motor vehicles.

(c) When a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a removable windshield placard or special license plate, the motor vehicle is permitted to park for a period in excess of the legal parking period permitted by local authorities.

(d) As used in this section "Special license plates" and "removable windshield placard" mean any license plates or removal placard or temporary removable windshield placard issued under Ohio R.C. 4503.41 or 4503.44, and also mean any substantially similar license plates or removable windshield placard issued by a state, district, county or sovereignty.

(e) Street Parking Signage. All handicapped spaces on public or private streets shall comply with the Uniform Traffic Control Manual adopted by ORC 4511.09.

(f) Off Street Parking Signage. All handicapped spaces, whether public or privately owned, off street shall comply with ORC 3781.11.1.

(g) The Service-Safety Director is hereby authorized and directed to implement a program to install "Handicapped Parking Only" signs in order to reserve parking spaces before the residences of handicapped residences of Lancaster.

- (1) A "handicapped person", eligible to apply for a special reserved parking space in front of their residence, means a resident of the household who obtained special license plates or removable windshield placard issued under ORC 4503.41 or 4503.44.
- (2) The application for installation of a "Handicapped Parking Only" reserved parking sign shall be accompanied by a signed statement from the applicant's personal physician certifying the handicapped condition.
- (3) The application for the "Handicapped Parking Only" reserved parking sign shall be renewed every year to assure that the applicant continues to meet the requirements to qualify for this special parking privilege.
- (4) The Service-Safety Director shall establish a protocol for issuance, revocation, and denial of said spaces.

(h) Whoever violates this section shall be guilty of a minor misdemeanor and shall be fined not less than two hundred and fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing proves at the time of the violation of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a removable windshield placard that then was valid but the offender or the person neglected to display the placard or license plate as described in this section.
(Ord. 85-05. Passed 12-12-05.)

351.19 HANDICAPPED PARKING ONLY SIGNS.

EDITOR'S NOTE: Former Section 351.19 was repealed by Ordinance 85-05, passed December 12, 2005.

351.20 PARKING ON POSTED PRIVATE PROPERTY.

(a) If an owner of private property posts on the property in a conspicuous manner, prohibition against parking on the property or conditions and regulations under which parking is permitted, no person shall do either of the following:

- (1) Park a vehicle on the property without the owner's consent;
- (2) Park a vehicle on the property in violation of any condition or regulation posted by the owner.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4511.681)

351.21 TIME LIMITED PARKING SPACES.

No person shall park any vehicle in a space in excess of the posted time limits. Failure to move vehicle after initial violation occurs may result in additional violations.

(Ord. 36-08. Passed 10-6-08.)

CHAPTER 353

Loading and Unloading Zones

- 353.01 Application for loading zone permit; inspection.**
- 353.02 Permit fees; maintenance of signs; fee exceptions.**
- 353.03 Credit to present permit holders of amount paid on signs.**
- 353.04 Cancellation or renewal of present permits.**
- 353.05 Unlawful parking in loading zones.**
- 353.06 Authorized users of loading zones.**
- 353.07 Courtesy loading zones; hours.**
- 353.08 Special parking in metered area.**
- 353.99 Penalty.**

CROSS REFERENCES

- Truck loading zones - see TRAF. 351.09
- Passenger loading zones - see TRAF. 351.10

353.01 APPLICATION FOR LOADING ZONE PERMIT; INSPECTION.

Any person, partnership, firm or corporation desiring a loading or unloading zone in connection with any building when the business therein justifies and traffic conditions allow establishment of such a zone shall, before a permit is issued therefor, file a written application with the Safety-Service Director on blanks provided therefor, setting forth the name of the person, partnership, firm or corporation; in the case of a partnership or firm, the names of the members thereof; and in the case of a corporation, the names of the principal officers thereof, together with the exact location, nature and extent of the use of such building, and the reason or necessity for such loading and unloading zone. On the filing of such application, the Safety-Service Director shall cause an inspection to be made.

(Ord. 35-52. Passed 5-26-52.)

353.02 PERMIT FEES; MAINTENANCE OF SIGNS; FEE EXCEPTIONS.

On the filing of such application, there shall be paid to the City, which shall be credited to the General Fund, the annual sum of seventy-five dollars (\$75.00) for a loading zone in any area serviced by a parking meter and/or twenty-five dollars (\$25.00) for a loading zone in any area not serviced by a parking meter, if paid on or before December 31 of any year, and one-half the annual rate if paid between December 31 and June 30 of any year.

If the Safety-Service Director, upon making such inspection shall find that such loading and unloading zones should be established, he shall issue a permit therefor upon the payment to the City, which shall be credited to the General Fund, the sum of fifteen dollars (\$15.00) to cover the cost of establishing such loading and unloading zone and the erection of appropriate signs or standards indicating the same. The signs or standards so erected shall be maintained during the life of the permit by the owner thereof. In the event that signs or standards are damaged or broken, new signs and standards may be obtained from the City by the owner of such permit at cost price. All permits issued for such loading and unloading shall expire on June 30 of the year for which such permit is issued. Permits so issued shall be renewed or reissued on or before the expiration thereof, or within five days thereafter, upon the holder of such permit making application therefor and on the payment of the annual permit and maintenance fee.

However, the fees provided for herein to be paid on the filing of the application and the annual permit and maintenance fee, shall not be required of any nonprofit public or parochial school, hospital, asylum or charitable institution devoted to or which furnishes free services to the poor, the aged, the infirm or destitute persons, or orphan children, and such permits are hereby authorized to be issued without the payment of such fees or compliance with the other provisions of this section.

(Ord. 7-57. Passed 1-28-57.)

353.03 CREDIT TO PRESENT PERMIT HOLDERS OF AMOUNT PAID ON SIGNS.

Persons, firms, partnerships or corporations now holding permits for loading and unloading zones heretofore issued by the Safety-

Service Department, for which signs or standards have been erected at the expense or cost of such permit holder, shall, if such signs are in proper condition to be continued in use for such marking purposes, be allowed on the issuing of the permit as required herein a credit of the amount heretofore paid to the City for such signs or standards.

(Ord. 35-52. Passed 5-26-52.)

353.04 CANCELLATION OR RENEWAL OF PRESENT PERMITS.

All permits for loading and unloading zones heretofore issued shall be canceled, all loading and unloading zones heretofore established shall be abolished and all signs and standards heretofore erected for the purpose of designating loading and unloading zones shall be removed or caused to be removed from the streets by the Safety-Service Director, unless such persons, partnerships or corporations holding such permits, or maintaining such loading and unloading zones shall, within thirty days from the effective date of Ordinance 35-52, passed May 26, 1952, file an application and pay the fee as provided for herein.

(Ord. 35-52. Passed 5-26-52.)

353.05 UNLAWFUL PARKING IN LOADING ZONE.

No operator of a vehicle shall park or allow the same to stand in any place marked as a loading or unloading zone for a period of time longer than is necessary for the expeditious loading or unloading of passengers, or the necessary time for the loading or unloading of merchandise.

(Ord. 35-52. Passed 5-26-52.)

353.06 AUTHORIZED USERS OF LOADING ZONES.

All such loading and unloading zones shall be for the use of the general public conducting business with the permit holder as well as the holder of the permit therefor.

(Ord. 35-52. Passed 5-26-52.)

353.07 COURTESY LOADING ZONES; HOURS.

Where loading zones are not deemed practical in any area serviced by a parking meter on an annual fee basis, a courtesy loading zone may be established upon written application to the Safety-Service Director. Such zones shall be reserved for loading purposes only between the hours of 8:00 to 11:00 a.m. and 2:00 to 3:00 p.m. and otherwise shall be available for regular metered parking.

(Ord. 7-57. Passed 1-28-57.)

353.08 SPECIAL PARKING IN METERED AREA.

Any individual, contractor, organization or business that requests all day parking privileges in any area serviced by a parking meter shall be granted a special permit upon the payment of a rental fee of two dollars (\$2.00) per meter per day. This section shall not be deemed to apply to nonprofit organizations.

(Ord. 7-57. Passed 1-28-57.)

353.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for misdemeanor classifications and penalties.)

CHAPTER 355

Parking Meters (Repealed)

EDITOR'S NOTE: Former Chapter 355 was repealed by Ordinance 34-08, passed October 6, 2008.

TITLE NINE - Pedestrians, Bicycles and Motorcycles

Chap. 371. Pedestrians.

Chap. 373. Bicycles and Motorcycles.

Chap. 374. Motorized Bicycles.

Chap. 375. Snowmobiles, Off-Highway Motorcycles, and All Purpose Vehicles.

CHAPTER 371

Pedestrians

371.01 Right of way in crosswalk.

371.02 Right of way of blind person.

371.03 Crossing roadway outside crosswalk; diagonal crossings at intersections.

371.04 Moving upon right half of crosswalk.

371.05 Walking along highways.

371.06 Use of highway for soliciting; riding on outside of vehicles.

371.07 Right of way on sidewalk.

371.08 Yielding to public safety vehicle.

371.09 Walking on highway while under the influence.

371.10 On bridges or railroad crossings.

371.11 Persons operating motorized wheelchairs.

371.12 Electric personal assistive mobility devices.

371.13 **Operation of personal delivery device on sidewalks and crosswalks.**

371.14 **Low-speed micromobility devices.**

CROSS REFERENCES

See sectional histories for similar State law

Pedestrian defined - see TRAF. 301.22

Pedestrian prohibited on freeways - see TRAF. 303.06
Obedience to traffic control devices - see TRAF. 313.01, 313.03
Pedestrian control signals - see TRAF. 313.05

371.01 RIGHT OF WAY IN CROSSWALK.

(a) When traffic control signals are not in place, not in operation or are not clearly assigning the right of way, the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield or if required by Section 313.09, to a pedestrian crossing the roadway within a crosswalk when the pedestrian is upon the half of the roadway upon which the vehicle is traveling, or when the pedestrian is approaching so closely from the opposite half of the roadway as to be in danger.

(b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.

(c) Subsection (a) hereof does not apply under the conditions stated in Section 371.03(b).

(d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.46)

371.02 RIGHT OF WAY OF BLIND PERSON.

(a) As used in this section "blind person" or "blind pedestrian" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle no greater than twenty degrees.

The driver of every vehicle shall yield the right of way to every blind pedestrian guided by a guide dog, or carrying a cane which is predominately white or metallic in color, with or without a red tip.

(b) No person, other than a blind person, while on any public highway, street, alley or other public thoroughfare shall carry a white metallic cane, with or without a red tip.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.47)

371.03 CROSSING ROADWAY OUTSIDE CROSSWALK; DIAGONAL CROSSINGS AT INTERSECTIONS.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway.

(b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all traffic upon the roadway.

(c) Between adjacent intersections at which traffic control signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

(d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic control devices pertaining to such crossing movements.

(e) This section does not relieve the operator of a vehicle from exercising due care to avoid colliding with any pedestrian upon any roadway.

(f) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.48)

371.04 MOVING UPON RIGHT HALF OF CROSSWALK.

(a) Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.49)

371.05 WALKING ALONG HIGHWAYS.

(a) Where a sidewalk is provided and its use is practicable, no pedestrian shall walk along and upon an adjacent roadway.

(b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

(c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.

(d) Except as otherwise provided in Section 313.03 and 371.01, any pedestrian upon a roadway shall yield the right of way to all vehicles upon the roadway.

(e) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.50)

371.06 USE OF HIGHWAY FOR SOLICITING; RIDING ON OUTSIDE OF VEHICLES.

(a) No person while on a roadway outside a safety zone shall solicit a ride from the driver of any vehicle.

(b) (1) Except as provided in subsection (b)(2) hereof, no person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.

(2) Council, by ordinance, may authorize the issuance of a permit to a charitable organization to allow a person acting on behalf of the organization to solicit charitable contributions from the occupant of a vehicle by standing on a highway, other than a freeway, as provided in Ohio R.C. 4511.051(A), that is under the jurisdiction of the Municipality. The permit shall be valid for only one period or time, which shall be specified in the permit, in any calendar year. Council also may specify the locations where contributions may be solicited and may impose any other restrictions on or requirements regarding the manner in which the solicitations are to be conducted that Council considers advisable.

(3) As used herein, "charitable organization" means an organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax-exempt status of the organization pursuant to Section 501(c)(3) of the "Internal Revenue Code."

(c) No person shall hang onto, or ride on the outside of any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(d) No operator shall knowingly permit any person to hang onto, or ride on the outside of, any motor vehicle while it is moving upon a roadway, except mechanics or test engineers making repairs or adjustments, or workers performing specialized highway or street maintenance or construction under authority of a public agency.

(e) No driver of a truck, trailer or semitrailer shall knowingly permit any person who has not attained the age of sixteen years to ride in the unenclosed or unroofed cargo storage area of the driver's vehicle if the vehicle is traveling faster than twenty-five miles per hour, unless either of the following applies:

(1) The cargo storage area of the vehicle is equipped with a properly secured seat to which is attached a seat safety belt that is in compliance with federal standards for an occupant restraining device as defined in Ohio R.C. 4513.263(A)(2), the seat and seat safety belt were installed at the time the vehicle was originally assembled and the person riding in the cargo storage area is in the seat and is wearing the seat safety belt;

(2) An emergency exists that threatens the life of the driver or the person being transported in the cargo storage area of the truck, trailer or semitrailer.

(f) No driver of a truck, trailer or semitrailer shall permit any person, except for those workers performing specialized highway or street maintenance or construction under authority of a public agency to ride in the cargo storage area or on a tailgate of the driver's vehicle while the tailgate is unlatched.

(g) (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.

(2) Whoever violates subsection (e) or (f) of this section is guilty of a minor misdemeanor.

(ORC 4511.51)

371.07 RIGHT OF WAY ON SIDEWALK.

(a) The driver of a vehicle shall yield the right of way to any pedestrian on a sidewalk.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.441)

371.08 YIELDING TO PUBLIC SAFETY VEHICLE.

(a) Upon the immediate approach of a public safety vehicle as stated in Section 331.21, every pedestrian shall yield the right of way to the public safety vehicle.

(b) This section shall not relieve the driver of a public safety vehicle from the duty to exercise due care to avoid colliding with any

pedestrian.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.452)

371.09 WALKING ON HIGHWAY WHILE UNDER THE INFLUENCE.

(a) A pedestrian who is under the influence of alcohol, any drug of abuse, or any combination of them, to a degree that renders the pedestrian a hazard shall not walk or be upon a highway.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.481)

371.10 ON BRIDGES OR RAILROAD CROSSINGS.

(a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.

(b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while the gate or barrier is closed or is being opened or closed.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.511)

371.11 PERSONS OPERATING MOTORIZED WHEELCHAIRS.

(a) Every person operating a motorized wheelchair shall have all of the rights and duties applicable to a pedestrian that are contained in this Traffic Code, except those provisions which by their nature can have no application.

(ORC 4511.491)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.99)

371.12 ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES.

(a) (1) Electric personal assistive mobility devices may be operated on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles in accordance with this section.

(2) Except as otherwise provided in this section, those sections of this Traffic Code that by their nature are applicable to an electric personal assistive mobility device apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or path or upon any portion of a roadway set aside for the exclusive use of bicycles.

(b) No operator of an electric personal assistive mobility device shall do any of the following:

(1) Fail to yield the right-of-way to all pedestrians and human-powered vehicles at all times;

(2) Fail to give an audible signal before overtaking and passing a pedestrian;

(3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:

A. A lamp pointing to the front that emits a white light visible from a distance of not less than five hundred feet;

B. A red reflector facing the rear that is visible from all distances from one hundred feet to six hundred feet when directly in front of lawful lower beams of head lamps on a motor vehicle.

(4) Operate the device on any portion of a street or highway that has an established speed limit of fifty-five miles per hour or more;

(5) Operate the device upon any path set aside for the exclusive use of pedestrians or other specialized use when an appropriate sign giving notice of the specialized use is posted on the path;

(6) If under eighteen years of age, operate the device unless wearing a protective helmet on the person's head with the chin strap properly fastened;

(7) If under sixteen years of age, operate the device unless, during the operation, the person is under the direct visual and audible supervision of another person who is eighteen years of age or older and is responsible for the immediate care of the person under sixteen years of age.

(c) No person who is under fourteen years of age shall operate an electric personal assistive mobility device.

(d) No person shall distribute or sell an electric personal assistive mobility device unless the device is accompanied by a written statement that is substantially equivalent to the following: "WARNING: TO REDUCE THE RISK OF SERIOUS INJURY, USE ONLY WHILE WEARING FULL PROTECTIVE EQUIPMENT - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS".

(ORC 4511.512)

(e) "Electric personal assistive mobility device" means a self-balancing two non-tandem wheeled device that is designed to transport only one person, has an electric propulsion system of an average of seven hundred fifty watts, and when ridden on a paved level surface

by an operator who weighs one hundred seventy pounds has a maximum speed of less than twenty miles per hour.

(ORC 4501.01)

(f) Whoever violates subsection (b) or (c) hereof is guilty of a minor misdemeanor and shall be punished as follows:

- (1) The offender shall be fined ten dollars (\$10.00).
- (2) If the offender previously has been convicted of or pleaded guilty to a violation of division (B) or (C) of Ohio R.C. 4511.512 or a substantially similar municipal ordinance, the court, in addition to imposing the fine required under subsection (f) (1) hereof, shall do one of the following:
 - A. Order the impoundment for not less than one day but not more than thirty days of the electric personal assistive mobility device that was involved in the current violation of that section. The court shall order the device to be impounded at a safe indoor location designated by the court and may assess storage fees of not more than five dollars (\$5.00) per day, provided the total storage, processing, and release fees assessed against the offender or the device in connection with the device's impoundment or subsequent release shall not exceed fifty dollars (\$50.00).
 - B. If the court does not issue an impoundment order pursuant to subsection (f)(2)A. hereof, issue an order prohibiting the offender from operating any electric personal assistive mobility device on the public streets, highways, sidewalks, and paths and portions of roadways set aside for the exclusive use of bicycles for not less than one day but not more than thirty days.

(g) Whoever violates subsection (d) hereof is guilty of a minor misdemeanor.

(ORC 4511.512)

371.13 OPERATION OF PERSONAL DELIVERY DEVICE ON SIDEWALKS AND CROSSWALKS.

(a) As used in this section:

- (1) "Eligible entity" means a corporation, partnership, association, firm, sole proprietorship, or other entity engaged in business.
- (2) "Personal delivery device" means an electrically powered device to which all of the following apply:
 - A. The device is intended primarily to transport property and cargo on sidewalks and crosswalks.
 - B. The device weighs less than 250 pounds excluding any property or cargo being carried in the device.
 - C. The device has a maximum speed of ten miles per hour.
 - D. The device is equipped with technology that enables the operation of the device with active control or monitoring by a person, without active control or monitoring by a person, or both with or without active control or monitoring by a person.
- (3) "Personal delivery device operator" means an agent of an eligible entity who exercises direct physical control over, or monitoring of, the navigation and operation of a personal delivery device. The phrase does not include, with respect to a delivery or other service rendered by a personal delivery device, the person who requests the delivery or service. The phrase also does not include a person who only arranges for and dispatches a personal delivery device for a delivery or other service.

(b) An eligible entity may operate a personal delivery device on sidewalks and crosswalks so long as all of the following requirements are met:

- (1) The personal delivery device is operated in accordance with all regulations, if any, established by each local authority within which the personal delivery device is operated.
- (2) A personal delivery device operator is actively controlling or monitoring the navigation and operation of the personal delivery device.
- (3) The eligible entity maintains an insurance policy that includes general liability coverage of not less than one hundred thousand dollars (\$100,000) for damages arising from the operation of the personal delivery device by the eligible entity and any agent of the eligible entity.
- (4) The device is equipped with all of the following:
 - A. A marker that clearly identifies the name and contact information of the eligible entity operating the personal delivery device and a unique identification number;
 - B. A braking system that enables the personal delivery device to come to a controlled stop;
 - C. If the personal delivery device is being operated between sunset and sunrise, a light on both the front and rear of the personal delivery device that is visible in clear weather from a distance of at least 500 feet to the front and rear of the personal delivery device when directly in front of low beams of headlights on a motor vehicle.

(c) No personal delivery device operator shall allow a personal delivery device to do any of the following:

- (1) Fail to comply with traffic or pedestrian control devices and signals;
- (2) Unreasonably interfere with pedestrians or traffic;
- (3) Transport any hazardous material that would require a permit issued by the Public Utilities Commission;
- (4) Operate on a street or highway, except when crossing the street or highway within a crosswalk.

(d) A personal delivery device has all of the rights and obligations applicable to a pedestrian under the same circumstances, except that a personal delivery device shall yield the right-of-way to human pedestrians on sidewalks and crosswalks.

(e) (1) No person shall operate a personal delivery device unless the person is authorized to do so under this section and complies with the requirements of this section.

(2) An eligible entity is responsible for both of the following:

- A. Any violation of this section that is committed by a personal delivery device operator; and
- B. Any other circumstance, including a technological malfunction, in which a personal delivery device operates in a manner prohibited by divisions (c)(1) to (c)(4) of this section.

(ORC 4511.513)

371.14 LOW-SPEED MICROMOBILITY DEVICES.

(a) (1) A low-speed micromobility device may be operated on the public streets, highways, sidewalks, and shared-use paths, and may be operated on any portions of roadways set aside for the exclusive use of bicycles in accordance with this section.

(2) Except as otherwise provided in this section, those sections of this title that by their nature could apply to a low-speed micromobility device do apply to the device and the person operating it whenever it is operated upon any public street, highway, sidewalk, or shared-use path, or upon any portion of a roadway set aside for the exclusive use of bicycles.

(b) No operator of a low-speed micromobility device shall do any of the following:

- (1) Fail to yield the right-of-way to all pedestrians at all times;
- (2) Fail to give an audible signal before overtaking and passing a pedestrian;

- (3) Operate the device at night unless the device or its operator is equipped with or wearing both of the following:
 - A. A lamp pointing to the front that emits a white light visible from a distance of not less than 500 feet;
 - B. A red reflector facing the rear that is visible from all distances from 100 feet to 600 feet when directly in front of lawful lower beams of head lamps on a motor vehicle.
 - (c) (1) No person who is under sixteen years of age shall rent a low-speed micromobility device.
 - (2) No person shall knowingly rent a low-speed micromobility device to a person who is under sixteen years of age.
 - (3) No person shall knowingly rent a low-speed micromobility device on behalf of a person who is under sixteen years of age.
 - (d) No person shall operate a low-speed micromobility device at a speed greater than twenty miles per hour.
 - (e) (1) Whoever violates this section is guilty of a minor misdemeanor.
 - (2) Unless a mens rea is otherwise specified in this section, an offense established under this section is a strict liability offense and Ohio R.C. 2901.20 does not apply. The designation of that offense as a strict liability offense shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.
 - (f) Notwithstanding subsection (a)(1) of this section, the municipality, may do any of the following:
 - (1) Regulate or prohibit the operation of low-speed micromobility devices on public streets, highways, sidewalks, and shared-use paths, and portions of roadways set aside for the exclusive use of bicycles, under its jurisdiction;
 - (2) Include low-speed micromobility devices that are adapted to expand access for people with various physical limitations into a shared bicycle, shared electric bicycle, or similar vehicle sharing program, under its jurisdiction;
 - (3) Require the owner or operator of a low-speed micromobility device rental service or low-speed micromobility device sharing program to maintain commercial general liability insurance related to the operation of the devices, with limits of up to one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) per aggregate.
- (ORC 4511.514)

CHAPTER 373

Bicycles and Motorcycles

- 373.01 Code application to bicycles.**
- 373.02 Riding upon seats; handle bars; helmets and glasses.**
- 373.03 Attaching bicycle or sled to vehicle.**
- 373.04 Riding bicycles and motorcycles abreast.**
- 373.05 Signal device on bicycle.**
- 373.06 Lights and reflector on bicycle; brakes.**
- 373.07 Riding bicycle on right side of roadway; obedience to traffic rules; passing.**
- 373.08 Reckless operation; control, course and speed.**
- 373.09 Parking of bicycle.**
- 373.10 Vehicle other than a bicycle in bicycle parking zones.**
- 373.11 Riding on sidewalk. (Repealed)**
- 373.12 Impounding bicycle or skateboard in lieu of other penalty.**
- 373.13 Paths exclusively for bicycles.**
- 373.14 Electric bicycles.**

CROSS REFERENCES

See sectional histories for similar State law
 Motorcycle protective equipment - see OAC Ch. 4501-17
 Motorized bicycle equipment - see OAC Ch. 4501-23
 Bicycle defined - see TRAF. 301.04
 Motorcycle defined - see TRAF. 301.19
 Bicycles prohibited on freeways - see TRAF. 303.06
 Hand and arm signals - see TRAF. 331.15
 Motorcycle operator's license required - see TRAF. 335.01(a)
 Motorcycle headlight - see TRAF. 337.03
 Motorcycle brakes - see TRAF. 337.18(b)

373.01 CODE APPLICATION TO BICYCLES.

- (a) The provisions of this Traffic Code that are applicable to bicycles and electric bicycles apply whenever a bicycle or electric bicycle is operated upon any street or upon any path set aside for the exclusive use of bicycles.
- (b) Except as provided in subsection (d) of this section, a bicycle operator or electric bicycle operator who violates any section of this Traffic Code described in subsection (a) of this section that is applicable to bicycles or electric bicycles may be issued a ticket, citation or summons by a law enforcement officer for the violation in the same manner as the operator of a motor vehicle would be cited for the same violation. A person who commits any such violation while operating a bicycle or electric bicycle shall not have any points assessed against the person's driver's license, commercial driver's license, temporary instruction permit, or probationary license under Ohio R.C. 4510.036.
- (c) Except as provided in subsection (d) of this section, in the case of a violation of any section of this Traffic Code described in subsection (a) of this section by a bicycle operator, electric bicycle operator, or motor vehicle operator when the trier of fact finds that the violation by the motor vehicle operator endangered the lives of bicycle riders or electric bicycle riders at the time of the violation, the court, notwithstanding any provision of this Traffic Code to the contrary, may require the bicycle operator, electric bicycle operator or motor vehicle operator to take and successfully complete a bicycling skills course approved by the court in addition to or in lieu of any penalty otherwise prescribed by the Traffic Code for that violation.
- (d) Subsections (b) and (c) of this section do not apply to violations of Section 333.01 of this Traffic Code. (ORC 4511.52)
- (e) The provisions of this Traffic Code shall apply to bicycles and electric bicycles except those which by their nature are not applicable.

373.02 RIDING UPON SEATS; HANDLE BARS; HELMETS AND GLASSES.

- (a) For purposes of this section "snowmobile" has the same meaning as given that term in Ohio R.C 4519.01.
- (b) No person operating a bicycle or electric bicycle shall ride other than upon or astride the permanent and regular seat attached thereto, or carry any other person upon such bicycle or electric bicycle other than upon a firmly attached and regular seat thereon, and no

person shall ride upon a bicycle or electric bicycle other than upon such a firmly attached and regular seat.

(c) No person operating a motorcycle shall ride other than upon or astride the permanent and regular seat or saddle attached thereto, or carry any other person upon such motorcycle other than upon a firmly attached and regular seat or saddle thereon, and no person shall ride upon a motorcycle other than upon such a firmly attached and regular seat or saddle.

(d) No person shall ride upon a motorcycle that is equipped with a saddle other than while sitting astride the saddle, facing forward, with one leg on each side of the motorcycle.

(e) No person shall ride upon a motorcycle that is equipped with a seat other than while sitting upon the seat.

(f) No person operating a bicycle or electric bicycle shall carry any package, bundle or article that prevents the driver from keeping at least one hand upon the handlebars.

(g) No bicycle, electric bicycle, or motorcycle shall be used to carry more persons at one time than the number for which it is designed and equipped. No motorcycle shall be operated on a highway when the handlebars rise higher than the shoulders of the operator when the operator is seated in the operator's seat or saddle.

(h) (1) Except as provided in subsection (h)(2) of this section, no person shall operate or be a passenger on a snowmobile or motorcycle without using safety glasses or other protective eye device. Except as provided in subsection (i)(3) of this section, no person who is under the age of eighteen years, or who holds a motorcycle operator's endorsement or license bearing "novice" designation that is currently in effect as provided in Ohio R.C. 4507.13, shall operate a motorcycle on a highway, or be a passenger on a motorcycle, unless wearing a United States Department of Transportation-approved protective helmet on the person's head, and no other person shall be a passenger on a motorcycle operated by such a person unless similarly wearing a protective helmet. The helmet, safety glasses or other protective eye device shall conform with rules adopted by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in the trial of any civil action.

(2) Subsection (h)(1) of this section does not apply to a person operating an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

(i) (1) No person shall operate a motorcycle with a valid temporary permit and temporary instruction permit identification card issued by the Ohio Registrar of Motor Vehicles pursuant to Ohio R.C. 4507.05 unless the person, at the time of such operation, is wearing on the person's head a protective helmet that has been approved by the United States Department of Transportation that conforms with rules adopted by the Director.

(2) No person shall operate a motorcycle with a valid temporary instruction permit and temporary instruction permit identification card issued by the Registrar pursuant to Ohio R.C. 4507.05 in any of the following circumstances:

A. At any time when lighted lights are required by Section 337.02(a)(1);

B. While carrying a passenger;

C. On any limited access highway or heavily congested roadway.

(3) Subsections (i)(1) and (i)(2)A. of this section do not apply to a person who operates or is a passenger in an autocycle or cab-enclosed motorcycle when the occupant compartment top is in place enclosing the occupants.

(j) Nothing in this section shall be construed as prohibiting the carrying of a child in a seat or trailer that is designed for carrying children and is firmly attached to the bicycle or electric bicycle.

(k) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.53)

373.03 ATTACHING BICYCLE OR SLED TO VEHICLE.

(a) No person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle shall attach the same or self to any vehicle upon a roadway.

No operator shall knowingly permit any person riding upon any motorcycle, bicycle, electric bicycle, coaster, roller skates, sled, skateboard or toy vehicle to attach the same or self to any vehicle while it is moving upon a roadway. This section does not apply to the towing of a disabled vehicle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.54)

373.04 RIDING BICYCLES AND MOTORCYCLES ABREAST.

(a) Persons riding bicycles, electric bicycles, or motorcycles upon a roadway shall ride not more than two abreast in a single lane, except on paths or parts of roadways set aside for the exclusive use of bicycles, electric bicycles, or motorcycles.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55)

373.05 SIGNAL DEVICE ON BICYCLE.

(a) A bicycle or electric bicycle may be equipped with a device capable of giving an audible signal, except that a bicycle or electric bicycle shall not be equipped with nor shall any person use upon a bicycle or electric bicycle any siren or whistle.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.56)

373.06 LIGHTS AND REFLECTOR ON BICYCLE; BRAKES.

(a) Every bicycle or electric bicycle when in use at the times specified in Section 337.02, shall be equipped with the following:

(1) A lamp mounted on the front of either the bicycle or electric bicycle or the operator that shall emit a white light visible from a

distance of at least five hundred feet to the front; and three hundred feet to the sides. A generator-powered lamp that emits light only when the bicycle or electric bicycle is moving may be used to meet this requirement.

- (2) A red reflector on the rear that shall be visible from all distances from one hundred feet to six hundred feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle.
- (3) A lamp emitting either flashing or steady red light visible from a distance of five hundred feet to the rear shall be used in addition to the red reflector;

If the red lamp performs as a reflector in that it is visible as specified in subsection (a)(2) of this section, the red lamp may serve as the reflector and a separate reflector is not required.

(b) Additional lamps and reflectors may be used in addition to those required under subsection (a) of this section, except that red lamps and red reflectors shall not be used on the front of the bicycle or electric bicycle and white lamps and white reflectors shall not be used on the rear of the bicycle or electric bicycle.

(c) Every bicycle or electric bicycle shall be equipped with an adequate brake when used on a street or highway.

(d) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4511.56)

373.07 RIDING BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

(a) Every person operating a bicycle or electric bicycle upon a roadway shall ride as near to the right side of the roadway as practicable obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(b) This section does not require a person operating a bicycle or electric bicycle to ride at the edge of the roadway when it is unreasonable or unsafe to do so. Conditions that may require riding away from the edge of the roadway include when necessary to avoid fixed or moving objects, parked or moving vehicles, surface hazards, or if it otherwise is unsafe or impracticable to do so, including if the lane is too narrow for the bicycle or electric bicycle and an overtaking vehicle to travel safely side by side within the lane.

(c) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code. (ORC 4511.55(A))

373.08 RECKLESS OPERATION; CONTROL, COURSE AND SPEED.

(a) No person shall operate a bicycle or electric bicycle:

- (1) Without due regard for the safety and rights of pedestrians and drivers and occupants of all other vehicles, and so as to endanger the life, limb or property of any person while in the lawful use of the streets or sidewalks or any other public or private property;
- (2) Without exercising reasonable and ordinary control over such bicycle or electric bicycle;
- (3) In a weaving or zigzag course unless such irregular course is necessary for safe operation in compliance with law;
- (4) Without both hands upon the handle grips except when necessary to give the required hand and arm signals, or as provided in Section 373.02(d);
- (5) At a speed greater than is reasonable and prudent under the conditions then existing.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.09 PARKING OF BICYCLE.

(a) No person shall park a bicycle or electric bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic or upon a roadway so as to unduly interfere with vehicular traffic.

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

373.10 VEHICLE OTHER THAN A BICYCLE IN BICYCLE PARKING ZONES.

(a) No owner or operator of any vehicle, other than a bicycle, shall park or allow to stand any such vehicle in any zone designated for bicycle parking at any time.

(Ord. 2098. Passed 10-21-40.)

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

373.11 RIDING ON SIDEWALK. (REPEALED)

EDITOR'S NOTE: Former Section 373.11 was repealed by Ordinance 9-13.

373.12 IMPOUNDING BICYCLE OR SKATEBOARD IN LIEU OF OTHER PENALTY.

A police officer of the City, acting in accordance with instructions issued by the Safety- Service Director, may punish violators of provisions of this Traffic Code relating to bicycles and skateboards by impounding the bicycle or skateboard for a period of ten days in lieu of the other penalties provided by this Traffic Code.

(Ord. 30-90. Passed 10-8-90.)

373.13 PATHS EXCLUSIVELY FOR BICYCLES.

(a) No person shall operate a motor vehicle, snowmobile, golf cart, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, except for public safety services, public maintenance vehicles, and electric wheelchairs used by a disabled person or if

permitted by a special event organized by Lancaster Parks and Recreation.

(b) Except as otherwise provided in this subsection, whoever violates this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.

(Ord. 10-13. Passed 4-8-13.)

If the offender commits the offense while distracted and the distracting activity is a contributing factor to the commission of the offense, the offender is subject to the additional fine established under Section 303.991 of the Traffic Code.

(ORC 4511.713)

373.14 ELECTRIC BICYCLES.

- (a) (1) The operation of a class 1 electric bicycle and a class 2 electric bicycle is permitted on a path set aside for the exclusive use of bicycles or on a shared-use path, unless the Municipality by resolution, ordinance, or rule prohibits the use of a class 1 electric bicycle or class 2 electric bicycle on such a path.
- (2) No person shall operate a class 3 electric bicycle on a path set aside for the exclusive use of bicycles or a shared-use path unless that path is within or adjacent to a highway or the Municipality by resolution, ordinance, or rule authorizes the use of a class 3 electric bicycle on such a path.
- (3) No person shall operate a class 1 electric bicycle, a class 2 electric bicycle or a class 3 electric bicycle on a path that is intended to be used primarily for mountain biking, hiking, equestrian use, or other similar uses, or any other single track or natural surface trail that has historically been reserved for nonmotorized use, unless the Municipality by resolution, ordinance or rule authorizes the use of a class 1 electric bicycle, a class 2 electric bicycle, or a class 3 electric bicycle on such a path.
- (4) Subsections (a)(2) and (a)(3) of this section do not apply to a law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, using an electric bicycle while in the performance of the officer's duties.
- (b) (1) No person under sixteen years of age shall operate a class 3 electric bicycle; however, a person under sixteen years of age may ride as a passenger on a class 3 electric bicycle that is designed to accommodate passengers.
- (2) No person shall operate or be a passenger on a class 3 electric bicycle unless the person is wearing a protective helmet that meets the standards established by the Consumer Product Safety Commission or the American Society for Testing and Materials.
- (c) (1) Except as otherwise provided in this subsection, whoever operates an electric bicycle in a manner that is prohibited under subsection (a) of this section and whoever violates subsection (b) of this section is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates this section is guilty of a misdemeanor of the third degree.
- (2) The offenses established under subsection (c)(1) of this section are strict liability offenses and strict liability is a culpable mental state for purposes of Ohio R.C. 2901.20. The designation of these offenses as strict liability offenses shall not be construed to imply that any other offense, for which there is no specified degree of culpability, is not a strict liability offense.

(ORC 4511.522)

CHAPTER 374

Motorized Bicycles

374.01 Motorized bicycle operation, equipment and license.

374.02 Restrictions on operations.

374.03 Attaching motorized bicycle to vehicle.

374.04 Riding motorized bicycle abreast.

374.05 Audible signaling device.

374.06 Lights and reflector on motorized bicycles; brakes.

374.07 Riding motorized bicycle on right side of roadway; obedience to traffic rules; passing.

374.08 Control and speed.

374.09 Parking a motorized bicycle.

374.10 Riding on sidewalks.

374.11 Mutilation of serial numbers, stickers or plates.

374.12 Prohibited acts.

374.13 Possession of license.

374.14 Stopping after an accident upon streets; collision with unattended vehicle.

374.15 Stopping after accident upon property other than streets.

374.99 Penalties.

CROSS REFERENCES

Operator's license - see Ohio R.C. 4511.521

Brakes - see Ohio R.C. 4513.20

Motorized bicycle defined - see TRAF. 301.04(b)

374.01 MOTORIZED BICYCLE OPERATION, EQUIPMENT AND LICENSE.

(a) No person shall operate a motorized bicycle upon any street or highway or any public or private property used by the public for purposes of vehicular travel or parking, unless all of the following conditions are met:

- (1) The person possesses a valid license or permit authorizing such operation and which is issued by the Ohio Registrar of Motor Vehicles under Ohio R.C. Chapter 4506 or 4507 or Ohio R.C. 4511.521;
- (2) The motorized bicycle is equipped in accordance with rules adopted by the Ohio Director of Public Safety and is in proper

working order;

- (3) The person, if under eighteen years of age, is wearing a protective helmet on the person's head with the chin strap properly fastened, and the motorized bicycle is equipped with a rear-view mirror; and
- (4) The person operates the motorized bicycle when practicable within three feet of the right edge of the roadway obeying all traffic rules applicable to vehicles.
- (b) No person operating a motorized bicycle shall carry another person upon the motorized bicycle.
- (c) The protective helmet and rearview mirror required by subsection (a)(3) of this section shall, on and after January 1, 1985, conform with rules adopted by the Ohio Director of Public Safety.
- (d) Whoever violates this section is guilty of a minor misdemeanor. (ORC 4511.521)

374.02 RESTRICTIONS ON OPERATIONS.

- (a) A person operating a motorized bicycle shall not ride other than upon the permanent and regular seat attached thereto.
- (b) No motorized bicycle shall be operated within the City limits carrying more persons than the operator.
- (c) A person shall ride upon a motorized bicycle only while sitting astride the seat facing forward with one leg on each side of the motorized bicycle.
- (d) No person shall operate a motorized bicycle without using safety glasses or other protective eye devices. No person who is under the age of eighteen shall operate a motorized bicycle in the City unless wearing a protective helmet on his/her head. The helmet, safety glasses or other protective eye device shall conform with regulations prescribed and promulgated by the Ohio Director of Public Safety. The provisions of this subsection or a violation thereof shall not be used in trial in any civil action.

(Ord. 8-84. Passed 2-13-84.)

374.03 ATTACHING MOTORIZED BICYCLE TO VEHICLE.

No person riding upon any motorized bicycle shall attach the same or himself to any vehicle upon a roadway. No operator of a motorized bicycle shall knowingly permit any person riding upon a motorcycle, motorized bicycle, bicycle, coaster, rollerskates, sled or toy vehicle to attach the same to himself or to any vehicle while it is moving upon a roadway.

(Ord. 8-84. Passed 2-13-84.)

374.04 RIDING MOTORIZED BICYCLE ABREAST.

Persons riding motorized bicycles upon a roadway shall ride in a single file.

(Ord. 8-84. Passed 2-13-84.)

374.05 AUDIBLE SIGNALING DEVICE.

No person shall operate a motorized bicycle unless it is equipped with at least one audible signaling device capable of giving a signal audible for a distance of at least 100 feet, activated by pushing a self-returning device located on the left handle bar. Such signaling device shall not consist of a siren or whistle.

(OAC 4501-23-15; Ord. 8-84. Passed 2-13-84.)

374.06 LIGHTS AND REFLECTOR ON MOTORIZED BICYCLES; BRAKES.

(a) Every motorized bicycle when in use at the time specified in Section 337.02 shall be equipped with a light on the front that shall emit a white light visible from a distance of at least 500 feet to the front and with a red reflector on the rear of a type approved by the Director of Public Safety. It shall be visible from all distances for 100 feet to 600 feet to the rear when directly in front of lawful lower beam headlights on a motor vehicle and a light emitting a red light visible from a distance of 500 feet to the rear. It shall be used in addition to the rear reflector.

(b) Every motorized bicycle shall be equipped with adequate brakes when used on the street or on the highways.

(ORC 4511.56(A); Ord. 8-84. Passed 2-13-84.)

374.07 RIDING MOTORIZED BICYCLE ON RIGHT SIDE OF ROADWAY; OBEDIENCE TO TRAFFIC RULES; PASSING.

Every person operating a motorized bicycle upon a roadway shall ride as near to the right side of the roadway as practical obeying all traffic rules applicable to vehicles and exercising due care when passing a standing vehicle or one proceeding in the same direction.

(ORC 4511.55(A); Ord. 8-84. Passed 2-13-84.)

374.08 CONTROL AND SPEED.

No person shall operate a motorized bicycle:

- (a) Without both hands upon the handle grips except when necessary to give the required hand and arm signals.
- (b) At a speed greater than is reasonable and prudent under conditions then existing.
- (c) Upon the streets or highways at a speed exceeding twenty miles per hour.

(Ord. 8-84. Passed 2-13-84.)

374.09 PARKING A MOTORIZED BICYCLE.

No person shall park a motorized bicycle upon a sidewalk in such a manner so as to unduly interfere with pedestrian traffic, or upon a roadway so as to unduly interfere with vehicular traffic.

(Ord. 8-84. Passed 2-13-84.)

374.10 RIDING ON SIDEWALKS.

No person shall operate a motorized bicycle upon a sidewalk.

(Ord. 8-84. Passed 2-13-84.)

374.11 MUTILATION OF SERIAL NUMBERS, STICKERS OR PLATES.

No person shall willfully or maliciously remove, mutilate, or alter the frame, serial number, or other identifying marks of any motorized bicycle or any registration certificate, validation sticker or license plate issued under Ohio R.C. 4503.191. No person shall possess a motorized bicycle with a mutilated or altered frame or serial number.

(Ord. 8-84. Passed 2-13-84.)

374.12 PROHIBITED ACTS.

(a) No person shall display or cause or permit to be displayed or possessed any motorized bicycle license knowing the same to be fictitious, canceled, revoked, suspended or altered.

(b) No person shall lend to a person not entitled thereto or knowingly permit such other person to use any motorized bicycle license issued to the person so lending or permitting the use thereof.

(OAC 4501-23-25; Ord. 8-84. Passed 2-13-84.)

374.13 POSSESSION OF LICENSE.

The motorized bicycle license or operator's license issued under Ohio R.C. Chapter 4507 shall be in the immediate possession of the operator of the motorized bicycle while operating such vehicle upon the City streets.

(Ord. 8-84. Passed 2-13-84.)

374.14 STOPPING AFTER AN ACCIDENT UPON STREETS; COLLISION WITH UNATTENDED VEHICLE.

In case of accident to or collision with persons or property upon any of the public streets or highways, due to the driving or operating thereon of any motorized bicycle, the person so driving or operating such motorized bicycle, having knowledge of such accident or collision shall immediately stop his motorized bicycle at the scene of the accident or collision and shall remain at the scene of such accident or collision until he has given his name and address, if he is not the owner, the name and address of the owner of such motorized bicycle together with the registered number of such motorized bicycle to any person injured in such accident or collision or to the operator, occupant, owner or attendant of any motor vehicle damaged in such accident or collision or to any police officer at such accident or collision. In the event the injured person is unable to comprehend and record the information required to be given by this section, the other driver involved in such accident or collision shall forthwith notify the nearest police authority concerning the location of the accident or collision, and his name and his address and the registered number of the motorized bicycle he was operating, and then remain at the scene of the accident or collision until a police officer arrives, unless removed from the scene by an emergency vehicle operated by a political subdivision or an ambulance. If such accident or collision is with an unoccupied or unattended motor vehicle the operator so colliding with such motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on such unoccupied or unattended motor vehicle.

(Ord. 8-84. Passed 2-13-84.)

374.15 STOPPING AFTER ACCIDENT UPON PROPERTY OTHER THAN STREETS.

In case of accident or collision resulting in the injury or damage to persons or property upon any public or private property other than public streets or highways due to the driving or operations thereon of any motorized bicycle, the person so driving or operating such motorized bicycle, having knowledge of such accident or collision shall stop, and upon request of the person injured or damaged or any other person, shall give such person's name and address, and if he is not the owner, the name and address of the owner of such motor vehicle, together with the registered number of such motorized bicycle, and, if available exhibit his operator's or motorized bicycle operator's license. If the owner or person in charge of such damaged property is not furnished such information the driver of the motorized bicycle involved in the accident or collision shall, within twenty-four hours of such accident or collision, forward to the Police Department the same information required to be given to the owner or person in control of such damaged property and give the date, time and location of accident or collision. If such accident or collision is with an unoccupied or unattended motor vehicle the operator so colliding with such motor vehicle shall securely attach the information required to be given in this section, in writing, to a conspicuous place in or on such unoccupied or unattended motor vehicle.

(Ord. 8-84. Passed 2-13-84.)

374.99 PENALTIES.

Whoever violates this chapter shall be guilty of the following misdemeanors as provided in Section 303.99:

- (a) Violation of Section 374.03: first offense a minor misdemeanor; second offense a misdemeanor of the fourth degree; third offense a misdemeanor of the third degree.
- (b) Violation of Section 374.10: first offense a minor misdemeanor; second offense a misdemeanor of the fourth degree; third offense a misdemeanor of the third degree.
- (c) Violation of Section 374.11: first offense a fourth degree misdemeanor; subsequent offenses are third degree misdemeanors.
- (d) Violation of Section 374.14: first offense a fourth degree misdemeanor; second offense a third degree misdemeanor.
- (e) Violation of Section 374.15: first offense a fourth degree misdemeanor; second offense a third degree misdemeanor.
- (f) Violations of all other sections of this chapter, not above mentioned, shall be minor misdemeanors.

(Ord. 8-84. Passed 2-13-84.)

CHAPTER 375

Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles

375.01 Definitions.

375.02 Equipment.

375.03 Code application; prohibited operation.

375.04 Permitted operation.

375.05 Licensing requirements of operator.

375.06 Registration of vehicles.

375.07 Accident reports.

375.08 Certificate of title.

CROSS REFERENCES

See sectional histories for similar State law

Lights, brakes and muffler - see OAC Ch. 4501.29

Power of trial court of record to impound registration certificate for certain violations
- see Ohio R.C 4519.47

Power to regulate; municipal licensing prohibited - see Ohio R.C. 4519.48

Street or highway defined - see TRAF. 301.42

Required usage of helmets and safety glasses - see TRAF. 373.02(f)

375.01 DEFINITIONS.

As used in this chapter:

- (a) "Snowmobile" means any self-propelled vehicle designed primarily for use on snow or ice, and steered by skis, runners or caterpillar treads.

(ORC 4519.01(A))

- (b) "All purpose vehicle" means any self-propelled vehicle designed primarily for cross-country travel on land and water, or on more than one type of terrain, and steered by wheels or caterpillar treads, or any combination thereof, including vehicles that operate on a cushion of air, vehicles commonly known as all-terrain vehicles, all season vehicles, mini-bikes and trail bikes. "All-purpose vehicle" does not include a utility vehicle as defined in Ohio R.C. 4501.01 or any vehicle principally used in playing golf, any motor vehicle or aircraft required to be registered under Ohio R.C. Chapter 4503 or Chapter 4561, and any vehicle excepted from definition as a motor vehicle by Section 301.20 of this Traffic Code.

(ORC 4519.01(B))

- (c) "Owner" means any person, firm or corporation, other than a lienholder or dealer, having title to a snowmobile, off-highway motorcycle, or all purpose vehicle, or other right to the possession thereof. (ORC 4519.01(C))
- (d) "Operator" means any person who operates or is in actual physical control of a snowmobile, off-highway motorcycle or all purpose vehicle.
- (e) "Limited access highway" or "freeway" means a highway especially designed for through traffic and over which abutting property owners have no easement or right of access by reason of the fact that their property abuts upon such highway, and access to which may be allowed only at highway intersections designated by the Ohio Director of Transportation.

(ORC 5511.02)

- (f) "Interstate highway" means any part of the interstate system of highways as defined in subsection (e), 90 Stat. 431 (1976), 23 U.S.C.A. 103, and amendments thereof.
- (g) "Off-highway motorcycle" means every motorcycle, as defined in Ohio R.C. 4511.01, that is designed to be operated primarily on lands other than a street or highway.

(ORC 4519.01)

375.02 EQUIPMENT.

(a) Equipment of snowmobiles, off-highway motorcycles, and all purpose vehicles shall include, but not necessarily be limited to requirements for the following items:

- (1) At least one headlight having a minimum candlepower of sufficient intensity to reveal persons and objects at a distance of at least 100 feet ahead under normal atmospheric conditions during hours of darkness;
- (2) At least one red taillight having a minimum candlepower of sufficient intensity to be plainly visible from a distance of 500 feet to the rear under normal atmospheric conditions during hours of darkness;
- (3) Adequate brakes. Every snowmobile, while traveling on packed snow, shall be capable of carrying a driver who weighs 175 pounds or more, and, while carrying such driver, be capable of stopping in not more than forty feet from an initial steady speed of twenty miles per hour, or locking its traction belt.
- (4) A muffler system capable of precluding the emission of excessive smoke or exhaust fumes, and of limiting the engine noise of vehicles. On snowmobiles manufactured after January 1, 1973, such requirement shall include sound dampening equipment such that noise does not exceed eighty- two decibels on the "A" scale at fifty feet as measured according to SAE J192 (September 1970).

(b) No person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle in violation of this section, except that equipment specified in subsections (a)(1) and (2) hereof shall not be required on snowmobiles, off-highway motorcycles, or all purpose vehicles operated during the daylight hours.

(c) Except as otherwise provided in this subsection, whoever violates subsection (b) of this section shall be fined not more than fifty dollars (\$50.00). If the offender within the preceding year previously has committed a violation of subsection (b) of this section, whoever violates subsection (b) of this section shall be fined not less than fifteen dollars (\$15.00) nor more than one hundred dollars (\$100.00), imprisoned not more than three days, or both.

(ORC 4519.20)

375.03 CODE APPLICATION; PROHIBITED OPERATION.

(a) The applicable provisions of this Traffic Code shall be applied to the operation of snowmobiles, off-highway motorcycles, and all purpose vehicles; except that no snowmobile, off- highway motorcycle, or all purpose vehicle shall be operated as follows:

- (1) On any street or highway except for emergency travel only during such time and in such manner as the State or local authority having jurisdiction over such street or highway shall designate, and except as provided in Section 375.04;
- (2) Upon any property owned or leased by the Municipality except in areas designated for such purposes;

- (3) On any private property, or in any nursery or planting area, without the permission of the owner or other person having the right to possession of the property;
 - (4) On any land or waters controlled by the State, except at those locations where a sign has been posted permitting such operation;
 - (5) On tracks or right of way of any operating railroad;
 - (6) While transporting any firearm, bow or other implement for hunting, that is not unloaded and securely encased;
 - (7) For the purpose of chasing, pursuing, capturing or killing any animal or wild fowl;
 - (8) During the time from sunset to sunrise, unless displaying lighted lights as required by Section 375.02.
- (b) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both.

(ORC 4519.40)

375.04 PERMITTED OPERATION.

Snowmobiles, off-highway motorcycles, and all purpose vehicles may be operated as follows:

- (a) To make a crossing of a highway, other than a freeway or limited access highway, whenever the crossing can be made in safety and will not interfere with the movement of vehicular traffic approaching from any direction on the highway, and provided that the operator yields the right of way to any approaching traffic that presents an immediate hazard;
- (b) On highways in the County or Township road systems whenever the local authority having jurisdiction over such highway so permits;
- (c) Off and alongside a street or highway for limited distances from the point of unloading from a conveyance to the point at which the snowmobile, off-highway motorcycle, or all purpose vehicle is intended and authorized to be operated.
- (d) On the berm or shoulder of a highway, other than a highway as designated in Ohio R.C. 4519.40(A), when the terrain permits such operation to be undertaken safely and without the necessity of entering any traffic lane;
- (e) On the berm or shoulder of a county or township road, while traveling from one area of operation of the snowmobile, off-highway motorcycle, or all-purpose vehicle to another such area.

(ORC 4519.41)

375.05 LICENSING REQUIREMENTS OF OPERATOR.

(a) No person who does not hold a valid, current motor vehicle driver's or commercial driver's license, motorcycle operator's endorsement or probationary license issued under Ohio R.C. Chapter 4506 or 4507, or a valid, current driver's license issued by another jurisdiction, shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any street or highway, on any portion of the right of way thereof, or on any public land or waters. This subsection shall not be construed to permit the holder of such a license to operate a snowmobile, off-highway motorcycle, or all purpose vehicle in violation of Section 375.03.

(b) No person who is less than sixteen years of age shall operate a snowmobile, off-highway motorcycle, or all purpose vehicle on any land or waters other than private property or waters owned by or leased to such person's parent or guardian, unless accompanied by another person who is eighteen years of age, or older, and who holds a license as provided in subsection (a) hereof, except that the Ohio Department of Natural Resources may permit such operation on State controlled land under its jurisdiction when such person is less than sixteen years of age and is accompanied by a parent or guardian who is a licensed driver eighteen years of age or older.

(c) Whoever violates this section shall be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00), imprisoned not less than three nor more than thirty days, or both.

(ORC 4519.44)

375.06 REGISTRATION OF VEHICLES.

(a) Except as provided in Ohio R.C. 4519.02(B), (C) and (D), no person shall operate any snowmobile, off-highway motorcycle, or all purpose vehicle unless the snowmobile, off-highway motorcycle, or all purpose vehicle is registered and numbered in accordance with Ohio R.C. 4519.03 and 4519.04.

(b) Except as otherwise provided in this subsection, whoever violates subsection (a) of this section shall be fined not more than twenty-five dollars (\$25.00). If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a) of this section, whoever violates subsection (a) of this section shall be fined not less than twenty-five dollars (\$25.00) nor more than fifty dollars (\$50.00).

(ORC 4519.02)

375.07 ACCIDENT REPORTS.

(a) The operator of a snowmobile, off-highway motorcycle, or all purpose vehicle involved in any accident resulting in bodily injury to or death of any person or damage to the property of any person in excess of one hundred dollars (\$100.00) shall report the accident within forty-eight hours to the Chief of Police, and, within thirty days, shall forward a written report of the accident to the Ohio Registrar of Motor Vehicles on a form prescribed by the Registrar. If the operator is physically incapable of making the reports and there is another participant in the accident not so incapacitated, the participant shall make the reports. In the event that there is no other participant, and the operator is other than the owner, the owner, within the prescribed periods of time, shall make the reports.

Any law enforcement officer or other person authorized by Ohio R.C. 4519.42 and 4519.43, who investigates or receives information of an accident involving a snowmobile, off-highway motorcycle, or all purpose vehicle shall forward to the Registrar a written report of the accident within forty-eight hours.

(ORC 4519.46)

(b) Whoever violates this section is guilty of a minor misdemeanor on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the fourth degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the third degree.

375.08 CERTIFICATE OF TITLE.

(a) No person shall do any of the following:

- (1) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle without having a certificate of title for the off-highway motorcycle or all-purpose vehicle, if such a certificate is required by Ohio R.C. Chapter 4519 to be issued for the off-highway motorcycle or all-purpose vehicle, or, if a physical certificate of title has not been issued for it, operate an off-highway motorcycle or all-purpose vehicle knowing that the ownership information relating to the motorcycle or vehicle has not been entered into the automated title processing system by a clerk of a court of common pleas;
- (2) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle if a certificate of title to the off-highway motorcycle or all-purpose vehicle has been issued and then has been canceled;
- (3) Fail to surrender any certificate of title upon cancellation of it by the Registrar of Motor Vehicles and notice of the cancellation as prescribed in Ohio R.C. Chapter 4519;
- (4) Fail to surrender the certificate of title to a clerk of the court of common pleas as provided in Ohio R.C. Chapter 4519, in case of the destruction or dismantling of, or change in, the off-highway motorcycle or all-purpose vehicle described in the certificate of title;
- (5) Violate any provision of Ohio R.C. 4519.51 to 4519.70 or any lawful rules adopted pursuant to those sections;
- (6) Operate in this Municipality an off-highway motorcycle or all-purpose vehicle knowing that the certificate of title to or ownership of the motorcycle or vehicle as otherwise reflected in the automated title processing system has been canceled.

(b) Whoever violates this section shall be fined not more than two hundred dollars (\$200.00) or imprisoned not more than ninety days, or both.

(ORC 4519.66)

CODIFIED ORDINANCES OF LANCASTER

PART FIVE - GENERAL OFFENSES CODE

- Chap. 501. General Provisions and Penalty.
- Chap. 503. Alarm Systems.
- Chap. 505. Animals and Fowl.
- Chap. 509. Disorderly Conduct and Peace Disturbance.
- Chap. 513. Drug Abuse Control.
- Chap. 515. Felon Registration.
- Chap. 517. Gambling.
- Chap. 521. Health, Safety and Sanitation.
- Chap. 525. Law Enforcement and Public Office.
- Chap. 529. Liquor Control.
- Chap. 531. Obscene Materials, Performances and Other Matters.
- Chap. 533. Obscenity and Sex Offenses.
- Chap. 537. Offenses Against Persons.
- Chap. 541. Property Offenses.
- Chap. 545. Theft and Fraud.
- Chap. 549. Weapons and Explosives.
- Chap. 553. Railroads.
- Chap. 561. Streets and Sidewalks. (Repealed)
- Chap. 565. Weeds and Trees.

Chap. 567. Civil Penalties for Violations Under Live Digital Video School Bus Violation Detection Monitoring Technology (“DMT”).

CHAPTER 501

General Provisions and Penalty

- 501.01 Definitions.**
- 501.02 Classification of offenses.**
- 501.03 Common law offenses abrogated.**
- 501.04 Rules of construction.**
- 501.05 Criminal law jurisdiction.**
- 501.06 Limitation of criminal prosecution.**
- 501.07 Requirements for criminal liability.**
- 501.08 Culpable mental states.**
- 501.09 Attempt.**
- 501.10 Complicity.**
- 501.11 Organizational criminal liability.**
- 501.12 Personal accountability for organizational conduct.**
- 501.13 Conspiracy.**
- 501.99 Penalties for misdemeanors.**

CROSS REFERENCES

See sectional histories for similar State law

Limitation of prosecution for income tax violations - see Ohio R.C. 718.06

Modification of sentence - see Ohio R.C. 2929.10(C), (D)

Penalty considerations - see Ohio R.C. 2929.22

Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.

501.01 DEFINITIONS.

As used in the Codified Ordinances:

- (a) "Force" means any violence, compulsion or constraint physically exerted by any means upon or against a person or thing.
- (b) "Deadly force" means any force that carries a substantial risk that it will proximately result in the death of any person.
- (c) "Physical harm to persons" means any injury, illness or other physiological impairment, regardless of its gravity or duration.
- (d) "Physical harm to property" means any tangible or intangible damage to property that, in any degree, results in loss to its value or interferes with its use or enjoyment. "Physical harm to property" does not include wear and tear occasioned by normal use.
- (e) "Serious physical harm to persons" means any of the following:
 - (1) Any mental illness or condition of such gravity as would normally require hospitalization or prolonged psychiatric treatment;
 - (2) Any physical harm that carries a substantial risk of death;
 - (3) Any physical harm that involves some permanent incapacity, whether partial or total, or that involves some temporary, substantial incapacity;
 - (4) Any physical harm that involves some permanent disfigurement, or that involves some temporary, serious disfigurement;
 - (5) Any physical harm that involves acute pain of such duration as to result in substantial suffering, or that involves any degree of prolonged or intractable pain.
- (f) "Serious physical harm to property" means any physical harm to property that does either of the following:
 - (1) Results in substantial loss to the value of the property, or requires a substantial amount of time, effort or money to repair or replace;
 - (2) Temporarily prevents the use or enjoyment of the property, or substantially interferes with its use and enjoyment for an extended period of time.
- (g) "Risk" means a significant possibility, as contrasted with a remote possibility, that a certain result may occur or that certain circumstances may exist.
- (h) "Substantial risk" means a strong possibility, as contrasted with a remote or significant possibility, that a certain result may occur or that certain circumstances may exist.
- (i) "Offense of violence" means any of the following:
 - (1) A violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, 2923.161, 2903.34(A)(1), 2911.12(A)(1) to (3) or 2919.22(B)(1) to (4), or felonious sexual penetration in violation of former Ohio R.C. 2907.12;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section listed in subsection (i)(1) hereof;
 - (3) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed, purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (i)(1), (2) or (3) hereof.
- (j) (1) "Property" means any property, real or personal, tangible or intangible, and any interest or license in that property. "Property" includes, but is not limited to, cable television service, other telecommunications service, telecommunications devices, information service, computers, data, computer software, financial instruments associated with computers, other documents associated with computers, or copies of the documents, whether in machine or human readable form, trade secrets, trademarks, copyrights, patents, and property protected by a trademark, copyright, or patent. "Financial instruments associated with computers" include, but are not limited to, checks, drafts, warrants, money orders, notes of indebtedness, certificates of deposit, letters of credit, bills of credit or debit cards, financial transaction authorization mechanisms, marketable securities, or any computer system representations of any of them.
 - (2) As used in this section, "trade secret" has the same meaning as in Ohio R.C. 1333.61, and "telecommunications service" and "information service" have the same meanings as in Ohio R.C. 2913.01.
 - (3) As used in this section, "cable television service", "computer", "computer software", "computer system", "computer network", "data", and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (k) "Law enforcement officer" means any of the following:
 - (1) A sheriff, deputy sheriff, constable, police officer of a township or joint police district, marshal, deputy marshal, municipal police officer, member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D) or State highway patrol trooper;
 - (2) An officer, agent or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, Charter or ordinance, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within the limits of that statutory duty and authority;
 - (3) A mayor or manager in the mayor's or manager's capacity as chief conservator of the peace within the mayor's or manager's municipal corporation;
 - (4) A member of an auxiliary police force organized by county, township or municipal law enforcement authorities, within the scope of the member's appointment or commission;
 - (5) A person lawfully called pursuant to Ohio R.C. 311.07 to aid a sheriff in keeping the peace, for the purposes and during the time when the person is called;
 - (6) A person appointed by a mayor pursuant to Ohio R.C. 737.01 as a special patrolling officer during riot or emergency, for the

- purposes and during the time when the person is appointed;
- (7) A member of the organized militia of this State or the armed forces of the United States, lawfully called to duty to aid civil authorities in keeping the peace or protect against domestic violence;
 - (8) A prosecuting attorney, assistant prosecuting attorney, secret service officer or municipal prosecutor;
 - (9) A veterans' home police officer appointed under Ohio R.C. 5907.02;
 - (10) A member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y);
 - (11) A special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28;
 - (12) The Senate Sergeant of Arms and or Assistant Sergeant at Arms;
 - (13) A special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, as defined in Section 119.3 of Title 14 of the Code of Federal Regulations, 14 C.F.R. 119.3, as amended, and that is required to be under a security program and is governed by aviation security rules of the transportation security administration of the United States Department of Transportation as provided in Parts 1542 and 1544 of Title 49 of the Code of Federal Regulations, as amended.
- (l) "Privilege" means an immunity, license or right conferred by law, or bestowed by express or implied grant, or arising out of status, position, office or relationship, or growing out of necessity.
 - (m) "Contraband" means any property that is illegal for a person to acquire or possess under a statute, ordinance, or rule, or that a trier of fact lawfully determines to be illegal to possess by reason of the property's involvement in an offense. "Contraband" includes, but is not limited to, all of the following:
 - (1) Any controlled substance, as defined in Ohio R.C. 3719.01, or any device, or paraphernalia;
 - (2) Any unlawful gambling device, or paraphernalia;
 - (3) Any dangerous ordnance or obscene material.
 - (n) A person is "not guilty by reason of insanity" relative to a charge of an offense only if the person proves, in the manner specified in Ohio R.C. 2901.05, that at the time of the commission of the offense, the person did not know, as a result of a severe mental disease or defect, the wrongfulness of the person's acts.
 - (o) (1) A. Subject to subsection (o)(2) hereof, as used in any section contained in Part Five - General Offenses Code that sets forth a criminal offense, "person" includes all of the following:
 - 1. An individual, corporation, business trust, estate, trust, partnership, and association;
 - 2. An unborn human who is viable.
 B. As used in any section contained in Part Five - General Offenses Code that does not set forth a criminal offense, "person" includes an individual, corporation, business trust, estate, trust, partnership and association.
 C. As used in subsection (o)(1)A. hereof:
 - 1. "Unborn human" means an individual organism of the species *Homo sapiens* from fertilization until live birth.
 - 2. "Viable" means the stage of development of a human fetus at which there is a realistic possibility of maintaining and nourishing of a life outside the womb with or without temporary artificial life-sustaining support.
 - (2) Notwithstanding subsection (o)(1)A. hereof, in no case shall the portion of the definition of the term "person" that is set forth in subsection (o)(1)A.2. hereof be applied or construed in any section contained in Part Five - General Offenses Code that sets forth a criminal offense in any of the following manners:
 - A. Except as otherwise provided in subsection (o)(2)A. hereof, in a manner so that the offense prohibits or is construed as prohibiting any pregnant woman or her physician from performing an abortion with the consent of the pregnant woman, with the consent of the pregnant woman implied by law in a medical emergency, or with the approval of one otherwise authorized by law to consent to medical treatment on behalf of the pregnant woman. An abortion that violates the conditions described in the immediately preceding sentence may be punished as a violation of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.05, 2903.06, 2903.08, 2903.11, 2903.12, 2903.13, 2903.14, 2903.21, or 2903.22, as applicable. An abortion that does not violate the conditions described in the second immediately preceding sentence, but that does violate Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, may be punished as a violation of Ohio R.C. 2919.12, division (B) of Ohio R.C. 2919.13, or Ohio R.C. 2919.151, 2919.17 or 2919.18, as applicable. Consent is sufficient under this subsection if it is of the type otherwise adequate to permit medical treatment to the pregnant woman, even if it does not comply with Ohio R.C. 2919.12.
 - B. In a manner so that the offense is applied or is construed as applying to a woman based on an act or omission of the woman that occurs while she is or was pregnant and that results in any of the following:
 - 1. Her delivery of a stillborn baby;
 - 2. Her causing, in any other manner, the death in utero of a viable, unborn human that she is carrying;
 - 3. Her causing the death of her child who is born alive but who dies from one or more injuries that are sustained while the child is a viable, unborn human;
 - 4. Her causing her child who is born alive to sustain one or more injuries while the child is a viable, unborn human;
 - 5. Her causing, threatening to cause, or attempting to cause, in any other manner, an injury, illness or other physiological impairment, regardless of its duration or gravity, or a mental illness or condition, regardless of its duration or gravity, to a viable, unborn human that she is carrying.
 - (p) "School safety zone" consists of a school, school building, school premises, school activity, and school bus.
 - (q) "School", "school building" and "school premises" have the same meaning as in Ohio R.C. 2925.01.
 - (r) "School activity" means any activity held under the auspices of a board of education of a city, local, exempted village, joint vocational, or cooperative education school district; a governing authority of a community school established under Ohio R.C. Chapter 3314; a governing body of an educational service center; or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07.
 - (s) "School bus" has the same meaning as in Ohio R.C. 4511.01. (ORC 2901.01)

501.02 CLASSIFICATION OF OFFENSES.

As used in the Codified Ordinances:

- (a) Offenses include misdemeanors of the first, second, third and fourth degree, minor misdemeanors and offenses not specifically classified.
- (b) Regardless of the penalty that may be imposed, any offense specifically classified as a misdemeanor is a misdemeanor.
- (c) Any offense not specifically classified is a misdemeanor if imprisonment for not more than one year may be imposed as a penalty.
- (d) Any offense not specifically classified is a minor misdemeanor if the only penalty that may be imposed is one of the following:
 - (1) For an offense committed prior to January 1, 2004, a fine not exceeding one hundred dollars (\$100.00);
 - (2) For an offense committed on or after January 1, 2004, a fine not exceeding one hundred fifty dollars (\$150.00), community service under division (D) of Ohio R.C. 2929.27, or a financial sanction other than a fine under Ohio R.C. 2929.28. (ORC 2901.02)

501.03 COMMON LAW OFFENSES ABROGATED.

- (a) No conduct constitutes a criminal offense against the Municipality unless it is defined as an offense in the Codified Ordinances or any other Municipal ordinance.
- (b) An offense is defined when one or more sections of the Codified Ordinances state a positive prohibition or enjoin a specific duty, and provide a penalty for violation of such prohibition or failure to meet such duty.
- (c) This section does not affect the power of a court to punish for contempt or to employ any sanction authorized by law to enforce an order, civil judgment or decree. (ORC 2901.03)

501.04 RULES OF CONSTRUCTION.

- (a) Except as otherwise provided in subsection (c) hereof, sections of the Codified Ordinances defining offenses or penalties shall be strictly construed against the Municipality and liberally construed in favor of the accused.
- (b) Rules of criminal procedure and sections of the Ohio Revised Code providing for criminal procedure shall be construed so as to effect the fair, impartial, speedy and sure administration of justice.
- (c) Any provision of a section of the Codified Ordinances that refers to a previous conviction of or plea of guilty to a violation of a section of the Codified Ordinances or Ohio Revised Code or of a division of a section of the Codified Ordinances or Ohio Revised Code shall be construed to also refer to a previous conviction of or plea of guilty to a substantially equivalent offense under an existing or former law of this State, another state, or the United States or under an existing or former municipal ordinance.
- (d) Any provision of the Codified Ordinances that refers to a section, or to a division of a section, of the Codified Ordinances that defines or specifies a criminal offense shall be construed to also refer to an existing or former law of this State, another state, or the United States, to an existing or former municipal ordinance, or to an existing or former division of any such existing or former law or ordinance that defines or specifies, or that defined or specified, a substantially equivalent offense.

(ORC 2901.04)

501.05 CRIMINAL LAW JURISDICTION.

- (a) A person is subject to misdemeanor prosecution and punishment in this Municipality if any of the following occur:
 - (1) The person commits an offense under the laws of this Municipality, any element of which takes place in this Municipality.
 - (2) While in this Municipality, the person attempts to commit, or is guilty of complicity in the commission of, an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, or, while in this Municipality, the person conspires to commit an offense in another jurisdiction, which offense is an offense under both the laws of this Municipality or this State and the other jurisdiction, and a substantial overt act in furtherance of the conspiracy is undertaken in this Municipality by the person or another person involved in the conspiracy, subsequent to the person's entrance into the conspiracy. In any case in which a person attempts to commit, is guilty of complicity in the commission of, or conspires to commit an offense in another jurisdiction as described in this subsection, the person is subject to criminal prosecution and punishment in this Municipality for the attempt, complicity, or conspiracy, and for any resulting offense that is committed or completed in the other jurisdiction.
 - (3) While out of this Municipality, the person conspires or attempts to commit, or is guilty of complicity in the commission of, an offense in this Municipality.
 - (4) While out of this Municipality, the person omits to perform a legal duty imposed by the laws of this Municipality, which omission affects a legitimate interest of the Municipality in protecting, governing or regulating any person, property, thing, transaction or activity in this Municipality.
 - (5) While out of this Municipality, the person unlawfully takes or retains property and subsequently brings any of the unlawfully taken or retained property into this Municipality.
 - (6) While out of this Municipality, the person unlawfully takes or entices another and subsequently brings the other person into this Municipality.
 - (7) The person, by means of a computer, computer system, computer network, telecommunication, telecommunications device, telecommunications service, or information service, causes or knowingly permits any writing, data, image, or other telecommunication to be disseminated or transmitted into this Municipality in violation of the law of this Municipality.

(b) This Municipality includes the land and water within its boundaries and the air space above such land and water, and real property outside the corporate limits, with respect to which this Municipality has either exclusive or concurrent legislative jurisdiction. Where the boundary between this Municipality and another jurisdiction is disputed, the disputed territory is conclusively presumed to be within this Municipality for purposes of this section.

(c) When an offense is committed under the laws of this Municipality, and it appears beyond a reasonable doubt that the offense or any element of the offense took place either in this Municipality or in another jurisdiction or jurisdictions, but it cannot reasonably be determined in which it took place, the offense or element is conclusively presumed to have taken place in this Municipality for purposes of this section.

(d) When a person is subject to criminal prosecution and punishment in this Municipality for an offense committed or completed outside of this Municipality, the person is subject to all specifications for that offense that would be applicable if the offense had been committed within this Municipality.

(e) Any act, conduct, or element that is a basis of a person being subject under this section to criminal prosecution and punishment in this Municipality need not be committed personally by the person as long as it is committed by another person who is in complicity or conspiracy with the person.

(f) This section shall be liberally construed, consistent with constitutional limitations, to allow this Municipality the broadest possible jurisdiction over offenses and persons committing offenses in, or affecting, this Municipality.

(g) For purposes of subsection (a)(2) of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(h) As used in this section, "computer", "computer system", "computer network", "information service", "telecommunication", "telecommunications device", "telecommunications service", "data", and "writing" have the same meaning as in Ohio R.C. 2913.01.

(ORC 2901.11)

501.06 LIMITATION OF CRIMINAL PROSECUTION.

(a) Except as otherwise provided in this section, a prosecution shall be barred unless it is commenced within the following periods after an offense is committed:

- (1) For misdemeanor other than a minor misdemeanor, two years;
- (2) For a minor misdemeanor, six months.

(b) If the period of limitation provided in subsection (a) hereof has expired, prosecution shall be commenced for an offense of which an element is fraud or breach of a fiduciary duty, within one year after discovery of the offense either by an aggrieved person, or by his legal representative who is not himself a party to the offense.

(c) (1) If the period of limitation provided in this section has expired, prosecution shall be commenced for the following offenses during the following specified periods of time:

- A. For an offense involving misconduct in office by a public servant at any time while the accused remains a public servant, or within two years thereafter;
- B. For an offense by a person who is not a public servant but whose offense is directly related to the misconduct in office of a public servant, at any time while that public servant remains a public servant, or within two years thereafter.

(2) As used in this subsection:

- A. An "offense is directly related to the misconduct in office of a public servant" includes, but is not limited to, a violation of Ohio R.C. 101.71, 101.91, 121.61 or 2921.13, division (F) or (H) of Ohio R.C. 102.03, division (A) of Ohio R.C. 2921.02, division (A) or (B) of Ohio R.C. 2921.43, or division (F) or (G) of Ohio R.C. 3517.13, that is directly related to an offense involving misconduct in office of a public servant.
- B. "Public servant" has the same meaning as in Section 525.01.

(d) An offense is committed when every element of the offense occurs. In the case of an offense of which an element is a continuing course of conduct, the period of limitation does not begin to run until such course of conduct or the accused's accountability for it terminates, whichever occurs first.

(e) A prosecution is commenced on the date an indictment is returned or an information filed, or on the date a lawful arrest without a warrant is made, or on the date a warrant, summons, citation or other process is issued, whichever occurs first. A prosecution is not commenced by the return of an indictment or the filing of an information unless reasonable diligence is exercised to issue and execute process on the same. A prosecution is not commenced upon issuance of a warrant, summons, citation or other process, unless reasonable diligence is exercised to execute the same.

(f) The period of limitation shall not run during any time when the corpus delicti remains undiscovered.

(g) The period of limitation shall not run during any time when the accused purposely avoids prosecution. Proof that the accused absented himself from this Municipality or concealed his identity or whereabouts is prima-facie evidence of his purpose to avoid prosecution.

(h) The period of limitation shall not run during any time a prosecution against the accused based on the same conduct is pending in this State, even though the indictment, information or process that commenced the prosecution is quashed or the proceedings on the indictment, information or process are set aside or reversed on appeal.

(i) The period of limitation for a violation of any provision of this General Offenses Code that involves a physical or mental wound, injury, disability or condition of a nature that reasonably indicates abuse or neglect of a child under eighteen years of age or of a child with a developmental disability or physical impairment under twenty-one years of age shall not begin to run until either of the following occurs:

- (1) The victim of the offense reaches the age of majority.
- (2) A public children services agency, or a municipal or county peace officer that is not the parent or guardian of the child, in the county in which the child resides or in which the abuse or neglect is occurring or has occurred has been notified that abuse or neglect is known, suspected, or believed to have occurred.

(ORC 2901.13)

(j) This section shall not apply to prosecutions commenced within the period of limitations set forth in Ohio R.C. 718.12(B) for violations of the Municipal income tax ordinance.

501.07 REQUIREMENTS FOR CRIMINAL LIABILITY.

(a) Except as provided in subsection (b) hereof, a person is not guilty of an offense unless both of the following apply:

- (1) The person's liability is based on conduct that includes either a voluntary act, or an omission to perform an act or duty that the person is capable of performing;
- (2) The person has the requisite degree of culpability for each element as to which a culpable mental state is specified by the language defining the offense.

(b) When the language defining an offense does not specify any degree of culpability, and plainly indicates a purpose to impose strict criminal liability for the conduct described in the section, then culpability is not required for a person to be guilty of the offense. The fact that one subsection of a section plainly indicates a purpose to impose strict liability for an offense defined in that subsection does not by itself plainly indicate a purpose to impose strict criminal liability for an offense defined in other subsections of the section that do not specify a degree of culpability.

(c) (1) When language defining an element of an offense that is related to knowledge or intent or to which mens rea could fairly be applied neither specifies culpability nor plainly indicates a purpose to impose strict liability, the element of the offense is established only if a person acts recklessly.

(2) Subsection (c)(1) of this section does not apply to offenses defined in the Traffic Code.

(3) Subsection (c)(1) of this section does not relieve the prosecution of the burden of proving the culpable mental state required by any definition incorporated into the offense.

(d) Voluntary intoxication may not be taken into consideration in determining the existence of a mental state that is an element of a criminal offense. Voluntary intoxication does not relieve a person of a duty to act if failure to act constitutes a criminal offense. Evidence that a person was voluntarily intoxicated may be admissible to show whether or not the person was physically capable of performing the act with which the person is charged.

(e) As used in this section:

(1) Possession is a voluntary act if the possessor knowingly procured or received the thing possessed, or was aware of the possessor's control of the thing possessed for a sufficient time to have ended possession.

(2) Reflexes, convulsions, body movements during unconsciousness or sleep, and body movements that are not otherwise a product of the actor's volition, are involuntary acts.

(3) "Culpability" means purpose, knowledge, recklessness or negligence, as defined in Section 501.08.

(4) "Intoxication" includes, but is not limited to, intoxication resulting from the ingestion of alcohol, a drug, or alcohol and a drug.

(ORC 2901.21)

501.08 CULPABLE MENTAL STATES.

(a) A person acts purposely when it is the person's specific intention to cause a certain result, or when the gist of the offense is a prohibition against conduct of a certain nature, regardless of what the offender intends to accomplish thereby, it is the offender's specific intention to engage in conduct of that nature.

(b) A person acts knowingly, regardless of purpose, when the person is aware that the person's conduct will probably cause a certain result or will probably be of a certain nature. A person has knowledge of circumstances when the person is aware that such circumstances probably exist.

When knowledge of the existence of a particular fact is an element of an offense, such knowledge is established if a person subjectively believes that there is a high probability of its existence and fails to make inquiry or acts with a conscious purpose to avoid learning the fact.

(c) A person acts recklessly when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that the person's conduct is likely to cause a certain result or is likely to be of a certain nature. A person is reckless with respect to circumstances when, with heedless indifference to the consequences, the person perversely disregards a substantial and unjustifiable risk that such circumstances are likely to exist.

(d) A person acts negligently when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that the person's conduct may cause a certain result or may be of a certain nature. A person is negligent with respect to circumstances when, because of a substantial lapse from due care, the person fails to perceive or avoid a risk that such circumstances may exist.

(e) When the section defining an offense provides that negligence suffices to establish an element thereof, then recklessness, knowledge or purpose is also sufficient culpability for such element. When recklessness suffices to establish an element of an offense, then knowledge or purpose is also sufficient culpability for such element. When knowledge suffices to establish an element of an offense, then purpose is also sufficient culpability for such element.

(ORC 2901.22)

501.09 ATTEMPT.

(a) No person, purposely or knowingly, and when purpose or knowledge is sufficient culpability for the commission of an offense, shall engage in conduct that, if successful, would constitute or result in the offense.

(b) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the attempt was either factually or legally impossible under the attendant circumstances, if that offense could have been committed had the attendant circumstances been as the actor believed them to be.

(c) No person who is convicted of committing a specific offense or of complicity in the commission of an offense, shall be convicted of an attempt to commit the same offense in violation of this section.

(d) It is an affirmative defense to a charge under this section that the actor abandoned the actor's effort to commit the offense or otherwise prevented its commission, under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.

(e) Whoever violates this section is guilty of an attempt to commit an offense. An attempt to commit a drug abuse offense for which the penalty is determined by the amount or number of unit doses of the controlled substance involved in the drug abuse offense is an offense of the same degree as the drug abuse offense attempted would be if that drug abuse offense had been committed and had involved an amount or number of unit doses of the controlled substance that is within the next lower range of controlled substance amounts than was involved in the attempt. An attempt to commit any other misdemeanor is a misdemeanor of the next lesser degree than the misdemeanor attempted. In the case of an attempt to commit an offense other than a violation of Ohio R.C. Chapter 3734 that is not specifically classified, an attempt is a misdemeanor of the first degree if the offense attempted is a felony under the Ohio Revised Code,

and a misdemeanor of the fourth degree if the offense attempted is a misdemeanor. An attempt to commit a minor misdemeanor is not an offense under this section.

(f) As used in this section, "drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.

(ORC 2923.02)

501.10 COMPLICITY.

(a) No person, acting with the kind of culpability required for the commission of an offense, shall do any of the following:

- (1) Solicit or procure another to commit the offense;
- (2) Aid or abet another in committing the offense;
- (3) Cause an innocent or irresponsible person to commit the offense.

(b) It is no defense to a charge under this section that no person with whom the accused was in complicity has been convicted as a principal offender.

(c) No person shall be convicted of complicity under this section unless an offense is actually committed, but a person may be convicted of complicity in an attempt to commit an offense in violation of Section 501.09.

(d) If an alleged accomplice of the defendant testifies against the defendant in a case in which the defendant is charged with complicity in the commission of or an attempt to commit an offense, an attempt to commit an offense or an offense, the court when it charges the jury, shall state substantially the following:

"The testimony of an accomplice does not become inadmissible because of his complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect his credibility and make his testimony subject to grave suspicion, and require that it be weighed with great caution.

"It is for you, as jurors, in the light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth."

(e) It is an affirmative defense to a charge under this section that, prior to the commission of or attempt to commit the offense, the actor terminated his complicity, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose.

(f) Whoever violates this section is guilty of complicity in the commission of an offense, and shall be prosecuted and punished as if he were a principal offender. A charge of complicity may be stated in terms of this section, or in terms of the principal offense.

(ORC 2923.03)

501.11 ORGANIZATIONAL CRIMINAL LIABILITY.

(a) An organization may be convicted of an offense under any of the following circumstances:

- (1) The offense is a minor misdemeanor committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (2) A purpose to impose organizational liability plainly appears in the section defining the offense, and the offense is committed by an officer, agent or employee of the organization acting in its behalf and within the scope of the officer's, agent's or employee's office or employment, except that if the section defining the offense designates the officers, agents or employees for whose conduct the organization is accountable or the circumstances under which it is accountable, those provisions shall apply.
- (3) The offense consists of an omission to discharge a specific duty imposed by law on the organization.
- (4) If, acting with the kind of culpability otherwise required for the commission of the offense, its commission was authorized, requested, commanded, tolerated or performed by the board of directors, trustees, partners or by a high managerial officer, agent or employee acting in behalf of the organization and within the scope of such a board's or person's office or employment.

(b) If strict liability is imposed for the commission of an offense, a purpose to impose organizational liability shall be presumed, unless the contrary plainly appears.

(c) In a prosecution of an organization for an offense other than one for which strict liability is imposed, it is a defense that the high managerial officer, agent or employee having supervisory responsibility over the subject matter of the offense exercised due diligence to prevent its commission. This defense is not available if it plainly appears inconsistent with the purpose of the section defining the offense.

(d) As used in this section, "organization" means a corporation for profit or not for profit, partnership, limited partnership, joint venture, unincorporated nonprofit association, estate, trust or other commercial or legal entity. "Organization" does not include an entity organized as or by a governmental agency for the execution of a governmental program. (ORC 2901.23)

501.12 PERSONAL ACCOUNTABILITY FOR ORGANIZATIONAL CONDUCT.

(a) An officer, agent or employee of an organization as defined in Section 501.11 may be prosecuted for an offense committed by such organization, if he acts with the kind of culpability required for the commission of the offense, and any of the following apply:

- (1) In the name of the organization or in its behalf, he engages in conduct constituting the offense, or causes another to engage in such conduct, or tolerates such conduct when it is of a type for which he has direct responsibility;
- (2) He has primary responsibility to discharge a duty imposed on the organization by law, and such duty is not discharged.

(b) When a person is convicted of an offense by reason of this section, he is subject to the same penalty as if he had acted in his own behalf.

(ORC 2901.24)

501.13 CONSPIRACY.

(a) No person, with purpose to commit or to promote or facilitate the commission of aggravated murder, murder, kidnapping, abduction, compelling prostitution, promoting prostitution, trafficking in persons, aggravated arson, arson, aggravated robbery, robbery,

aggravated burglary, burglary, engaging in a pattern of corrupt activity, corrupting another with drugs, a felony drug trafficking, manufacturing, processing or possession offense, theft of drugs, or illegal processing of drug documents, the commission of a felony offense of unauthorized use of a vehicle, illegally transmitting multiple commercial electronic mail messages or unauthorized access of a computer in violation of Ohio R.C. 2923.421 or the commission of a violation of any provision of Ohio R.C. Chapter 3734, other than Ohio R.C. 3734.18, that relates to hazardous wastes, shall do either of the following:

- (1) With another person or persons, plan or aid in planning the commission of any of the specified offenses;
- (2) Agree with another person or persons that one or more of them will engage in conduct that facilitates the commission of any of the specified offenses.

(b) No person shall be convicted of conspiracy unless a substantial overt act in furtherance of the conspiracy is alleged and proved to have been done by the accused or a person with whom the accused conspired, subsequent to the accused's entrance into the conspiracy. For purposes of this section, an overt act is substantial when it is of a character that manifests a purpose on the part of the actor that the object of the conspiracy should be completed.

(c) When the offender knows or has reasonable cause to believe that a person with whom the offender conspires also has conspired or is conspiring with another to commit the same offense, the offender is guilty of conspiring with that other person, even though the other person's identity may be unknown to the offender.

(d) It is no defense to a charge under this section that, in retrospect, commission of the offense that was the object of the conspiracy was impossible under the circumstances.

(e) A conspiracy terminates when the offense or offenses that are its objects are committed or when it is abandoned by all conspirators. In the absence of abandonment, it is no defense to a charge under this section that no offense that was the object of the conspiracy was committed.

(f) A person who conspires to commit more than one offense is guilty of only one conspiracy, when the offenses are the object of the same agreement or continuous conspiratorial relationship.

(g) When a person is convicted of committing or attempting to commit a specific offense or of complicity in the commission of or attempt to commit the specific offense, the person shall not be convicted of conspiracy involving the same offense.

(h) (1) No person shall be convicted of conspiracy upon the testimony of a person with whom the defendant conspired, unsupported by other evidence.

- (2) If a person with whom the defendant allegedly has conspired testifies against the defendant in a case in which the defendant is charged with conspiracy and if the testimony is supported by other evidence, the court, when it charges the jury, shall state substantially the following:

“The testimony of an accomplice that is supported by other evidence does not become inadmissible because of the accomplice's complicity, moral turpitude, or self-interest, but the admitted or claimed complicity of a witness may affect the witness' credibility and make the witness' testimony subject to grave suspicion, and requires that it be weighed with great caution.

It is for you, as jurors, in light of all the facts presented to you from the witness stand, to evaluate such testimony and to determine its quality and worth or its lack of quality and worth”.

- (3) “Conspiracy”, as used in subsection (h)(1) of this section, does not include any conspiracy that results in an attempt to commit an offense or in the commission of an offense.

(i) The following are affirmative defenses to a charge of conspiracy:

- (1) After conspiring to commit an offense, the actor thwarted the success of the conspiracy under circumstances manifesting a complete and voluntary renunciation of the actor's criminal purpose.
- (2) After conspiring to commit an offense, the actor abandoned the conspiracy prior to the commission of or attempt to commit any offense that was the object of the conspiracy, either by advising all other conspirators of the actor's abandonment, or by informing any law enforcement authority of the existence of the conspiracy and of the actor's participation in the conspiracy.

(j) Whoever violates this section is guilty of conspiracy, which is a misdemeanor of the first degree, when the most serious offense that is the object of the conspiracy is a felony of the fifth degree.

(k) This section does not define a separate conspiracy offense or penalty where conspiracy is defined as an offense by one or more sections of this Code, other than this section. In such a case, however:

- (1) With respect to the offense specified as the object of the conspiracy in the other section or sections, subsection (a) hereof defines the voluntary act or acts and culpable mental state necessary to constitute the conspiracy;
- (2) Subsections (b) to (i) hereof are incorporated by reference in the conspiracy offense defined by the other section or sections of this Code.

(l) (1) In addition to the penalties that otherwise are imposed for conspiracy, a person who is found guilty of conspiracy to engage in a pattern of corrupt activity is subject to divisions (B)(2) and (3) of Ohio R.C. 2923.32, division (A) of Ohio R.C. 2981.04 and division (D) of Ohio R.C. 2981.06.

- (2) If a person is convicted of or pleads guilty to conspiracy and if the most serious offense that is the object of the conspiracy is a felony drug trafficking, manufacturing, processing or possession offense, in addition to the penalties or sanctions that may be imposed for the conspiracy under subsection (j) hereof and Ohio R.C. Chapter 2929, both of the following apply:

A. The provisions of divisions (D), (F) and (G) of Ohio R.C. 2925.03, division (D) of Ohio R.C. 2925.04, division (D) of Ohio R.C. 2925.05, division (D) of Ohio R.C. 2925.06 and division (E) of Ohio R.C. 2925.11 that pertain to mandatory and additional fines, driver's or commercial driver's license or permit suspensions, and professionally licensed persons and that would apply under the appropriate provisions of those divisions to a person who is convicted of or pleads guilty to the felony drug trafficking, manufacturing, processing, or possession offense that is the most serious offense that is the basis of the conspiracy shall apply to the person who is convicted of or pleads guilty to the conspiracy as if the person had been convicted or pleaded guilty to the felony drug trafficking, manufacturing, processing or possession offense that is the most serious offense that is the basis of the conspiracy.

B. The court that imposes sentence upon the person who is convicted of or pleads guilty to the conspiracy shall comply with the provisions identified as being applicable under subsection (l)(2) of this section, in addition to any other penalty or sanction that it imposes for the conspiracy under subsection (j) of this section and Ohio R.C. Chapter 2929.

(m) As used in this section:

- (1) "Felony drug trafficking, manufacturing, processing or possession offense" means any of the following that is a felony:
 - A. A violation of Ohio R.C. 2925.03, 2925.04, 2925.05, or 2925.06;
 - B. A violation of Ohio R.C. 2925.11 that is not a minor drug possession offense.
- (2) "Minor drug possession offense" has the same meaning as in Ohio R.C. 2925.01. (ORC 2923.01)

501.99 PENALTIES FOR MISDEMEANORS.

(a) Financial Sanctions. In addition to imposing court costs pursuant to Ohio R.C. 2947.23, the court imposing a sentence upon an offender for a misdemeanor committed under the Codified Ordinances, including a minor misdemeanor, may sentence the offender to any financial sanction or combination of financial sanctions authorized under this section. If the court in its discretion imposes one or more financial sanctions, the financial sanctions that may be imposed pursuant to this section include, but are not limited to, the following:

(1) Restitution.

- A. Unless the misdemeanor offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13, restitution by the offender to the victim of the offender's crime or any survivor of the victim, in an amount based on the victim's economic loss. The court may not impose restitution as a sanction pursuant to this section if the offense is a minor misdemeanor or could be disposed of by the traffic violations bureau serving the court under Traffic Rule 13. If the court requires restitution, the court shall order that the restitution be made to the victim in open court or to the adult probation department that serves the jurisdiction or the clerk of the court on behalf of the victim.
- B. If the court imposes restitution, the court shall determine the amount of restitution to be paid by the offender. If the court imposes restitution, the court may base the amount of restitution it orders on an amount recommended by the victim, the offender, a presentence investigation report, estimates or receipts indicating the cost of repairing or replacing property, and other information, provided that the amount the court orders as restitution shall not exceed the amount of economic loss suffered by the victim as a direct and proximate result of the commission of the offense. If the court imposes restitution for the cost of accounting or auditing done to determine the extent of economic loss, the court may order restitution for any amount of the victim's costs of accounting or auditing provided that the amount of restitution is reasonable and does not exceed the value of property or services stolen or damaged as a result of the offense. If the court decides to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, or survivor disputes the amount of restitution. If the court holds an evidentiary hearing, at the hearing the victim or survivor has the burden to prove by a preponderance of the evidence the amount of restitution sought from the offender.
- C. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or any survivor of the victim against the offender. No person may introduce evidence of an award of restitution under this section in a civil action for purposes of imposing liability against an insurer under Ohio R.C. 3937.18.
- D. If the court imposes restitution, the court may order that the offender pay a surcharge, of not more than five per cent of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
- E. The victim or survivor may request that the prosecutor in the case file a motion, or the offender may file a motion, for modification of the payment terms of any restitution ordered. If the court grants the motion, it may modify the payment terms as it determines appropriate.

(2) Fines. A fine in the following amount:

- A. For a misdemeanor of the first degree, not more than one thousand dollars (\$1,000);
- B. For a misdemeanor of the second degree, not more than seven hundred fifty dollars (\$750.00);
- C. For a misdemeanor of the third degree, not more than five hundred dollars (\$500.00);
- D. For a misdemeanor of the fourth degree, not more than two hundred fifty dollars (\$250.00);
- E. For a minor misdemeanor, not more than one hundred fifty dollars (\$150.00).

(3) Reimbursement of costs of sanctions.

- A. Reimbursement by the offender of any or all of the costs of sanctions incurred by the government, including, but not limited to, the following:
 1. All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021;
 2. All or part of the costs of confinement in a jail or other residential facility, including, but not limited to, a per diem fee for room and board, the costs of medical and dental treatment, and the costs of repairing property damaged by the offender while confined.
- B. The amount of reimbursement ordered under subsection (a)(3)A. of this section shall not exceed the total amount of reimbursement the offender is able to pay and shall not exceed the actual cost of the sanctions. The court may collect any amount of reimbursement the offender is required to pay under that subsection. If the court does not order reimbursement under that subsection, confinement costs may be assessed pursuant to a repayment policy adopted under Ohio R.C. 2929.37. In addition, the offender may be required to pay the fees specified in Ohio R.C. 2929.38 in accordance with that section.

(ORC 2929.28)

(b) Jail Terms.

- (1) Except as provided in Ohio R.C. 2929.22 or 2929.23 of the Revised Code, and unless another term is required or authorized pursuant to law, if the sentencing court imposing a sentence upon an offender for a misdemeanor elects or is required to impose a jail term on the offender pursuant to this General Offenses Code, the court shall impose a definite jail term that shall be one of the following:
 - A. For a misdemeanor of the first degree, not more than one hundred eighty days;

- B. For a misdemeanor of the second degree, not more than ninety days;
 - C. For a misdemeanor of the third degree, not more than sixty days;
 - D. For a misdemeanor of the fourth degree, not more than thirty days.
- (2) A. A court that sentences an offender to a jail term under this section may permit the offender to serve the sentenced in intermittent confinement or may authorize a limited release of the offender as provided in Ohio R.C. 2929.26(B). The court retains jurisdiction over every offender sentenced to jail to modify the jail sentence imposed at any time, but the court shall not reduce any mandatory jail term.
- B. 1. If a prosecutor, as defined in Ohio R.C. 2935.01, has filed a notice with the court that the prosecutor wants to be notified about a particular case and if the court is considering modifying the jail sentence of the offender in that case, the court shall notify the prosecutor that the court is considering modifying the jail sentence of the offender in that case. The prosecutor may request a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, and, if the prosecutor requests a hearing, the court shall notify the eligible offender of the hearing.
 - 2. If the prosecutor requests a hearing regarding the court's consideration of modifying the jail sentence of the offender in that case, the court shall hold the hearing before considering whether or not to release the offender from the offender's jail sentence.
- (3) If a court sentences an offender to a jail term under this section and the court assigns the offender to a county jail that has established a county jail industry program pursuant to Ohio R.C. 5147.30, the court shall specify, as part of the sentence, whether the offender may be considered for participation in the program. During the offender's term in the county jail, the court retains jurisdiction to modify its specification regarding the offender's participation in the county jail industry program.
- (4) If a person is sentenced to a jail term pursuant to this section, the court may impose as part of the sentence pursuant to Ohio R.C. 2929.28 a reimbursement sanction, and, if the local detention facility in which the term is to be served is covered by a policy adopted pursuant to Ohio R.C. 307.93, 341.14, 341.19, 341.21, 341.23, 753.02, 753.04, 753.16, 2301.56, or 2947.19 and Ohio R.C. 2929.37, both of the following apply:
- A. The court shall specify both of the following as part of the sentence:
 - 1. If the person is presented with an itemized bill pursuant to Ohio R.C. 2929.37 for payment of the costs of confinement, the person is required to pay the bill in accordance with that section.
 - 2. If the person does not dispute the bill described in subsection (b)(4)A.1. of this section and does not pay the bill by the times specified in Ohio R.C. 2929.37, the clerk of the court may issue a certificate of judgment against the person as described in that section.
 - B. The sentence automatically includes any certificate of judgment issued as described in subsection (b)(4)A.2. of this section.

(ORC 2929.24)

(c) Organizations. Regardless of the penalties provided in subsections (a) and (b) hereof, an organization convicted of an offense pursuant to Section 501.11 shall be fined, in accordance with this section. The court shall fix the fine as follows:

<u>Type of Misdemeanor</u>	<u>Maximum Fine</u>
First degree	\$ 5000.00
Second degree	4000.00
Third degree	3000.00
Fourth degree	2000.00
Minor	1000.00
Misdemeanor not specifically classified	2000.00
Minor misdemeanor not specifically classified	1000.00

- (1) When an organization is convicted of an offense that is not specifically classified, and the section defining the offense or penalty plainly indicates a purpose to impose the penalty provided for violation upon organizations, then the penalty so provided shall be imposed in lieu of the penalty provided in this subsection (c).
- (2) When an organization is convicted of an offense that is not specifically classified, and the penalty provided includes a higher fine than the fine that is provided in this subsection (c), then the penalty imposed shall be pursuant to the penalty provided for the violation of the section defining the offense.
- (3) This subsection (c) does not prevent the imposition of available civil sanctions against an organization convicted of an offense pursuant to Section 501.11, either in addition to or in lieu of a fine imposed pursuant to this subsection (c).

(ORC 2929.31)

CHAPTER 503

Alarm Systems

503.01 Alarm permits.

503.02 Equipment maintenance and inspection.

503.99 Penalty.

CROSS REFERENCES

Tampering with safety devices - see GEN. OFF. 541.04

Criminal trespass - see GEN. OFF. 541.05

Theft and fraud - see GEN. OFF. Ch. 545

503.01 ALARM PERMITS.

(a) Any residence or building or part thereof located within the City may be equipped with an alarm system for the purpose of detecting and signaling the presence of a fire or unauthorized intrusion.

(b) Before an interconnected alarm system is installed in a residence or building, the owner shall apply for a permit from the Chief of Police. The Chief shall prescribe the form of the application and request such information as is necessary to evaluate and act upon the permit application. The information contained in an alarm permit application shall be securely maintained and restricted to inspection only by the Chief of Police or designated representative.

(c) No permit fee shall be charged for a permit issued under the provisions of this chapter. An alarm permit shall be deemed renewed when the system has been approved by the Chief of Police or designated representative.

(d) Any person, organization or business which currently has an interconnected alarm system installed in their residence or place of business shall apply for an alarm permit within thirty days of the effective date of this chapter.

(e) When there has occurred any material change in the information previously submitted with respect to such alarm system, it shall be the duty of the occupant of a building served by an alarm system, within ten days after a change in information previously submitted to the City, to file an application supplement containing accurate current information with respect to the data required.

(Ord. 18-80. Passed 4-28-80.)

503.02 EQUIPMENT MAINTENANCE AND INSPECTION.

(a) All equipment used in installations for which a permit is required shall meet the applicable standards of recognized industry standard. The applicant may be required to submit evidence of the reliability and suitability of the equipment to be installed.

(b) The Chief of Police may require that repairs or adjustments be made whenever he has determined that such are necessary to assure proper operation. Failure to make such repairs or adjustments may be grounds for revocation of the alarm permit.

(Ord. 18-80. Passed 4-28-80.)

503.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a minor misdemeanor and shall be fined or sentenced in accordance with Section 501.99.

(Ord. 18-80. Passed 4-28-80.)

CHAPTER 505

Animals and Fowl

505.001 Definitions.

- 505.01 Dogs and other animals running at large.**
- 505.02 Impounding and disposition; records.**
- 505.03 Annual registration of dogs; tags required.**
- 505.04 Abandoning animals.**
- 505.05 Killing or injuring animals.**
- 505.06 Poisoning animals.**
- 505.07 Cruelty to animals generally.**
- 505.071 Cruelty to companion animals.**
- 505.08 Nuisance conditions prohibited.**
- 505.09 Barking or howling dogs.**
- 505.10 Animal bites; reports and quarantine.**
- 505.11 Hunting prohibited.**
- 505.12 Coloring rabbits or baby poultry; sale or display of poultry.**
- 505.13 Dangerous wild animals and restricted snakes.**
- 505.14 Dangerous dogs.**
- 505.15 Harboring bees; abatement.**
- 505.16 Harboring snakes; abatement.**
- 505.17 Maintenance of poultry or animal yards.**
- 505.18 Wild or exotic animals.**
- 505.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
Owner or keeper liable for damages - see Ohio R.C 951.10
Dog registration - see Ohio R.C. 955.01

505.001 DEFINITIONS.

As used in this chapter unless otherwise specifically provided herein:

- (a) (1) "Dangerous dog" means a dog that, without provocation, and subject to subsection (a)(2) hereof has done any of the following:
 - A. Caused injury, other than killing or serious injury, to any person;
 - B. Killed another dog;
 - C. Been the subject of a third or subsequent violation of Section 505.01(c).
- (2) "Dangerous dog" does not include a police dog that has caused injury, other than killing or serious injury, to any person or has killed another dog while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties.
- (b) "Menacing fashion" means that a dog would cause any person being chased or approached to reasonably believe that the dog will

cause physical injury to that person.

- (c) (1) Subject to subsection (c)(2) hereof, "nuisance dog" means a dog that without provocation and while off the premises of its owner, keeper or harbinger has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.
- (2) "Nuisance dog" does not include a police dog that while being used to assist one or more law enforcement officers in the performance of official duties has chased or approached a person in either a menacing fashion or an apparent attitude of attack or has attempted to bite or otherwise endanger any person.
- (d) "Police dog" means a dog that has been trained, and may be used, to assist one or more law enforcement officers in the performance of their official duties.
- (e) "Serious injury" means any of the following:
 - (1) Any physical harm that carries a substantial risk of death;
 - (2) Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;
 - (3) Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
 - (4) Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.
- (f) (1) "Vicious dog" means a dog that, without provocation and subject to subsection (f)(2) hereof has killed or caused serious injury to any person.
- (2) "Vicious dog" does not include either of the following:
 - A. A police dog that has killed or caused serious injury to any person while the police dog is being used to assist one or more law enforcement officers in the performance of their official duties;
 - B. A dog that has killed or caused serious injury to any person while a person was committing or attempting to commit a trespass or other criminal offense on the property of the owner, keeper or harbinger of the dog.
- (g) "Without provocation" means that a dog was not teased, tormented or abused by a person, or that the dog was not coming to the aid or the defense of a person who was not engaged in illegal or criminal activity and who was not using the dog as a means of carrying out such activity. (ORC 955.11)

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

- (a) No person being the owner or having charge of cattle, horses, swine, sheep, geese, ducks, goats, turkeys, chickens or other fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands or upon the premises of another. (ORC 951.02)
- (b) No owner, keeper or harbinger of any female dog shall permit it to go beyond the premises of the owner, keeper or harbinger at any time the dog is in heat, unless the dog is properly in leash.
- (c) No owner, keeper, or harbinger of any dog shall fail at any time to do either of the following:
 - (1) Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbinger by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape.
 - (2) Keep the dog under the reasonable control of some person.(ORC 955.22)
- (d) The running at large of any such animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section. (ORC 951.02)
- (e) (1) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree. (ORC 951.99)
- (2) A. Whoever violates subsection (b) hereof is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
 - B. In addition to the penalties prescribed in subsection (e)(2)A. hereof, if the offender is guilty of a violation of subsection (b) hereof, the court may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both.
- (3) A. 1. Whoever violates subsection (c) hereof that involves a dog that is not a nuisance dog, dangerous dog or vicious dog is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.
 - 2. In addition to the penalties prescribed above, if the offender is guilty of a violation of subsection (c) hereof, that involves a dog that is not a nuisance dog, dangerous dog or vicious dog, the court may order the offender to personally supervise the dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both.
- B. 1. Whoever commits a violation of subsection (c) hereof, that involves a nuisance dog is guilty of a minor misdemeanor on the first offense and of a misdemeanor of the fourth degree on each subsequent offense involving the same dog. Upon a person being convicted of or pleading guilty to a third violation of subsection (c) hereof, involving the same dog, the court shall require the offender to register the involved dog as a dangerous dog.
 - 2. In addition to the penalties prescribed above, if a violation of subsection (c) hereof involves a nuisance dog, the court may order the offender to personally supervise the nuisance dog that the offender owns, keeps or harbors, to cause that dog to complete obedience training, or to do both.
- C. Whoever commits a violation of subsection (c) hereof that involves a dangerous dog, is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to division (E) of Ohio R.C. 955.22. The

court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society at the owner's expense. With respect to a violation of subsection (c) hereof that involves a dangerous dog, until the court makes a final determination and during the pendency of any appeal of a violation of that division and at the discretion of the Dog Warden, the dog shall be confined or restrained in accordance with division (D) of Ohio R.C. 955.22 or at the County Dog Pound at the owner's expense.

- D. 1. Whoever commits a violation of subsection (c) hereof that involves a vicious dog is guilty of one or the following:
- a. A felony, if the dog kills a person, and shall be prosecuted under appropriate State law. Additionally, the court shall order that the vicious dog be humanely destroyed by a licensed veterinarian, the County Dog Warden or the County Humane Society at the owner's expense.
 - b. A misdemeanor of the first degree if the dog causes serious injury to a person. Additionally, the court may order the vicious dog to be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society;
2. If the court does not order the vicious dog to be destroyed under subsection (e)(3)D.1.b. hereof, the court shall issue an order that specifies that division (D) of Ohio R.C. 955.11 and divisions (D) to (I) of Ohio R.C. 955.22 apply with respect to the dog and the owner, keeper or harbinger of the dog as if the dog were a dangerous dog and that Ohio R.C. 955.54 applies with respect to the dog as if it were a dangerous dog. As part of the order, the court shall order the offender to obtain the liability insurance required under division (E)(1) of Ohio R.C. 955.22 in an amount, exclusive of interest and costs, that equals or exceeds one hundred thousand dollars. Until the court makes a final determination and during the pendency of any appeal of a violation of subsection (c) hereof and at the discretion of the Dog Warden, the dog shall be confined or restrained in accordance with the provisions described in division (D) of Ohio R.C. 955.22 or at the County Dog Pound at the owner's expense.

(ORC 955.99)

505.02 IMPOUNDING AND DISPOSITION; RECORDS.

(a) A police officer or animal warden may impound every animal or dog found in violation of Section 505.01. If the dog is not wearing a valid registration tag and the owner is not otherwise reasonably determined, notice shall be posted in the pound or animal shelter both describing the dog and place where seized and advising the unknown owner that unless the dog is redeemed within three days, it may thereafter be sold or destroyed according to law. If the dog is wearing a valid registration tag or the identity of the owner, keeper or harbinger is otherwise reasonably determined, notice shall be given by certified mail to such owner, keeper or harbinger that the dog has been impounded and unless redeemed within fourteen days of the date of notice, it may thereafter be sold or destroyed according to law. Any dog seized and impounded may be redeemed by its owner, keeper or harbinger at any time prior to the applicable redemption period upon payment of all lawful costs assessed against the animal and upon providing the dog with a valid registration tag if it has none.

(b) A record of all dogs impounded, the disposition of the same, the owner's name and address where known, and a statement of any costs assessed against the dog shall be kept by any poundkeeper.

505.03 ANNUAL REGISTRATION OF DOGS; TAGS REQUIRED.

(a) Except for guide dogs registered under Ohio R.C. 955.011 and dogs kept by an institution or organization for teaching and research purposes under Ohio R.C. 955.16, no person shall own, keep or harbor a dog more than three months of age without annually registering such dog with the County Auditor. Failure of any dog at any time to wear a valid registration tag shall be prima-facie evidence of lack of registration and subject such dog to impounding and disposition as provided by Ohio R.C. 955.16.

(b) Whoever violates this section is guilty of a minor misdemeanor for a first offense and a misdemeanor of the fourth degree for each subsequent offense.

(ORC 955.99(D)).

505.04 ABANDONING ANIMALS.

(a) No owner or keeper of a dog, cat or other domestic animal shall abandon such animal. (ORC 959.01)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.

(ORC 959.99 (E)(3))

505.05 KILLING OR INJURING ANIMALS.

(a) No person shall maliciously, or willfully, and without the consent of the owner, kill or injure a farm animal, dog, cat or other domestic animal that is the property of another. This section does not apply to a licensed veterinarian acting in an official capacity, or to trespassing animals as set forth in Ohio R.C. 959.04.

(ORC 959.02)

(b) Except as otherwise provided herein, whoever violates this section is guilty of a misdemeanor of the second degree. If the value of the animal killed or the injury done amounts to three hundred dollars (\$300.00) or more, such person is guilty of a misdemeanor of the first degree.

(ORC 959.99(B))

505.06 POISONING ANIMALS.

(a) No person shall maliciously, or willfully and without the consent of the owner, administer poison, except a licensed veterinarian acting in such capacity, to a farm animal, dog, cat, poultry or other domestic animal that is the property of another; and no person shall, willfully and without the consent of the owner, place any poisoned food where it may be easily found and eaten by any of such animals, either upon his own lands or the lands of another. This section does not apply to trespassing animals as set forth in Ohio R.C. 959.04.

(ORC 959.03)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(ORC 959.99(C))

505.07 CRUELTY TO ANIMALS GENERALLY.

(a) No person shall:

- (1) Torture an animal, deprive one of necessary sustenance, unnecessarily or cruelly beat, needlessly mutilate or kill, or impound or confine an animal without supplying it during such confinement with a sufficient quantity of good wholesome food and water;
- (2) Impound or confine an animal without affording it, during such confinement, access to shelter from wind, rain, snow or excessive direct sunlight if it can reasonably be expected that the animal would otherwise become sick or in some other way suffer. This subsection (a)(2) does not apply to animals impounded or confined prior to slaughter. For the purpose of this section, "shelter" means a man-made enclosure, windbreak, sunshade or natural windbreak or sunshade that is developed from the earth's contour, tree development or vegetation;
- (3) Carry or convey an animal in a cruel or inhuman manner;
- (4) Keep animals other than cattle, poultry or fowl, swine, sheep or goats in an enclosure without wholesome exercise and change of air, nor feed cows on food that produces impure or unwholesome milk;
- (5) Detain livestock in railroad cars or compartments longer than twenty-eight hours after they are so placed without supplying them with necessary food, water and attention, nor permit such livestock to be so crowded as to overlie, crush, wound or kill each other.

(b) Upon the written request of the owner or person in custody of any particular shipment of livestock, which written request shall be separate and apart from any printed bill of lading or other railroad form, the length of time in which such livestock may be detained in any cars or compartments without food, water and attention, may be extended to thirty-six hours without penalty therefor. This section does not prevent the dehorning of cattle.

(ORC 959.13)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree. In addition, the court may order the offender to forfeit the animal or livestock and may provide for its disposition including, but not limited to, the sale of the animal or livestock. If an animal or livestock is forfeited and sold pursuant to this subsection, the proceeds from the sale first shall be applied to pay the expenses incurred with regard to the care of the animal from the time it was taken from the custody of the former owner. The balance of the proceeds from the sale, if any, shall be paid to the former owner of the animal.

(ORC 959.99(D))

505.071 CRUELTY TO COMPANION ANIMALS.

(a) As used in this section:

- (1) "Companion animal" means any animal that is kept inside a residential dwelling and any dog or cat regardless of where it is kept. "Companion animal" does not include livestock or any wild animal.
- (2) "Cruelty", "torment" and "torture" have the same meanings as in Ohio R.C. 1717.01.
- (3) "Residential dwelling" means a structure or shelter or the portion of a structure or shelter that is used by one or more humans for the purpose of a habitation.
- (4) "Practice of veterinary medicine" has the same meaning as in Ohio R.C. 4741.01.
- (5) "Wild animal" has the same meaning as in Ohio R.C. 1531.01.
- (6) "Federal animal welfare act" means the "Laboratory Animal Act of 1966", Pub. L. No. 89-544, 80 Stat. 350 (1966), 7 U.S.C.A. 2131 et seq., as amended by the "Animal Welfare Act of 1970", Pub. L. No. 91-579, 84 Stat. 1560 (1970), the "Animal Welfare Act Amendments of 1976", Pub. L. No. 94-279, 90 Stat. 417 (1976), and the "Food Security Act of 1985", Pub. L. No. 99-198, 99 Stat. 1354 (1985), and as it may be subsequently amended.
- (7) "Dog kennel" means an animal rescue for dogs that is registered under Ohio R.C. 956.06, a boarding kennel or a training kennel.

(b) No person shall knowingly torture, torment, needlessly mutilate or maim, cruelly beat, poison, needlessly kill, or commit an act of cruelty against a companion animal.

(c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (4) Needlessly kill the companion animal;
- (5) Deprive the companion animal of continuous access to clean, potable drinking water either free flowing or in a receptacle; if a receptacle is used, it shall be weighted on the bottom, mounted, or secured in a manner to prevent tipping. Snow or ice is not an acceptable water source.
- (6) Fail to provide the companion animal food, at suitable intervals, and at least once every twenty-four hours, that is appropriate for the animal's condition and age and sufficient to maintain an adequate level of nutrition for the animal.
- (7) Tether or restrain the companion animal in a manner that causes injury or entanglement or allows the animal to cross the property line.
- (8) Fail to provide the companion animal with clean, dry, structurally sound shelter from the elements throughout the year. If the animal is housed outside, a structure for shelter and protection must be provided that is suitable for the species, age, condition, size and type of animal. The structure shall be completely enclosed and insulated with one entrance. The structure must be made of durable material with a solid, moisture proof floor that is raised at least two (2) inches from the ground. Any shelter that does not protect the animal from temperature extremes or precipitation or provide adequate ventilation or drainage does not comply with this section.

(d) No owner, manager, or employee of a dog kennel who confines or is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Commit any act by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (2) Omit any act of care by which unnecessary or unjustifiable pain or suffering is caused, permitted, or allowed to continue, when there is a reasonable relief, against the companion animal;
- (3) Commit any act of neglect by which unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue, when there is a reasonable remedy or relief, against the companion animal;
- (4) Needlessly kill the companion animal;
- (5) Deprive the companion animal of continuous access to clean, potable drinking water either free flowing or in a receptacle; if a receptacle is used, it shall be weighted on the bottom, mounted, or secured in a manner to prevent tipping. Snow or ice is not an acceptable water source.
- (6) Fail to provide the companion animal food, at suitable intervals, and at least once every twenty-four hours, that is appropriate for the animal's condition and age and sufficient to maintain an adequate level of nutrition for the animal.
- (7) Tether or restrain the companion animal in a manner that causes injury or entanglement or allows the animal to cross the property line.
- (8) Fail to provide the companion animal with clean, dry, structurally sound shelter from the elements throughout the year. If the animal is housed outside, a structure for shelter and protection must be provided that is suitable for the species, age, condition, size and type of animal. The structure shall be completely enclosed and insulated with one entrance. The structure must be made of durable material with a solid, moisture proof floor that is raised at least two (2) inches from the ground. Any shelter that does not protect the animal from temperature extremes or precipitation or provide adequate ventilation or drainage does not comply with this section.

(e) Subsections (b), (c) and (d) of this section do not apply to any of the following:

- (1) A companion animal used in scientific research conducted by an institution in accordance with the federal animal welfare act and related regulations;
- (2) The lawful practice of veterinary medicine by a person who has been issued a license, temporary permit, or registration certificate to do so under Ohio R.C. Chapter 4741;
- (3) Dogs being used or intended for use for hunting or field trial purposes, provided that the dogs are being treated in accordance with usual and commonly accepted practices for the care of hunting dogs;
- (4) The use of common training devices, if the companion animal is being treated in accordance with usual and commonly accepted practices for the training of animals;
- (5) The administering of medicine to a companion animal that was properly prescribed by a person who has been issued a license, temporary permit, or registration certificate under Ohio R.C. Chapter 4741.

(f) Notwithstanding any section of the Ohio Revised Code that otherwise provides for the distribution of fine moneys, the Clerk of Court shall forward all fines the Clerk collects that are so imposed for any violation of this section to the Treasurer of the municipality, whose county humane society or law enforcement agency is to be paid the fine money as determined under this section. The Treasurer shall pay the fine moneys to the county humane society or the county, township, municipal corporation, or state law enforcement agency in this state that primarily was responsible for or involved in the investigation and prosecution of the violation. If a county humane society receives any fine moneys under this section, the county humane society shall use the fine moneys either to provide the training that is required for humane society agents under Ohio R.C. 1717.061 or to provide additional training for humane society agents. (ORC 959.131)

- (g) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree on a first offense. On each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law.
- (2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the second degree on a first offense and a misdemeanor of the first degree on each subsequent offense.
- (3) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree.
- (4) A. A court may order a person who is convicted of or pleads guilty to a violation of this section to forfeit to an impounding agency, as defined in Ohio R.C. 959.132, any or all of the companion animals in that person's ownership or care. The court also may prohibit or place limitations on the person's ability to own or care for any companion animals for a specified or indefinite period of time.
B. A court may order a person who is convicted of or pleads guilty to a violation of this section to reimburse an impounding agency for the reasonably necessary costs incurred by the agency for the care of a companion animal that the agency impounded as a result of the investigation or prosecution of the violation, provided that the costs were not otherwise paid under Ohio R.C. 959.132.
- (5) If a court has reason to believe that a person who is convicted of or pleads guilty to a violation of this section suffers from a mental or emotional disorder that contributed to the violation, the court may impose as a community control sanction or as a condition of probation a requirement that the offender undergo psychological evaluation or counseling. The court shall order the offender to pay the costs of the evaluation or counseling.

(Ord. 13-15. Passed 10-12-15.)

505.08 NUISANCE CONDITIONS PROHIBITED.

- (a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious, or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.
- (b) Whoever violates this section is guilty of a minor misdemeanor.

505.09 BARKING OR HOWLING DOGS.

- (a) No person shall keep or harbor any dog within the Municipality which, by frequent and habitual barking, howling or yelping,

creates unreasonably loud and disturbing noises of such a character, intensity and duration as to disturb the peace, quiet and good order of the Municipality. Any person who shall allow any dog habitually to remain, be lodged or fed within any dwelling, building, yard or enclosure, which he occupies or owns, shall be considered as harboring such dog.

(b) Whoever violates this section is guilty of a minor misdemeanor.

505.10 ANIMAL BITES; REPORTS AND QUARANTINE.

(a) Whenever any person is bitten by a dog or other animal, report of such bite shall be made to the Health Commissioner within twenty-four hours. Whenever it is reported to the Health Commissioner that any dog or cat has bitten a person, that dog or cat shall be quarantined under an order issued by the Health Commissioner. The dog or cat shall be quarantined by its owner or by a harboring, or shall be quarantined in a pound or kennel. In all cases, such quarantine shall be under the supervision of the Health Commissioner and shall be at the expense of the owner or harboring. Quarantine shall continue until the Health Commissioner determines that the dog or cat is not afflicted with rabies. The quarantine period hereby required shall not be less than ten days from the date on which the person was bitten. If at any time during the quarantine, the Health Commissioner requires the dog or cat to be examined for symptoms of rabies, then the examination shall be by a licensed doctor of veterinary medicine. The veterinarian shall report to the Health Commissioner the conclusions reached as a result of the examinations. The examination by a veterinarian shall be at the expense of the owner or harboring. No dog or cat shall be released from the required quarantine unless and until it has been properly vaccinated against rabies.

No person shall fail to comply with the requirements of this section or with any order of the Health Commissioner made pursuant thereto, nor fail to immediately report to the Health Commissioner any symptoms or behavior suggestive of rabies.

(b) Whoever violates this section is guilty of a minor misdemeanor.

505.11 HUNTING PROHIBITED.

(a) No person shall hunt, kill or attempt to kill any animal or fowl by the use of firearms, bow and arrow, air rifle or any other means within the corporate limits of the Municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor.

505.12 COLORING RABBITS OR BABY POULTRY; SALE OR DISPLAY OF POULTRY.

(a) No person shall dye or otherwise color any rabbit or baby poultry, including, but not limited to, chicks and ducklings. No person shall sell, offer for sale, expose for sale, raffle or give away any rabbit or poultry which has been dyed or otherwise colored. No poultry younger than four weeks of age may be sold, given away or otherwise distributed to any person in lots of less than six. Stores, shops, vendors and others offering young poultry for sale or other distribution shall provide and operate brooders or other heating devices that may be necessary to maintain poultry in good health, and shall keep adequate food and water available to the poultry at all times.

(ORC 925.62)

(b) Whoever violates this section is guilty of a minor misdemeanor.

505.13 DANGEROUS WILD ANIMALS AND RESTRICTED SNAKES.

(a) For purposes of this section, "dangerous wild animal" and "restricted snake" have the same meanings as set forth in Ohio R.C. 935.01.

(b) (1) Except for a restricted snake specified in Ohio R.C. 935.01(L)(1), no person shall sell or offer for sale at auction a dangerous wild animal or restricted snake.

(2) Except for a microchip removed for purposes of a medical emergency by a veterinarian that is qualified to provide veterinary care to the dangerous wild animal, no person shall knowingly remove a microchip that is implanted in a dangerous wild animal as required in Ohio R.C. 935.04.

(3) No person that possesses a dangerous wild animal or restricted snake shall fail to post and display any of the following:

A. On each cage in which a dangerous wild animal is confined, signs warning the public that a dangerous wild animal is confined in the cage;

B. At each entrance to the property where a dangerous wild animal is confined, a sign warning the public that a dangerous wild animal is on the property;

C. On each container in which a restricted snake is confined, a sign warning the public that a restricted snake is in the container;

D. At the main entrance to each structure where a restricted snake is confined, a sign warning the public that a restricted snake is in the structure;

E. On a vehicle that is used to transport a dangerous wild animal or restricted snake, a sign warning that a dangerous wild animal or restricted snake, as applicable, is in the vehicle.

The signs shall comply with standards established in rules adopted by the State Director of Agriculture.

(4) No person shall allow a dangerous wild animal or restricted snake to roam off the property where it is confined.

(5) No person shall remove any teeth or claws from a dangerous wild animal or restricted snake, as applicable, unless determined to be medically necessary by a veterinarian. (ORC 935.18)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree on the first offense. On a second or subsequent offense, such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 935.99)

505.14 DANGEROUS DOGS.

(a) Except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harboring, or handler of the dog, no owner, keeper, or harboring of a dangerous dog shall fail to do either of the following:

(1) While that dog is on the premises of the owner, keeper or harboring, securely confine it at all times in a building, in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;

(2) While that dog is off the premises of the owner, keeper or harboring, keep that dog on a chain-link leash or tether that is not more than six feet in length and additionally do at least one of the following:

A. Keep that dog in a locked pen that has a top, locked fenced yard or other locked enclosure that has a top;

B. Have the leash or tether controlled by a person who is of suitable age and discretion or securely

attach, tie or affix the leash or tether to the ground or stationary object or fixture so that the dog is adequately restrained and station such a person in close enough proximity to that dog so as to prevent it from causing injury to any person;

C. Muzzle that dog.

(b) No owner, keeper or harbinger of a dangerous dog shall fail to do the following:

- (1) Obtain liability insurance with an insurer authorized to write liability insurance in this State providing coverage in each occurrence because of damage or bodily injury to or death of a person caused by the dangerous dog if so ordered by a court and provide proof of that liability insurance upon request to any law enforcement officer, County Dog Warden, or public health official charged with enforcing this section;
- (2) Obtain a dangerous dog registration certificate from the County Auditor pursuant to Ohio R.C. 955.22(I), affix a tag that identifies the dog as a dangerous dog to the dog's collar, and ensure that the dog wears the collar and tag at all times;
- (3) Notify the local Dog Warden immediately if any of the following occurs:
 - A. The dog is loose or unconfined.
 - B. The dog bites a person, unless the dog is on the property of the owner of the dog, and the person who is bitten is unlawfully trespassing or committing a criminal act within the boundaries of that property.
 - C. The dog attacks another animal while the dog is off the property of the owner of the dog.
- (4) If the dog is sold, given to another person, or dies, notify the County Auditor within ten days of the sale, transfer or death.

(ORC 955.22)

(c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree on a first offense and of a misdemeanor of the third degree on each subsequent offense. Additionally, the court may order the offender to personally supervise the dangerous dog that the offender owns, keeps or harbors, to cause that dog to complete dog obedience training, or to do both, and the court may order the offender to obtain liability insurance pursuant to subsection (b) hereof. The court, in the alternative, may order the dangerous dog to be humanely destroyed by a licensed veterinarian, the Dog Warden or the humane society at the owner's expense.

(d) (1) Whoever violates subsection (b)(2) hereof is guilty of a misdemeanor of the fourth degree.

(2) Whoever violates subsections (b)(1), (3) or (4) hereof is guilty of a minor misdemeanor. (ORC 955.99)

505.15 HARBORING BEES; ABATEMENT.

(a) It is declared to be a nuisance for any person to keep or harbor bees which cause annoyance to other person or damage to the property of others.

(b) Upon complaint being made, the Mayor is authorized and directed to notify the owner or keeper of such bees to abate such nuisance and to remove hives or other contrivances, where such bees are kept or harbored, within ten days after being notified thereof.

(Ord. 72-55. Passed 11-28-55.)

(c) Whoever fails to comply with such order is guilty of a minor misdemeanor.

505.16 HARBORING SNAKES; ABATEMENT.

(a) It is declared to be a nuisance for any person to keep or harbor snakes or for any person to keep or harbor snakes or other reptiles which cause annoyance to other persons.

(b) Upon complaint being made, the Mayor is authorized and directed to notify the owner or keeper to abate such nuisance and to remove such snakes or reptiles within ten days after being notified thereof.

(Ord. 53-60. Passed 7-11-60.)

(c) Whoever fails to comply with such order is guilty of a minor misdemeanor.

505.17 MAINTENANCE OF POULTRY OR ANIMAL YARDS.

(a) No person shall maintain any poultry or animal yard within fifty feet of any building used for residence purposes by anyone other than the one maintaining such poultry or animal yard or his immediate family, or within twenty-five feet of any public way other than an alley, or within 100 feet of any church or school building.

(1) For the purposes of this section, "poultry or animal yard" includes any enclosure, shed or structure used to house two or more live fowl. "Fowl" includes chickens, ducks, geese and other poultry, or two or more cattle, horses, sheep, goats or other domestic animals.

(2) Every person maintaining a poultry or animal yard shall keep the same clean and sanitary and free from all refuse. Such yards shall be thoroughly swept at least once every twenty-four hours, and no person shall permit any decaying food or any refuse of any kind to remain in the yard. Refuse from such yards shall, when swept up or collected, be kept in airtight containers until disposed of in accordance with City ordinances, and no person shall permit any such refuse to remain uncovered.

(3) Every poultry or animal yard shall be adequately enclosed so as to be impenetrable against rats or other rodents. The presence of any rats in any poultry or animal yard shall be prima-facie evidence that the yard is maintained in violation of the provisions of this section.

(b) Whoever violates this section is guilty of a minor misdemeanor. Each day that a person is in violation shall be considered a separate offense.

(Ord. 53-70. Passed 10-13-70.)

505.18 WILD OR EXOTIC ANIMALS.

(a) The following definitions shall apply for this section.

(1) "Wild animals" mean any warm blooded nondomestic animal which is indigenous to the State and capable of transmitting rabies.

(2) "Pocket pets" mean small pets such as hamsters, gerbils, guinea pigs, domestic rabbits, white rats, mice, etc.

(3) "Exotic animals" mean other wild animals not indigenous to Ohio.

(b) No person shall harbor wild or exotic animals in the City. This section shall not apply to the following exemptions and special

provisions:

- (1) The term pocket pets; and
- (2) Wild or exotic animals held for exhibit or use by research institutions and other governmental agencies having legal authority to possess wild animals, publicly supported zoos, circuses or extensions thereof.
- (c) Whoever violates this section shall be guilty of a misdemeanor of the third degree.

(Ord. 37-81. Passed 8-10-81.)

505.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 509

Disorderly Conduct and Peace Disturbance

509.01 Riot.

509.011 Inciting to violence.

509.02 Failure to disperse.

509.03 Disorderly conduct; intoxication.

509.04 Disturbing a lawful meeting.

509.05 Misconduct at an emergency.

509.06 Inducing panic.

509.07 Making false alarms.

509.08 Disturbing the peace/sound amplifying devices.

509.081 Unlawful use or operation of Citizen Band (CB) radio.

509.09 Intoxication.

509.10 Unlawful congregation on sidewalks, public grounds.

509.11 Curfew.

509.12 Unlawful panhandling and fraudulent solicitations.

509.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Use of force to suppress riot - see Ohio R.C. 2917.05

Cordoning off riot areas, prohibiting sales of firearms and explosives - see Ohio R.C. 3761.16

Emergency suspension of permits and sales by Director of Liquor Control - see Ohio R.C. 4301.251

Criminal trespass - see GEN. OFF. 541.05

509.01 RIOT.

- (a) No person shall participate with four or more others in a course of disorderly conduct in violation of Section 509.03:
 - (1) With purpose to commit or facilitate the commission of a misdemeanor, other than disorderly conduct;
 - (2) With purpose to intimidate a public official or employee into taking or refraining from official action, or with purpose to hinder, impede or obstruct a function of government;
 - (3) With purpose to hinder, impede or obstruct the orderly process of administration or instruction at an educational institution, or to interfere with or disrupt lawful activities carried on at such institution.
- (b) No person shall participate with four or more others with purpose to do an act with unlawful force or violence, even though such act might otherwise be lawful.
- (c) Whoever violates this section is guilty of riot, a misdemeanor of the first degree.

(ORC 2917.03)

509.011 INCITING TO VIOLENCE.

- (a) No person shall knowingly engage in conduct designed to urge or incite another to commit any offense of violence, when either of the following apply:
 - (1) The conduct takes place under circumstances that create a clear and present danger that any offense of violence will be committed;
 - (2) The conduct proximately results in the commission of any offense of violence.
- (b) Whoever violates this section is guilty of inciting to violence. If the offense of violence that the other person is being urged or incited to commit is a misdemeanor, inciting to violence is a misdemeanor of the first degree.

(ORC 2917.01)

509.02 FAILURE TO DISPERSE.

- (a) Where five or more persons are participating in a course of disorderly conduct in violation of Section 509.03, and there are other persons in the vicinity whose presence creates the likelihood of physical harm to persons or property or of serious public inconvenience, annoyance or alarm, a law enforcement officer or other public official may order the participants and such other persons to disperse. No person shall knowingly fail to obey such order.
- (b) Nothing in this section requires persons to disperse who are peaceably assembled for a lawful purpose.
- (c) (1) Whoever violates this section is guilty of failure to disperse.
 - (2) Except as otherwise provided in subsection (c)(3) hereof, failure to disperse is a minor misdemeanor.

- (3) Failure to disperse is a misdemeanor of the fourth degree if the failure to obey the order described in subsection (a) hereof, creates the likelihood of physical harm to persons or is committed at the scene of a fire, accident, disaster, riot, or emergency of any kind.

(ORC 2917.04)

509.03 DISORDERLY CONDUCT; INTOXICATION.

- (a) No person shall recklessly cause inconvenience, annoyance or alarm to another by doing any of the following:
- (1) Engaging in fighting, in threatening harm to persons or property, or in violent or turbulent behavior;
 - (2) Making unreasonable noise or offensively coarse utterance, gesture or display, or communicating unwarranted and grossly abusive language to any person, which by its very utterance or usage inflicts injury or tends to incite an immediate breach of the peace;
 - (3) Insulting, taunting or challenging another, under circumstances in which that conduct is likely to provoke a violent response;
 - (4) Hindering or preventing the movement of persons on a public street, road, highway or right of way, or to, from, within or upon public or private property, so as to interfere with the rights of others, and by any act that serves no lawful and reasonable purpose of the offender;
 - (5) Creating a condition that is physically offensive to persons or that presents a risk of physical harm to persons or property, by any act that serves no lawful and reasonable purpose of the offender.
- (b) No person, while voluntarily intoxicated shall do either of the following:
- (1) In a public place or in the presence of two or more persons, engage in conduct likely to be offensive or to cause inconvenience, annoyance or alarm to persons of ordinary sensibilities, which conduct the offender, if the offender were not intoxicated, should know is likely to have that effect on others;
 - (2) Engage in conduct or create a condition that presents a risk of physical harm to the offender or another, or to the property of another.
- (c) Violation of any statute or ordinance of which an element is operating a motor vehicle, locomotive, watercraft, aircraft or other vehicle while under the influence of alcohol or any drug of abuse, is not a violation of subsection (b) hereof.
- (d) If a person appears to an ordinary observer to be intoxicated, it is probable cause to believe that person is voluntarily intoxicated for purposes of subsection (b) hereof.
- (e) (1) Whoever violates this section is guilty of disorderly conduct.
(2) Except as otherwise provided in subsections (e)(3) and (e)(4), disorderly conduct is a minor misdemeanor.
(3) Disorderly conduct is a misdemeanor of the fourth degree if any of the following applies:
A. The offender persists in disorderly conduct after reasonable warning or request to desist.
B. The offense is committed in the vicinity of a school or in a school safety zone.
C. The offense is committed in the presence of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person who is engaged in the person's duties at the scene of a fire, accident, disaster, riot or emergency of any kind.
D. The offense is committed in the presence of any emergency facility person who is engaged in the person's duties in an emergency facility.
- (4) If an offender previously has been convicted of or pleaded guilty to three or more violations of subsection (b) of this section, a violation of subsection (b) of this section is a misdemeanor of the fourth degree.
- (f) As used in this section:
- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.
 - (4) "Committed in the vicinity of a school" has the same meaning as in Ohio R.C. 2925.01.

(ORC 2917.11)

509.04 DISTURBING A LAWFUL MEETING.

- (a) No person, with purpose to prevent or disrupt a lawful meeting, procession or gathering, shall do either of the following:
- (1) Do any act which obstructs or interferes with the due conduct of such meeting, procession or gathering;
 - (2) Make any utterance, gesture or display which outrages the sensibilities of the group.
- (b) Whoever violates this section is guilty of disturbing a lawful meeting, a misdemeanor of the fourth degree.

(ORC 2917.12)

509.05 MISCONDUCT AT AN EMERGENCY.

- (a) No person shall knowingly do any of the following:
- (1) Hamper the lawful operations of any law enforcement officer, firefighter, rescuer, medical person, emergency medical services person, or other authorized person, engaged in the person's duties at the scene of a fire, accident, disaster, riot, or emergency of any kind;
 - (2) Hamper the lawful activities of any emergency facility person who is engaged in the person's duties in an emergency facility;
 - (3) Fail to obey the lawful order of any law enforcement officer engaged in the law enforcement officer's duties at the scene of or in connection with a fire, accident, disaster, riot, or emergency of any kind.
- (b) Nothing in this section shall be construed to limit access or deny information to any news media representative in the lawful exercise of the news media representative's duties.
- (c) Whoever violates this section is guilty of misconduct at an emergency. Except as otherwise provided in this subsection, misconduct at an emergency is a misdemeanor of the fourth degree. If a violation of this section creates a risk of physical harm to persons or property, misconduct at an emergency is a misdemeanor of the first degree.
- (d) As used in this section:
- (1) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C.

2133.21.

- (2) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
- (3) "Emergency facility" has the same meaning as in Ohio R.C. 2909.04.

509.06 INDUCING PANIC.

(a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

- (1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;
- (2) Threatening to commit any offense of violence;
- (3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) Division (a) hereof does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. If inducing panic results in physical harm to any person, economic harm of one thousand dollars (\$1,000) or more, if the public place involved in a violation of this section is a school or an institution of higher education, or if the violation pertains to a purported, threatened or actual use of a weapon of mass destruction, inducing panic is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

(1) "Economic harm" means any of the following:

A. All direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" as described in this division includes, but is not limited to, all of the following:

1. All wages, salaries, or other compensation lost as a result of the criminal conduct;
2. The cost of all wages, salaries, or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
3. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
4. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.

B. All costs incurred by the Municipality as a result of, or in making any response to, the criminal conduct that constituted the violation of this section or Section 509.07, including, but not limited to, all costs so incurred by any law enforcement officers, firefighters, rescue personnel, or emergency medical services personnel of the state or the political subdivision.

(2) "School" means any school operated by a board of education or any school for which the state board of education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted at the time a violation of this section is committed.

(3) "Weapon of mass destruction" means any of the following:

A. Any weapon that is designed or intended to cause death or serious physical harm through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;

B. Any weapon involving a disease organism or biological agent;

C. Any weapon that is designed to release radiation or radioactivity at a level dangerous to human life;

- D. Any of the following, except to the extent that the item or device in question is expressly excepted from the definition of "destructive device" pursuant to 18 U.S.C. 921(a)(4) and regulations issued under that section:
1. Any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or similar device;
 2. Any combination of parts either designed or intended for use in converting any item or device into any item or device described in division (e)(3)D.1. of this section and from which an item or device described in that division may be readily assembled.

(4) "Biological agent" has the same meaning as in Ohio R.C. 2917.33.

(5) "Emergency medical services personnel" has the same meaning as in Ohio R.C. 2133.21.

(6) "Institution of higher education" means any of the following:

A. A state university or college as defined in Ohio R.C. 3345.12(A)(1), community college, state community college, university branch, or technical college;

B. A private, nonprofit college, university or other post-secondary institution located in this State that possesses a certificate of authorization issued by the Ohio Board of Regents pursuant to Ohio R.C. Chapter 1713.

C. A post-secondary institution with a certificate of registration issued by the State Board of Career Colleges and Schools under Ohio R.C. Chapter 3332.

(ORC 2917.31)

509.07 MAKING FALSE ALARMS.

(a) No person shall do any of the following:

- (1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;
- (2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;
- (3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.
- (4) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime, or other catastrophe, knowing that the report or warning is false and likely to impede the operation of a critical infrastructure facility.

(b) This section does not apply to any person conducting an authorized fire or emergency drill.

(c) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. If a violation of this section results in economic harm of one thousand dollars (\$1,000) or more, or if a violation of this section pertains to a purported, threatened, or actual use of a weapon of mass destruction, making false alarms is a felony and shall be prosecuted under appropriate State law.

(d) Any act that is a violation of this section and any other section of the Codified Ordinances may be prosecuted under this section, the other section, or both sections.

(e) As used in this section:

(1) "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.

(2) "Economic harm" and "weapon of mass destruction" have the same meaning as in Section 509.06. (ORC 2917.32)

509.08 DISTURBING THE PEACE/SOUND AMPLIFYING DEVICES.

(a) Disturbing the Peace. No person shall make or continue, or cause to be made or continued, any loud, unnecessary or unreasonable noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any reasonable person of ordinary sensitivities in the area of the noise. In determining whether a noise is of such a character as to unreasonably disturbs the peace and quiet of the neighborhood, a court shall consider the following factors:

- (1) Complaints of neighbors regarding the noise.
- (2) Time of day at which the noise takes place.
- (3) The intensity and duration of the noise.
- (4) The type of noise produced.
- (5) The alternative means audible without excessive noise.

(b) Sound Amplifying Devices on Private Property. No person shall generate or permit to be generated unreasonable noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a radio, phonograph, television, tape player, loud speaker or any other sound amplifying device or by any horn, drum, piano or other musical or percussion instrument. It is prima facie unlawful for a person to generate or permit to be generated sound by the above described devices or instruments in the following circumstances:

- (1) On private property where the sound is plainly audible more than fifty feet from the property line of the property on which the source of the sound is located.

(c) Sound Amplifying Devices in a Motor Vehicle. No person shall generate or permit to be generated unreasonable noise or loud sound which is likely to cause inconvenience or annoyance to persons of ordinary sensibilities by means of a radio, phonograph, television, tape player, loud speaker or any other sound amplifying device or by any horn, drum, piano or other musical or percussion instrument on a street, highway or in the public right of way when the sound is plainly audible fifty feet from the devices generating the sound.

(d) Definitions. "Plainly audible" means any sound produced by a radio, tape player, or other mechanical or electronic sound making devices, or instrument, from within the interior or exterior of a motor vehicle or on property, including sound produced by a portable sound making device, that can be clearly heard by a person using his/her normal hearing faculties, at a distance of fifty feet or more from the motor vehicle or property.

(e) Measurement. Any law enforcement personnel who hears a sound that is plainly audible, as defined herein, shall be entitled to measure the sound according to the following standards:

- (1) The primary means of detection shall be by means of the officer's ordinary auditory senses, so long as the officer's hearing is not enhanced by any mechanical device, such as a microphone or hearing aide.
- (2) The officer must have a direct line of sight and hearing to the motor vehicle producing the sound so that he can readily identify the offending motor vehicle if involving a motor vehicle.
- (3) The officer need not determine the particular words or phrases being produced or the name of any song or artist producing the sound. The detection of a rhythmic bass reverberating type sound is sufficient to constitute a plainly audible sound.

(f) Permitting Violations. No person, being the owner, or person in possession of a premises or person in control of the premises by reason of employment, agency, or otherwise whether such ownership, possession or control is exclusive or joint, shall permit a violation of this section.

(g) Exemptions. The following uses and activities shall be exempt from this section.

- (1) Noises of safety signals, warning devices, and emergency pressure relief valves;
- (2) Emergency vehicles;
- (3) Emergency work;
- (4) Any other noise resulting from activities of a temporary duration permitted by law and for which a license or permit therefore has been granted by the City;
- (5) Any aircraft operated in conformity with, or pursuant to, Federal law, Federal air regulations, and air traffic control instruction;
- (6) Noises resulting from the normal use of churches, schools, athletic fields, fairgrounds, parks and auditoriums; and
- (7) City projects and work;
- (8) Vehicles used in a parade, as specified in Section 311.02, and the person or organization conducting the parade has obtained a permit from the appropriate City agency;
- (9) Authorized public activities - authorized public events means one time or annual special indoor/outdoor events conducted pursuant to and in accordance with a City issued permit or authorization, including, but not limited to Lancaster Festival events, Friday Night Bandstand, Fairfield County Fair events;
- (10) Industrial noises.

(h) Penalty. Whoever violates this section shall be guilty of a minor misdemeanor. A second offense shall be an unclassified misdemeanor punishable with up to a two hundred fifty dollars (\$250.00) fine.

(Ord. 47-99. Passed 9-13-99.)

509.081 UNLAWFUL USE OR OPERATION OF CITIZEN BAND (CB) RADIO.

(a) Definitions:

- (1) The Citizens Band (CB) Radio Services includes all private, two-way, short-distance voice communications service for personal or business activities of the general public. The CB Radio Service may also be used for voice paging. See 47CFR95.401(a).
 - (2) CB station means a radio station transmitting in the CB Radio Service. See 47CFR95.402(f). A CB station includes all of the radio equipment (inclusive of antennas) that is used in order to transmit signals. See 47CFR95.402(f) and 47CFR95.426(b). A station that is licensed by the Federal Communications Commission (Commission) pursuant to Section 301 of the Communications Act of 1934 in any radio service for the operation at issue shall not be subject to the provisions of this Section. See Section (f)(2) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).
 - (3) Use or operation is the act of using a CB radio or other equipment to transmit a signal in the CB Radio Service. Use or operation involves all radio equipment that is part of a CB station.
 - (4) Electronic devices include any electrical, electronic or any other devices capable of receiving interference.
 - (5) Interference is any abnormal sound, noise, rectification or operation of an electronic device that would be indicative of that device being subjected to a high radio-frequency field.
 - (6) Antenna means the radiating system (for transmitting, receiving or both) and the structure holding it up (tower, pole or mast). It also means everything else attached to the radiating system and the structure. See 47CFR95.408(a).
 - (7) CB radio equipment is any radio or other equipment capable of transmitting or propagating any RF transmissions within the CB Radio Services, including accessories, such as antennas.
- (b) CB stations may transmit only on the following channels (frequencies):

Channel	Frequency (megahertz--MHZ)	Channel	Frequency (megahertz--MHZ)
1	26.965	21	27.215
2	26.975	22	27.225
3	26.985	23	27.255
4	27.005	24	27.235
5	27.015	25	27.245
6	27.035	26	27.265
7	27.035	27	27.275
8	27.055	28	27.285
9	27.065	29	27.295
10	27.075	30	27.305
11	27.085	31	27.315
12	27.105	32	27.325
13	27.115	33	27.335
14	27.125	34	27.345
15	27.135	35	27.355
16	27.155	36	27.365
17	27.165	37	27.375
18	27.175	38	27.385
19	27.185	39	27.395
20	27.205	40	27.405

See Title 47, Sec. 95.407(a)

- (c) No operator of a CB station shall transmit, or any owner of a CB station shall allow another to transmit, on any frequency between 24MHz and 35 MHz, other than those specified in subsection (b).
 - (1) Channel 9 may be used only for emergency communications or for traveler assistance. See 47CFR95.407(b).
 - (2) Each CB transmitter must be maintained within a frequency tolerance of 0.005%. See 47CFR95.625(b).
- (d) No person shall operate a CB station's transmitter with power output exceeding the following values under any conditions:
 - (1) AM (Amplitude Modulation)--4 watts (carrier power);
 - (2) SSB (Single Side-Band)--12 watts (peak envelope power). See 47CFR95.410(a).
- (e) No person shall use or operate a CB transmitter unless it is certificated pursuant to the Communications Act of 1934 and its amendments (no CB transmitter manufactured after September 10, 1976 shall fail to possess a FCC certification). See 47CFR95.409(a).
- (f) No person shall operate a CB transmitter that has been altered or modified without actual written permission allowing such modification, unless the modification is limited to the repair or servicing of a CB station transmitter or to the changing of plug-in modules. See 47CFR95.409(b).
- (g) No person shall use or operate in any way:
 - (1) External radio frequency (RF) power amplifier (sometimes called linears or linear amplifiers). See 47CFR95.411(a)(1).
 - (2) Any other device which, when used with a radio transmitter as a signal source, are capable of amplifying the signal. See 47CFR95.411(a)(2).
 - (3) A CB transmitter with frequency determining circuitry (including crystals) and programming controls that are external to the transmitter or that are accessible from the exterior of the transmitter operating panel or from the exterior of the transmitter enclosure. See 47CFR95.655(b).
 - (4) Add-on devices, whether internal or external, the function of which is to extend the transmitting frequency capability of a CB transmitter beyond its original capability. See 47CFR95.655(c).
- (h) If the subject matter of a complaint presented to a governmental agency involves CB radio transmissions interfering with electronic devices, such as speakers, garage door openers, home entertainment systems, data networks, electronic organs, televisions, radios, and telephones, not exclusively, the investigating agency may begin an investigation to determine if any CB radio operators are transmitting above the maximum allowable power output in the general vicinity of where the interference is being observed. However,

violations of CB radio operators transmitting above the maximum allowable power output shall not be enforceable unless citizens (complainants) from two or more residences sign and attest that they are receiving interference from a CB station.

- (1) Initial investigations of possible violations of CB radio operators transmitting above the maximum allowable power output should contain the following:
 - A. A record from each complainant containing dates, day of the week, and time of the day that the interference has occurred. This logbook should encompass a time of no less than four (4) weeks.
 - B. Locations and type of equipment that the complainant is receiving interference.
 - C. An address, location and description of the person and premises that the complainant feels is causing the interference from a CB radio station.
 - D. Physical evidence such as a large antenna and/or radio supporting tower or other antennas mounted to a house or other structure on the property.
 - E. If possible, actual recordings of the interference received.
 - F. Any other evidence that would assist in determining the person and location of the source of the interference.
- (2) Probable cause to obtain a search warrant will be determined from a variety of factors and may include the following:
 - A. A drive-by inspection of the suspected violator's premises to determine the presence of CB radio type antennas, towers and any other relevant evidence.
 - B. Determinations made by the investigating agency of the power output of the CB station using field strength meters up to one-fourth mile of the CB station.
 - C. Monitoring of the C.B. radio frequency spectrum including radio frequencies above and below the radio frequencies allocated by the FCC for legal operations in and around the suspected area.
 - D. The log entries made by the investigative agency of the radio frequencies used during suspected illegal radio transmissions.
 - E. Records and observations made by the complainants.
 - F. Any other factors that would cause a reasonable person to believe that the alleged violator is using a CB radio or other equipment to violate the provisions of this Section.
 - G. Not all of the above factors need be met for a court of proper jurisdiction to find probable cause for the issuance of a search warrant; however, search warrant standards and procedures shall comply with O.R.C. Section 2933 and Crim.R. 41.
- (3) All property seized pursuant to a search warrant shall be kept until the accused is tried or the claimant's right is otherwise ascertained. The disposition of property seized under this Section and held by a law enforcement agency shall comply with O.R.C. Sections 2981.01 et seq., if applicable, 2933.42 and 2933.43.
 - (i) The enforcement of this ordinance shall not preclude the Federal Communications Commission from enforcing its own regulation concurrently. See Section (f)(5) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).
 - (j) Nothing in this ordinance shall be construed to diminish or otherwise affect the jurisdiction of the Commission. See Section (f)(6) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).
 - (k) The enforcement of this ordinance with regard to citizens band radio equipment on board a 'commercial motor vehicle' as defined in Section 31101 of Title 49, United States Code, shall require probable cause to find that the commercial motor vehicle or the individual operating the vehicle is in violation of the ordinance herein. See Section (f)(7) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).
 - (l) In addition to any other remedy authorized by law, a person affected by the decision of a local government agency in enforcing this statute may submit to the Commission an appeal of the decision on the grounds that the State or local government enacted a statute or ordinance outside the authority granted under Section 302 of the Communications Act of 1934. See Section (f)(4)(A) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a). Such appeal shall be submitted to the Commission no later than 30 days after the date on which the decision by the local government agency becomes final, but prior to seeking judicial review of such decision. See Section (f)(4)(B) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a).
 - (m) The Commission shall make a determination on an appeal submitted under subparagraph (l) not later than 180 days after its submittal. See Section (f)(4)(C) of the 2000 amendment to Section 302 of the Communications Act of 1934 (47 U.S.C. 302a). However, any CB radio equipment seized pursuant to a validly issued warrant shall remain in the custody of the local law enforcement agency during the pendency of the appeal. CB radio equipment that was seized shall only be returned if the Commission determines that relevant provisions of this ordinance exceeded the authority granted under Section 302 of the Communications Act of 1934 or if a court of proper jurisdiction determines that no violation occurred within this Section.
 - (n) All owners of a CB station shall keep all relevant correspondence from the FCC, hereafter known as "station records," such as written permission received from the FCC, at the CB station. A violation of this subsection may only occur if sufficient factors enumerated under subsections (s) or (t) indicate that modified or altered equipment requiring FCC permission for use was actually used or operated. See 47CFR95.427(b) and 47CFR95.426(a).
 - (o) Violations of subsections (c), (d), (e), (f), (g) or (n) shall be construed as strict liability offenses.
 - (p) Pursuant to O.R.C. Section 2901.01(13)(c), any CB radio equipment, inclusive of any antenna, that was used or operated, as determined under subsections (s) or (t), in violation of this Section shall be contraband.
 - (q) All persons using radio monitoring measurement instruments should be a holder of a "General Radiotelephone Operator" License issued by the FCC or an equivalent license issued by a certified industry standard testing board.
 - (r) All test instruments used for determining relative field strength and radio frequency power output should be of a commercial grade type typically used in a commercial two-way radio facility and annually checked for calibration against specifications contained in the operation manual or a known calibrated referenced source. For purposes of investigation, the variable gain control may be adjusted based on calibration check readings to compensate for any variations in battery voltage.
 - (s) In determining if CB radio equipment is being unlawfully used or operated on a frequency between 24 MHz and 35 MHz, a court, law enforcement officer or investigating agency shall consider, in addition to other relevant factors, the following:
 - (1) Possession of the equipment;
 - (2) The proximity of the equipment to other CB radio equipment;
 - (3) Any statement by the owner, or by anyone in control, of the CB radio equipment, concerning its use;

- (4) Whether the CB radio equipment is directly or indirectly connected to an antenna;
 - (5) The proximity in time or space of the CB radio equipment, or of the act relating to the CB radio equipment, to a violation of this Section;
 - (6) Direct or circumstantial evidence of the use or operation of unlawful or unauthorized CB radio equipment.
 - (t) A court of law shall presume a person has a linear or other RF power amplifier if:
 - (1) It is in a person's possession or on a person's property; and
 - (2) There is other evidence that a person has operated a CB station with more power than allowed pursuant to subsection (d) of this Section. See 47CFR95.411(c).
 - (u) A court has proper venue to hear a case filed under this Section if the interference to electronic devices occurs within the City of Lancaster's legal boundaries or if the use or operation of a CB radio station occurs within the legal boundaries of the City of Lancaster.
 - (v) If any part of this Section is determined to be unconstitutional by a court of law or any part of this Section is determined to be outside the authority bestowed upon the City of Lancaster by Congress then the remainder of this Section shall remain in full force and effect. In addition, should any part of this Section be determined to be unconstitutional and/or outside the City's allowable authority then the court or agency must review the facts of the case to determine whether the City of Lancaster engaged in any actual conduct to enforce the unconstitutional and/or unauthorized provision. Only if the City of Lancaster acted outside its authority in enforcing this Section, shall the Commission preempt the decision enforcing this Section.
 - (w) (1) Whoever violates subsection (c) is guilty of unlawful use of CB radio equipment, a misdemeanor of the first degree.
 - (2) Whoever violates subsection (d), (f) or (g) is guilty of unauthorized operation of CB radio equipment, a misdemeanor of the first degree.
 - (3) Whoever violates subsection (e) is guilty of unlawful use of CB radio equipment without proper FCC certification, a misdemeanor of the fourth degree.
 - (4) Whoever violates subsection (n) is guilty of failure to keep station records, a misdemeanor of the Fourth degree.
- (Ord. 30-02. Passed 8-26-02.)

509.09 INTOXICATION.

- (a) No person shall be found in a state of intoxication or under the influence of any drug of abuse, or being intoxicated or under the influence of a drug of abuse, shall disturb the peace and good order, or shall conduct himself in a disorderly manner.
- (Ord. 18-73. Passed 3-12-73.)
- (b) Whoever violates this section is guilty of a minor misdemeanor.

509.10 UNLAWFUL CONGREGATION ON SIDEWALKS, PUBLIC GROUNDS.

- (a) No person shall congregate with others on the sidewalk, street corner, or within the parks or public grounds, with intent to provoke a breach of the peace; or whereby a breach of the peace may be occasioned by the serious annoyance to pedestrians or by threatening, insulting or abusive conduct to them; and refuse to move on when ordered by a police officer.
- (b) Whoever violates this section is guilty of a minor misdemeanor.

509.11 CURFEW.

- (a) Hours for Minors Under Twelve. No minor under the age of twelve years shall loiter, idle, wander, stroll or play in or upon the public streets, other public places, places of amusement and entertainment, vacant lots or other unsupervised places during the period from darkness to dawn. However, the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care of and custody of the minor, or when the minor is engaged in any activity not prohibited by law and such activity is authorized by his parent, guardian or other adult person having the care and custody of such minor.
- (b) Hours for Minors Under Eighteen. No minor under the age of eighteen years shall loiter, idle, wander, stroll or play in or upon the public streets, other public places, places of amusement and entertainment, vacant lots or other unsupervised places between the hours of 11:00 p.m. and 4:30 a.m. the following day. However, the provisions of this section do not apply to a minor accompanied by his parent, guardian or other adult person having the care of and custody of the minor, or when the minor is engaged in any activity not prohibited by law and such activity is authorized by his parent, guardian or other adult person having the care and custody of such minor.
- (c) Enforcement against Parent or Guardian. The parent, guardian or person having the legal custody and control of any minor violating any of the provisions hereof is guilty of a minor misdemeanor.

(Ord. 13-66. Passed 2-14-66.)

509.12 UNLAWFUL PANHANDLING AND FRAUDULENT SOLICITATIONS.

- (a) For purposes of this section, "panhandling" means any solicitation made in person requesting an immediate donation of money. A donation shall be considered as the purchase of an item for an amount exceeding its value, under circumstances where a reasonable person would understand that the purchase is, in substance, a donation. "Panhandling" does not include passively standing or sitting with a sign or other nonverbal indication that one is seeking donations, without addressing any solicitation to any specific person other than in response to an inquiry by that person
- (b) No persons shall panhandle at any of the following locations:
 - (1) At any bus stop, or transit vehicle stop;
 - (2) In a public transportation vehicle or facility;
 - (3) In a vehicle on the street;
 - (4) On private property, unless the panhandler has written permission from the owner or occupant; or
 - (5) At any ATM machine.
- (c) No person shall panhandle on any street, sidewalk, public right-of-way, or public property by:
 - (1) Blocking the path of the person being asked for the donation;
 - (2) Following a person who walks away from the panhandler; or
 - (3) Making any statement, gesture or other communication in which the panhandler knowingly causes another to believe that the panhandler will cause or threaten to cause harm to the person or their property.
- (d) No person shall knowingly make any false or misleading representation in the course of panhandling. False or misleading representations include, but are not limited to, the following:

- (1) Stating that the donation is needed to meet a specified need, when the panhandler already has sufficient funds to meet that need and does not disclose that fact;
 - (2) Stating that the donation is needed to meet a need which does not exist;
 - (3) Stating that the panhandler is from out of town and stranded, when that is not true;
 - (4) Wearing a military uniform or other indication of military service, when the panhandler is neither a present nor a former member of the service indicated;
 - (5) Wearing or displaying an indication of physical disability, when the panhandler does not suffer the disability indicated;
 - (6) Use of make-up or any device to simulate any deformity; or
 - (7) Stating that the panhandler is homeless, when that is not true.
- (e) No person shall panhandle stating that the donation is needed for a specific purpose and then spend the donation received for a different purpose.
- (f) This section shall in no way be interpreted to prohibit the solicitation of donations by members of any schools, civic organizations or other nonprofit organizations soliciting donations by legitimate means and for legitimate purposes.
- (g) Whoever violates any provision of this section is guilty of a misdemeanor of the fourth degree on the first offense. A subsequent offence shall be an misdemeanor of the third degree. A third offense shall be an misdemeanor of the first degree.
- (Ord. 31-08. Passed 9-8-08.)

509.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 513

Drug Abuse Control

- 513.01 Definitions.**
- 513.02 Gift of marihuana.**
- 513.03 Drug abuse; controlled substance possession or use.**
- 513.04 Possessing drug abuse instruments.**
- 513.05 Permitting drug abuse.**
- 513.06 Illegal cultivation of marihuana.**
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- 513.08 Illegally dispensing drug samples.**
- 513.09 Controlled substance or prescription labels.**
- 513.10 Hypodermic possession, display and dispensing.**
- 513.11 Harmful intoxicants; possessing nitrous oxide in motor vehicle.**
- 513.12 Drug paraphernalia.**
- 513.121 Marihuana drug paraphernalia.**
- 513.13 Counterfeit controlled substances.**
- 513.14 Offender may be required to pay for controlled substance tests.**
- 513.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Federal prosecution bar to local prosecution - see Ohio R.C. 2925.50, 3719.19
 Analysis report and notarized statement as evidence - see Ohio R.C 2925.51
 Criteria for granting probation - see Ohio R.C 3719.70(B)
 Adulterating food with drug of abuse - see GEN. OFF. 537.13
 Using weapons while under the influence - see GEN. OFF. 549.03.

513.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words, terms and phrases and their derivatives used in this chapter which are not defined in this section shall have the meanings given to them in the Ohio Revised Code.

- (a) "Administer." Has the same meaning as in Ohio R.C. 3719.01.
- (b) "Adulterate." To cause a drug to be adulterated as described in Ohio R.C. 3715.63.
- (c) "Bulk amount." Of a controlled substance, means any of the following:
 - (1) For any compound, mixture, preparation, or substance included in Schedule I, Schedule II, or Schedule III, with the exception of any controlled substance analog, marihuana, cocaine, L.S.D., heroin, any fentanyl-related compound, and hashish and except as provided in subsection (c)(2), (5), or (6) of this definition, whichever of the following is applicable:
 - A. An amount equal to or exceeding ten grams or twenty-five unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I opiate or opium derivative;
 - B. An amount equal to or exceeding ten grams of a compound, mixture, preparation or substance that is or contains any amount of raw or gum opium;
 - C. An amount equal to or exceeding thirty grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of a Schedule I hallucinogen other than tetrahydrocannabinol or lysergic acid amide, or a Schedule I stimulant or depressant;
 - D. An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II opiate or opium derivative;
 - E. An amount equal to or exceeding five grams or ten unit doses of a compound, mixture, preparation or substance that is or contains any amount of phencyclidine;
 - F. An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule II stimulant that is in a final dosage form manufactured by a person

authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws, as defined in this section, that is or contains any amount of a Schedule II depressant substance or a Schedule II hallucinogenic substance;

- G. An amount equal to or exceeding three grams of a compound, mixture, preparation, or substance that is or contains any amount of a Schedule II stimulant, or any of its salts or isomers, that is not in a final dosage form manufactured by a person authorized by the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq., as amended) and the federal drug abuse control laws;
- (2) An amount equal to or exceeding 120 grams or thirty times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III or IV substance other than an anabolic steroid or a Schedule III opiate or opium derivative;
- (3) An amount equal to or exceeding twenty grams or five times the maximum daily dose in the usual dose range specified in a standard pharmaceutical reference manual of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III opiate or opium derivative;
- (4) An amount equal to or exceeding 250 milliliters or 250 grams of a compound, mixture, preparation or substance that is or contains any amount of a Schedule V substance;
- (5) An amount equal to or exceeding 200 solid dosage units, sixteen grams, or sixteen milliliters of a compound, mixture, preparation or substance that is or contains any amount of a Schedule III anabolic steroid;
- (6) For any compound, mixture, preparation, or substance that is a combination of a fentanyl-related compound and any other compound, mixture, preparation, or substance included in Schedule III, Schedule IV, or Schedule V, if the defendant is charged with a violation of Ohio R.C. 2925.11 and the sentencing provisions set forth in Ohio R.C. 2925.11(C)(10)(b) and (C)(11) will not apply regarding the defendant and the violation, the bulk amount of the controlled substance for purposes of the violation is the amount specified in division (1), (2), (3), (4), or (5) of this definition for the other Schedule III, Schedule IV, or Schedule V controlled substance that is combined with the fentanyl-related compound.
- (d) "Certified grievance committee." A duly constituted and organized committee of the Ohio State Bar Association or of one or more local bar associations of the state that complies with the criteria set forth in Rule V, Section 6 of the Rules for the Government of the Bar of Ohio.
- (e) "Cocaine." Any of the following:
- (1) A cocaine salt, isomer or derivative, a salt of a cocaine isomer or derivative, or the base form of cocaine.
- (2) Coca leaves or a salt, compound, derivative or preparation of coca leaves, including ecgonine, a salt, isomer or derivative of ecgonine, or a salt of an isomer or derivative of ecgonine.
- (3) A salt, compound, derivative or preparation of a substance identified in subsection (e)(1) or (2) of this definition that is chemically equivalent to or identical with any of those substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves if the extractions do not contain cocaine or ecgonine.
- (f) "Committed in the vicinity of a juvenile." An offense is "committed in the vicinity of a juvenile" if the offender commits the offense within 100 feet of a juvenile or within the view of a juvenile, regardless of whether the offender knows the age of the juvenile, whether the offender knows the offense is being committed within 100 feet of or within view of the juvenile, or whether the juvenile actually views the commission of the offense.
- (g) "Committed in the vicinity of a school." An offense is "committed in the vicinity of a school" if the offender commits the offense on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises, regardless of whether the offender knows the offense is being committed on school premises, in a school building, or within 1,000 feet of the boundaries of any school premises.
- (h) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (i) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (j) "Counterfeit controlled substance." Any of the following:
- (1) Any drug that bears, or whose container or label bears, a trademark, trade name or other identifying mark used without authorization of the owner of rights to the trademark, trade name or identifying mark.
- (2) Any unmarked or unlabeled substance that is represented to be a controlled substance manufactured, processed, packed or distributed by a person other than the person that manufactured, processed, packed or distributed it.
- (3) Any substance that is represented to be a controlled substance but is not a controlled substance or is a different controlled substance.
- (4) Any substance other than a controlled substance that a reasonable person would believe to be a controlled substance because of its similarity in shape, size and color, or its markings, labeling, packaging, distribution or the price for which it is sold or offered for sale.
- (k) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (l) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (m) "Deception." Has the same meaning as in Ohio R.C. 2913.01.
- (n) "Disciplinary counsel." The disciplinary counsel appointed by the Board of Commissioners on Grievances and Discipline of the Ohio Supreme Court under the Rules for the Government of the Bar of Ohio.
- (o) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (p) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (q) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (r) "Drug abuse offense." Any of the following:
- (1) A violation of Ohio R.C. 2913.02(A) that constitutes theft of drugs, or any violation of Ohio R.C. 2925.02, 2925.03, 2925.04, 2925.041, 2925.05, 2925.06, 2925.11, 2925.12, 2925.13, 2925.22, 2925.23, 2925.24, 2925.31, 2925.32, 2925.36 or 2925.37.
- (2) A violation of an existing or former law of any municipality, state or of the United States, that is substantially equivalent to any section listed in subsection (r)(1) of this definition.
- (3) An offense under an existing or former law of any municipality, state or of the United States, of which planting, cultivating, harvesting, processing, making, manufacturing, producing, shipping, transporting, delivering, acquiring, possessing, storing, distributing, dispensing, selling, inducing another to use, administering to another, using or otherwise dealing with a controlled substance is an element.
- (4) A conspiracy to commit, attempt to commit, or complicity in committing or attempting to commit, any offense under subsection (r)(1), (2) or (3) of this definition.
- (s) "Drug dependent person." Has the same meaning as in Ohio R.C. 3719.011.
- (t) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.011.
- (u) "Felony drug abuse offense." Any drug abuse offense that would constitute a felony under the laws of this state, any other state or the United States.
- (v) "Fentanyl-related compound." Any of the following:
- (1) Fentanyl;

- (2) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine);
- (3) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidiny]-N-phenylpropanamide);
- (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl-4-piperidiny]-N-phenylpropanamide);
- (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidiny]-N-phenylpropanamide);
- (6) 3-methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide);
- (7) 3-methylthiofentanyl (N-[3-methyl-1-[2-(thienyl)ethyl]-4-piperidiny]- phenylpropanamide);
- (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidiny]propanamide);
- (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidiny]-propanamide);
- (10) Alfentanil;
- (11) Carfentanil;
- (12) Remifentanil;
- (13) Sufentanil;
- (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidiny]-N-phenylacetamide); and
- (15) Any compound that meets all of the following fentanyl pharmacophore requirements to bind at the mu receptor, as identified by a report from an established forensic laboratory, including acetylfentanyl, furanylfentanyl, valerylfentanyl, butyrylfentanyl, isobutyrylfentanyl, 4-methoxybutyrylfentanyl, para-fluorobutyrylfentanyl, acrylfentanyl, and ortho-fluorofentanyl:
- A. A chemical scaffold consisting of both of the following:
1. A five, six, or seven member ring structure containing a nitrogen, whether or not further substituted;
 2. An attached nitrogen to the ring, whether or not that nitrogen is enclosed in a ring structure, including an attached aromatic ring or other lipophilic group to that nitrogen.
- B. A polar functional group attached to the chemical scaffold, including but not limited to a hydroxyl, ketone, amide, or ester;
- C. An alkyl or aryl substitution off the ring nitrogen of the chemical scaffold; and
- D. The compound has not been approved for medical use by the United States food and drug administration.
- (w) "Harmful intoxicant." Does not include beer or intoxicating liquor, but means any of the following:
- (1) Any compound, mixture, preparation or substance the gas, fumes or vapor of which when inhaled can induce intoxication, excitement, giddiness, irrational behavior, depression, stupefaction, paralysis, unconsciousness, asphyxiation or other harmful physiological effects, and includes but is not limited to any of the following:
 - A. Any volatile organic solvent, plastic cement, model cement, fingernail polish remover, lacquer thinner, cleaning fluid, gasoline or other preparation containing a volatile organic solvent.
 - B. Any aerosol propellant.
 - C. Any fluorocarbon refrigerant.
 - D. Any anesthetic gas.
 - (2) Gamma Butyrolactone;
 - (3) 1,4 Butanediol.
- (x) "Hashish".
- (1) A resin or a preparation of a resin to which both of the following apply:
 - A. It is contained in or derived from any part of the plant of the genus cannabis, whether in solid form or in a liquid concentrate, liquid extract, or liquid distillate form.
 - B. It has a delta-9 tetrahydrocannabinol concentration of more than 0.3%.
 - (2) The term does not include a hemp byproduct in the possession of a licensed hemp processor under Ohio R.C. Chapter 928, provided that the hemp byproduct is being produced, stored, and disposed of in accordance with rules adopted under Ohio R.C. 928.03.
- (y) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (z) "Juvenile." A person under eighteen years of age.
- (aa) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (bb) "L.S.D." Lysergic acid diethylamide.
- (cc) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
- (dd) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (ee) "Manufacture." To plant, cultivate, harvest, process, make, prepare or otherwise engage in any part of the production of a drug, by propagation, extraction, chemical synthesis or compounding, or any combination of the same, and includes packaging, repackaging, labeling and other activities incident to production.
- (ff) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (gg) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (hh) "Methamphetamine." Methamphetamine, any salt, isomer or salt of an isomer of methamphetamine, or any compound, mixture, preparation or substance containing methamphetamine or any salt, isomer or salt of an isomer of methamphetamine.
- (ii) "Minor drug possession offense." Either of the following:
- (1) A violation of Ohio R.C. 2925.11, as it existed prior to July 1, 1996, or a substantially equivalent municipal ordinance.
 - (2) A violation of Ohio R.C. 2925.11, as it exists on and after July 1, 1996, or a substantially equivalent municipal ordinance, that is a misdemeanor or a felony of the fifth degree.
- (jj) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (kk) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (ll) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
- (nn) "Possess" or "possession." Having control over a thing or substance but may not be inferred solely from mere access to the thing or substance through ownership or occupation of the premises upon which the thing or substance is found.
- (oo) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.
- (pp) "Presumption for a prison term" or "presumption that a prison term shall be imposed." A presumption as described in Ohio R.C. 2929.13(D) that a prison term is a necessary sanction for a felony in order to comply with the purposes and principles of sentencing under Ohio R.C. 2929.11.
- (qq) "Professional license." Any license, permit, certificate, registration, qualification, admission, temporary license, temporary permit, temporary certificate or temporary registration that is described in Ohio R.C. 2925.01(W)(1) to (W)(37) and that qualifies a person as a professionally licensed person.
- (rr) "Professionally licensed person." Any of the following:
- (1) A person who has received a certificate or temporary certificate as a certified public accountant or who has registered as a public accountant under Ohio R.C. Chapter 4701 and who holds an Ohio permit issued under that chapter;
 - (2) A person who holds a certificate of qualification to practice architecture issued or renewed and registered under Ohio R.C. Chapter 4703;
 - (3) A person who is registered as a landscape architect under Ohio R.C. Chapter 4703 or who holds a permit as a landscape architect issued under that chapter;

- (4) A person licensed under Ohio R.C. Chapter 4707;
 - (5) A person who has been issued a certificate of registration as a registered barber under Ohio R.C. Chapter 4709;
 - (6) A person licensed and regulated to engage in the business of a debt pooling company by a legislative authority, under authority of Ohio R.C. Chapter 4710;
 - (7) A person who has been issued a cosmetologist's license, hair designer's license, manicurist's license, esthetician's license, natural hair stylist's license, advanced cosmetologist's license, advanced hair designer's license, advanced manicurist's license, advanced esthetician's license, advanced natural hair stylist's license, cosmetology instructor's license, hair design instructor's license, manicurist instructor's license, esthetics instructor's license, natural hair style instructor's license, independent contractor's license, or tanning facility permit under Ohio R.C. Chapter 4713;
 - (8) A person who has been issued a license to practice dentistry, a general anesthesia permit, a conscious sedation permit, a limited resident's license, a limited teaching license, a dental hygienist's license or a dental hygienist's teacher's certificate under Ohio R.C. Chapter 4715;
 - (9) A person who has been issued an embalmer's license, a funeral director's license, a funeral home license or a crematory license, or who has been registered for an embalmer's or funeral director's apprenticeship under Ohio R.C. Chapter 4717;
 - (10) A person who has been licensed as a registered nurse or practical nurse, or who has been issued a certificate for the practice of nurse-midwifery under Ohio R.C. Chapter 4723;
 - (11) A person who has been licensed to practice optometry or to engage in optical dispensing under Ohio R.C. Chapter 4725;
 - (12) A person licensed to act as a pawnbroker under Ohio R.C. Chapter 4727;
 - (13) A person licensed to act as a precious metals dealer under Ohio R.C. Chapter 4728;
 - (14) A person licensed under Ohio R.C. Chapter 4729 as a pharmacist or pharmacy intern or registered under that chapter as a registered pharmacy technician, certified pharmacy technician, or pharmacy technician trainee;
 - (15) A person licensed under Ohio R.C. Chapter 4729 as a manufacturer of dangerous drugs, outsourcing facility, third-party logistics provider, repackager of dangerous drugs, wholesale distributor of dangerous drugs, or terminal distributor of dangerous drugs;
 - (16) A person who is authorized to practice as a physician assistant under Ohio R.C. Chapter 4730;
 - (17) A person who has been issued a license to practice medicine and surgery, osteopathic medicine and surgery, or podiatric medicine and surgery under Ohio R.C. Chapter 4731 or has been issued a certificate to practice a limited branch of medicine under that chapter;
 - (18) A person licensed as a psychologist or school psychologist under Ohio R.C. Chapter 4732;
 - (19) A person registered to practice the profession of engineering or surveying under Ohio R.C. Chapter 4733;
 - (20) A person who has been issued a license to practice chiropractic under Ohio R.C. Chapter 4734;
 - (21) A person licensed to act as a real estate broker or real estate salesperson under Ohio R.C. Chapter 4735;
 - (22) A person registered as a registered environmental health specialist under Ohio R.C. Chapter 4736;
 - (23) A person licensed to operate or maintain a junkyard under Ohio R.C. Chapter 4737;
 - (24) A person who has been issued a motor vehicle salvage dealer's license under Ohio R.C. Chapter 4738;
 - (25) A person who has been licensed to act as a steam engineer under Ohio R.C. Chapter 4739;
 - (26) A person who has been issued a license or temporary permit to practice veterinary medicine or any of its branches, or who is registered as a graduate animal technician under Ohio R.C. Chapter 4741;
 - (27) A person who has been issued a hearing aid dealer's or fitter's license or trainee permit under Ohio R.C. Chapter 4747;
 - (28) A person who has been issued a class A, class B or class C license or who has been registered as an investigator or security guard employee under Ohio R.C. Chapter 4749;
 - (29) A person licensed to practice as a nursing home administrator under Ohio R.C. Chapter 4751;
 - (30) A person licensed to practice as a speech-language pathologist or audiologist under Ohio R.C. Chapter 4753;
 - (31) A person issued a license as an occupational therapist or physical therapist under Ohio R.C. Chapter 4755;
 - (32) A person who is licensed as a licensed professional clinical counselor, licensed professional counselor, social worker, independent social worker, independent marriage and family therapist, or marriage and family therapist, or registered as a social work assistant under Ohio R.C. Chapter 4757;
 - (33) A person issued a license to practice dietetics under Ohio R.C. Chapter 4759;
 - (34) A person who has been issued a license or limited permit to practice respiratory therapy under Ohio R.C. Chapter 4761;
 - (35) A person who has been issued a real estate appraiser certificate under Ohio R.C. Chapter 4763;
 - (36) A person who has been issued a home inspector license under Ohio R.C. Chapter 4764;
 - (37) A person who has been admitted to the bar by order of the Ohio Supreme Court in compliance with its prescribed and published rules.
- (ss) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (tt) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (uu) "Sample drug." A drug or pharmaceutical preparation that would be hazardous to health or safety if used without the supervision of a licensed health professional authorized to prescribe drugs, or a drug of abuse, and that, at one time, had been placed in a container plainly marked as a sample by a manufacturer.
- (vv) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (ww) "School." Any school operated by a board of education, any community school established under Ohio R.C. Chapter 3314, or any nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, whether or not any instruction, extracurricular activities or training provided by the school is being conducted at the time a criminal offense is committed.
- (xx) "School building." Any building in which any of the instruction, extracurricular activities or training provided by a school is conducted, whether or not any instruction, extracurricular activities or training provided by the school is being conducted in the school building at the time a criminal offense is committed.
- (yy) "School premises." Either of the following:
- (1) The parcel of real property on which any school is situated, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the premises at the time a criminal offense is committed.
 - (2) Any other parcel of real property that is owned or leased by a board of education of a school, the governing authority of a community school established under Ohio R.C. Chapter 3314, or the governing body of a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and on which some of the instruction, extracurricular activities or training of the school is conducted, whether or not any instruction, extracurricular activities, or training provided by the school is being conducted on the parcel of real property at the time a criminal offense is committed.
- (zz) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (aaa) "Unit dose." An amount or unit or a compound, mixture or preparation containing a controlled substance that is separately identifiable and in a form that indicates that it is the amount or unit by which the controlled substance is separately

- administered to or taken by an individual.
(bbb) "Wholesaler." Has the same meaning as in Ohio R.C. 3719.01.
(ORC 2925.01)

513.02 GIFT OF MARIHUANA.

- (a) No person shall knowingly give or offer to make a gift of twenty grams or less of marihuana.
(b) Whoever violates this section is guilty of trafficking in marihuana. Trafficking in marihuana is a minor misdemeanor for the first offense and, for any subsequent offense, it is a misdemeanor of the third degree. If the offense was committed in the vicinity of a school or the vicinity of a juvenile, trafficking in marihuana is a misdemeanor of the third degree.
(c) The court may by order suspend for not more than five years the driver's or commercial driver's license or permit of any person who is convicted of or pleads guilty to any violation of this section. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit in accordance with Ohio R.C. 2925.03(G). If an offender's driver's or commercial driver's license or permit is suspended pursuant to this subsection, the offender, at any time after the expiration of two years from the day on which the offender's sentence was imposed, may file a motion with the sentencing court requesting termination of the suspension; upon the filing of such a motion and the court's finding of good cause for the termination, the court may terminate the suspension.
(ORC 2925.03)

513.03 DRUG ABUSE; CONTROLLED SUBSTANCE POSSESSION OR USE.

- (a) No person shall knowingly obtain, possess or use a controlled substance or a controlled substance analog.
(b) (1) This section does not apply to the following:
A. Manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.
B. If the offense involves an anabolic steroid, any person who is conducting or participating in a research project involving the use of an anabolic steroid if the project has been approved by the United States Food and Drug Administration;
C. Any person who sells, offers for sale, prescribes, dispenses or administers for livestock or other nonhuman species an anabolic steroid that is expressly intended for administration through implants to livestock or other nonhuman species and approved for that purpose under the "Federal Food, Drug and Cosmetic Act", 52 Stat. 1040 (1938), 21 U.S.C.A. 301, as amended, and is sold, offered for sale, prescribed, dispensed or administered for that purpose in accordance with that Act;
D. Any person who obtained the controlled substance pursuant to a prescription issued by a licensed health professional authorized to prescribe drugs if the prescription was issued for a legitimate medical purpose and not altered, forged or obtained through deception or commission of a theft offense.

As used in subsection (b)(1)D. of this section, "deception" and "theft offense" have the same meanings as in Ohio R.C. 2913.01.

- (2) A. As used in subsection (b)(2) of this section:
1. "Community addiction services provider" has the same meaning as in Ohio R.C. 5119.01.
2. "Community control sanction" and "drug treatment program" have the same meanings as in Ohio R.C. 2929.01.
3. "Health care facility" has the same meaning as in Ohio R.C. 2919.16.
4. "Minor drug possession offense" means a violation of this section that is a misdemeanor or a felony of the fifth degree.
5. "Post-release control sanction" has the same meaning as in Ohio R.C. 2967.28.
6. "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
7. "Public agency" has the same meaning as in Ohio R.C. 2930.01.
8. "Qualified individual" means a person who is not on community control or post-release control and is a person acting in good faith who seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person who experiences a drug overdose and who seeks medical assistance for that overdose, or a person who is the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
9. "Seek or obtain medical assistance" includes, but is not limited to making a 9-1-1 call, contacting in person or by telephone call an on-duty peace officer, or transporting or presenting a person to a health care facility.
B. Subject to subsection (b)(2)F. of this section, a qualified individual shall not be arrested, charged, prosecuted, convicted or penalized pursuant to this chapter for a minor drug possession offense if all of the following apply:
1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog that would be the basis of the offense was obtained as a result of the qualified individual seeking the medical assistance or experiencing an overdose and needing medical assistance.
2. Subject to subsection (b)(2)G. of this section, within thirty days after seeking or obtaining the medical assistance, the qualified individual seeks and obtains a screening and receives a referral for treatment from a community addiction services provider or a properly credentialed addiction treatment professional.
3. Subject to subsection (b)(2)G. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.1. of this section, upon the request of any prosecuting attorney, submits documentation to the prosecuting attorney that verifies that the qualified individual satisfied the requirements of that subsection. The documentation shall be limited to the date and time of the screening obtained and referral received.
C. If a person is found to be in violation of any community control sanction and if the violation is a result of either of the following, the court shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.13, 2929.15, or 2929.25, whichever is applicable, after which the court has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor

specified in any of those applicable sections:

1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 2. Experiencing a drug overdose and seeking medical assistance for that overdose or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- D. If a person is found to be in violation of any post-release control sanction and if the violation is a result of either of the following, the court or the parole board shall first consider ordering the person's participation or continued participation in a drug treatment program or mitigating the penalty specified in Ohio R.C. 2929.141 or 2967.28, whichever is applicable, after which the court or the parole board has the discretion either to order the person's participation or continued participation in a drug treatment program or to impose the penalty with the mitigating factor specified in either of those applicable sections:
1. Seeking or obtaining medical assistance in good faith for another person who is experiencing a drug overdose;
 2. Experiencing a drug overdose and seeking medical assistance for that emergency or being the subject of another person seeking or obtaining medical assistance for that overdose as described in subsection (b)(2)B. of this section.
- E. Nothing in subsection (b)(2)B. of this section shall be construed to do any of the following:
1. Limit the admissibility of any evidence in connection with the investigation or prosecution of a crime with regards to a defendant who does not qualify for the protections of subsection (b)(2)B. of this section or with regards to any crime other than a minor drug possession offense committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section for a minor drug possession offense;
 2. Limit any seizure of evidence or contraband otherwise permitted by law;
 3. Limit or abridge the authority of a peace officer to detain or take into custody a person in the course of an investigation or to effectuate an arrest for any offense except as provided in that division;
 4. Limit, modify or remove any immunity from liability available pursuant to law in effect prior to the effective date of this amendment to any public agency or to an employee of any public agency.
- F. Subsection (b)(2)B. of this section does not apply to any person who twice previously has been granted an immunity under subsection (b)(2)B. of this section. No person shall be granted an immunity under subsection (b)(2)B. of this section more than two times.
- G. Nothing in this section shall compel any qualified individual to disclose protected health information in a way that conflicts with the requirements of the "Health Insurance Portability and Accountability Act of 1996", 104 Pub. L. No. 191, 110 Stat. 2021, 42 U.S.C. 1320d et seq., as amended, and regulations promulgated by the United States Department of Health and Human Services to implement the act or the requirements of 42 C.F.R. Part 2.
- (c) Whoever violates subsection (a) hereof is guilty of one of the following:
- (1) If the drug involved in the violation is a compound, mixture, preparation, or substance included in Schedule III, IV, or V, whoever violates subsection (a) hereof is guilty of possession of drugs. Possession of drugs is a misdemeanor if the amount of the drug involved does not exceed the bulk amount. The penalty for the offense shall be determined as follows: possession of drugs is a misdemeanor of the first degree or, if the offender previously has been convicted of a drug abuse offense, a felony and shall be prosecuted under appropriate State law.
 - (2) If the drug involved in the violation is marihuana or a compound, mixture, preparation, or substance containing marihuana other than hashish, whoever violates subsection (a) hereof is guilty of possession of marihuana. Possession of marihuana is a misdemeanor if the amount of the drug involved does not exceed 200 grams. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(2)B. hereof, possession of marihuana is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds 100 grams but is less than 200 grams, possession of marihuana is a misdemeanor of the fourth degree.
 - (3) If the drug involved in the violation is hashish or a compound, mixture, preparation, or substance containing hashish, whoever violates subsection (a) hereof is guilty of possession of hashish. Possession of hashish is a misdemeanor if the amount of the drug involved does not exceed the maximum amount specified in subsection (c)(3)B. hereof. The penalty for the offense shall be determined as follows:
 - A. Except as otherwise provided in subsection (c)(3)B. hereof, possession of hashish is a minor misdemeanor.
 - B. If the amount of the drug involved equals or exceeds five grams but is less than ten grams of hashish in a solid form or equals or exceeds one gram but is less than two grams of hashish in a liquid concentrate, liquid extract, or liquid distillate form, possession of hashish is a misdemeanor of the fourth degree.
- (d) In addition to any other sanction that is imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.
- (e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.

(ORC 2925.11)

513.04 POSSESSING DRUG ABUSE INSTRUMENTS.

(a) No person shall knowingly make, obtain, possess or use any instrument, article or thing the customary and primary purpose of which is for the administration or use of a dangerous drug, other than marihuana, when the instrument involved is a hypodermic or syringe, whether or not of crude or extemporized manufacture or assembly, and the instrument, article or thing involved has been used by

the offender to unlawfully administer or use a dangerous drug, other than marihuana, or to prepare a dangerous drug, other than marihuana, for unlawful administration or use.

(b) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct was in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731 and 4741.

(c) Whoever violates this section is guilty of possessing drug abuse instruments, a misdemeanor of the second degree. If the offender previously has been convicted of a drug abuse offense, violation of this section is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(ORC 2925.12)

513.05 PERMITTING DRUG ABUSE.

(a) No person, who is the owner, operator or person in charge of a locomotive, watercraft, aircraft or other vehicle as defined in Ohio R.C. 4501.01(A), shall knowingly permit the vehicle to be used for the commission of a felony drug abuse offense.

(b) No person, who is the owner, lessee or occupant, or who has custody, control or supervision of premises, or real estate, including vacant land, shall knowingly permit the premises, or real estate, including vacant land, to be used for the commission of a felony drug abuse offense by another person.

(c) Whoever violates this section is guilty of permitting drug abuse, a misdemeanor of the first degree. If the felony drug abuse offense in question is a violation of Ohio R.C. 2925.02, 2925.03, 2925.04 or 2925.041 as provided in Ohio R.C. 2925.13, permitting drug abuse is a felony and shall be prosecuted under appropriate State law.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences a person who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(e) Any premises or real estate that is permitted to be used in violation of subsection (b) hereof constitutes a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767.

(ORC 2925.13)

513.06 ILLEGAL CULTIVATION OF MARIHUANA.

(a) No person shall knowingly cultivate marihuana.

(b) This section does not apply to any person listed in Ohio R.C. 2925.03(B)(1) to (3) to the extent and under the circumstances described in those divisions.

(c) Whoever commits a violation of subsection (a) hereof is guilty of illegal cultivation of marihuana. Illegal cultivation of marihuana is a misdemeanor if the amount of marihuana involved does not exceed 200 grams.

(1) Except as otherwise provided in subsection (c)(2) hereof, illegal cultivation of marihuana is a minor misdemeanor, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the fourth degree.

(2) If the amount of marihuana involved equals or exceeds 100 grams but is less than 200 grams, illegal cultivation of marihuana is a misdemeanor of the fourth degree, or if the offense was committed in the vicinity of a school or in the vicinity of a juvenile, a misdemeanor of the third degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend the offender's driver's or commercial driver's license or permit in accordance with division (G) of Ohio R.C. 2925.03. If an offender's driver's or commercial driver's license or permit is suspended in accordance with that division, the offender may request termination of, and the court may terminate, the suspension in accordance with that division.

(e) Arrest or conviction for a minor misdemeanor violation of this section does not constitute a criminal record and need not be reported by the person so arrested or convicted in response to any inquiries about the person's criminal record, including any inquiries contained in an application for employment, a license, or any other right or privilege or made in connection with the person's appearance as a witness. (ORC 2925.04)

513.07 POSSESSING OR USING HARMFUL INTOXICANTS.

(a) Except for lawful research, clinical, medical, dental or veterinary purposes, no person, with purpose to induce intoxication or similar physiological effects, shall obtain, possess or use a harmful intoxicant.

(b) Whoever violates this section is guilty of abusing harmful intoxicants, a misdemeanor of the first degree. If the offender previously has been convicted of a drug abuse offense, abusing harmful intoxicants is a felony and shall be prosecuted under appropriate State law.

(c) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(ORC 2925.31)

513.08 ILLEGALLY DISPENSING DRUG SAMPLES.

(a) No person shall knowingly furnish another a sample drug.

(b) Subsection (a) hereof does not apply to manufacturers, wholesalers, pharmacists, owners of pharmacies, licensed health professionals authorized to prescribe drugs, and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715,

4729, 4730, 4731, and 4741.

(c) Whoever violates this section is guilty of illegal dispensing of drug samples. If the drug involved in the offense is a dangerous drug or a compound, mixture, preparation, or substance included in Schedule III, IV, or V, or is marijuana, the penalty for the offense shall be determined as follows:

- (1) Except as otherwise provided in subsection (c)(2) hereof, illegal dispensing of drug samples is a misdemeanor of the second degree.
- (2) If the offense was committed in the vicinity of a school or in the vicinity of a juvenile, illegal dispensing of drug samples is a misdemeanor of the first degree.

(d) In addition to any other sanction imposed for an offense under this section, the court that sentences an offender who is convicted of or pleads guilty to a violation of this section may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. (ORC 2925.36)

513.09 CONTROLLED SUBSTANCE OR PRESCRIPTION LABELS.

(a) As used in this section, "repackager" and "outsourcing facility" have the same meanings as in ORC 4729.01.

Whenever a manufacturer sells a controlled substance, and whenever a wholesaler, repackager, or outsourcing facility sells a controlled substance in a package the wholesaler, repackager or outsourcing facility has prepared, the manufacturer or the wholesaler, repackager or outsourcing facility, as the case may be, shall securely affix to each package in which the controlled substance is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of controlled substance contained therein. No person, except a pharmacist for the purpose of dispensing a controlled substance upon a prescription shall alter, deface or remove any label so affixed.

(b) Except as provided in subsection (c) of this section, when a pharmacist dispenses any controlled substance on a prescription for use by a patient, or supplies a controlled substance to a licensed health professional authorized to prescribe drugs for use by the professional in personally furnishing patients with controlled substances, the pharmacist shall affix to the container in which the controlled substance is dispensed or supplied a label showing the following:

- (1) The name and address of the pharmacy dispensing or supplying the controlled substance;
- (2) The name of the patient for whom the controlled substance is prescribed and, if the patient is an animal, the name of the owner and the species of the animal;
- (3) The name of the prescriber;
- (4) All directions for use stated on the prescription or provided by the prescriber;
- (5) The date on which the controlled substance was dispensed or supplied;
- (6) The name, quantity and strength of the controlled substance and, if applicable, the name of the distributor or manufacturer.

(c) The requirements of subsection (b) of this section do not apply when a controlled substance is prescribed or supplied for administration to an ultimate user who is institutionalized.

(d) A licensed health professional authorized to prescribe drugs who personally furnishes a controlled substance to a patient shall comply with division (A) of ORC 4729.291 with respect to labeling and packaging of the controlled substance.

(e) No person shall alter, deface, or remove any label affixed pursuant to this section as long as any of the original contents remain.

(f) Every label for a schedule II, III or IV controlled substance shall contain the following warning:

"Caution: federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed". (ORC 3719.08)

(g) Whoever violates this section is guilty of a misdemeanor of the first degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.07 or 3719.08 or a drug abuse offense, such violation is a felony and shall be prosecuted under appropriate State law. (ORC 3719.99)

513.10 HYPODERMIC POSSESSION, DISPLAY AND DISPENSING.

(a) Possession of a hypodermic is authorized for the following:

- (1) A manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, and any authorized agent or employee of that manufacturer, distributor or dealer, in the regular course of business;
- (2) Terminal distributor of dangerous drugs, in the regular course of business;
- (3) A person authorized to administer injections, in the regular course of the person's profession or employment;
- (4) A person, when the hypodermic was lawfully obtained and is kept and used for the purpose of self-administration of insulin or other drug prescribed for the treatment of disease by a licensed health professional authorized to prescribe drugs;
- (5) A person whose use of a hypodermic is for legal research, clinical, educational or medicinal purposes;
- (6) A farmer, for the lawful administration of a drug to an animal;
- (7) A person whose use of a hypodermic is for lawful professional, mechanical, trade or craft purposes.

(b) No manufacturer or distributor of, or dealer in, hypodermics or medication packaged in hypodermics, or their authorized agents or employees, and no terminal distributor of dangerous drugs, shall display any hypodermic for sale. No person authorized to possess a hypodermic pursuant to division (a) of this section shall negligently fail to take reasonable precautions to prevent any hypodermic in the person's possession from theft or acquisition by any unauthorized person.

(ORC 3719.172)

(c) Whoever violates this section is guilty of a misdemeanor of the third degree. If the offender has previously been convicted of a violation of this section, Ohio R.C. 3719.05, 3719.06, 3719.13, 3719.172(B) or (E), or 3719.31 or a drug abuse offense, a violation is a misdemeanor of the first degree.

(ORC 3719.99)

513.11 HARMFUL INTOXICANTS; POSSESSING NITROUS OXIDE IN MOTOR VEHICLE.

(a) As used in this section, "motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(b) Unless authorized under Ohio R.C. Chapter 3719, 4715, 4729, 4731, 4741 or 4765, no person shall possess an open cartridge of

nitrous oxide in either of the following circumstances:

- (1) While operating or being a passenger in or on a motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking;
 - (2) While being in or on a stationary motor vehicle on a street, highway, or other public or private property open to the public for purposes of vehicular traffic or parking.
- (c) Whoever violates this section is guilty of possessing nitrous oxide in a motor vehicle, a misdemeanor of the fourth degree.
- (d) In addition to any other sanction imposed upon an offender for possessing nitrous oxide in a motor vehicle, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit.
- (ORC 2925.33)

513.12 DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" means any equipment, product or material of any kind that is used by the offender, intended by the offender for use or designed for use, in propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body, a controlled substance in violation of this chapter or Ohio R.C. Chapter 2925. "Drug paraphernalia" includes, but is not limited to, any of the following equipment, products or materials that are used by the offender, intended by the offender for use or designated by the offender for use, in any of the following manners:

- (1) A kit for propagating, cultivating, growing or harvesting any species of a plant that is a controlled substance or from which a controlled substance can be derived;
 - (2) A kit for manufacturing, compounding, converting, producing, processing or preparing a controlled substance;
 - (3) Any object, instrument, or device for manufacturing, compounding, converting, producing, processing, or preparing methamphetamine;
 - (4) An isomerization device for increasing the potency of any species of a plant that is a controlled substance;
 - (5) Testing equipment for identifying, or analyzing the strength, effectiveness or purity of, a controlled substance;
 - (6) A scale or balance for weighing or measuring a controlled substance;
 - (7) A diluent or adulterant, such as quinine hydrochloride, mannitol, mannite, dextrose or lactose, for cutting a controlled substance;
 - (8) A separation gin or sifter for removing twigs and seeds from, or otherwise cleaning or refining, marihuana;
 - (9) A blender, bowl, container, spoon or mixing device for compounding a controlled substance;
 - (10) A capsule, balloon, envelope or container for packaging small quantities of a controlled substance;
 - (11) A container or device for storing or concealing a controlled substance;
 - (12) A hypodermic syringe, needle or instrument for parenterally injecting a controlled substance into the human body;
 - (13) An object, instrument or device for ingesting, inhaling or otherwise introducing into the human body, marihuana, cocaine, hashish or hashish oil, such as a metal, wooden, acrylic, glass, stone, plastic or ceramic pipe, with or without a screen, permanent screen, hashish head or punctured metal bowl; water pipe; carburetion tube or device; smoking or carburetion mask; roach clip or similar object used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand; miniature cocaine spoon, or cocaine vial; chamber pipe; carburetor pipe; electric pipe; air driver pipe; chillum; bong; or ice pipe or chiller.
- (b) In determining if any equipment, product or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, the following:
- (1) Any statement by the owner, or by anyone in control, of the equipment, product or material, concerning its use;
 - (2) The proximity in time or space of the equipment, product or material, or of the act relating to the equipment, product or material, to a violation of any provision of this chapter or Ohio R.C. Chapter 2925;
 - (3) The proximity of the equipment, product or material to any controlled substance;
 - (4) The existence of any residue of a controlled substance on the equipment, product or material;
 - (5) Direct or circumstantial evidence of the intent of the owner, or of anyone in control, of the equipment, product or material, to deliver it to any person whom the owner or person in control of the equipment, product or material knows intends to use the object to facilitate a violation of any provision of this chapter or Ohio R.C. Chapter 2925. A finding that the owner, or anyone in control, of the equipment, product or material, is not guilty of a violation of any other provision of this chapter or Ohio R.C. Chapter 2925, does not prevent a finding that the equipment, product or material was intended or designed by the offender for use as drug paraphernalia;
 - (6) Any oral or written instruction provided with the equipment, product or material concerning its use;
 - (7) Any descriptive material accompanying the equipment, product or material and explaining or depicting its use;
 - (8) National or local advertising concerning the use of the equipment, product or material;
 - (9) The manner and circumstances in which the equipment, product or material is displayed for sale;
 - (10) Direct or circumstantial evidence of the ratio of the sales of the equipment, product or material to the total sales of the business enterprise;
 - (11) The existence and scope of legitimate uses of the equipment, product or material in the community;
 - (12) Expert testimony concerning the use of the equipment, product or material.
- (c) (1) Subject to subsection (d)(2) of this section, no person shall knowingly use, or possess with purpose to use, drug paraphernalia.
- (2) No person shall knowingly sell, or possess or manufacture with purpose to sell, drug paraphernalia, if the person knows or reasonably should know that the equipment, product or material will be used as drug paraphernalia.
- (3) No person shall place an advertisement in any newspaper, magazine, handbill or other publication that is published and printed and circulates primarily within this State, if the person knows that the purpose of the advertisement is to promote the illegal sale in the State of the equipment, product or material that the offender intended or designed for use as drug paraphernalia.
- (d) (1) This section does not apply to manufacturers, licensed health professionals authorized to prescribe drugs, pharmacists, owners of pharmacies and other persons whose conduct is in accordance with Ohio R.C. Chapters 3719, 4715, 4729, 4730, 4731, and 4741. This section shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

(2) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(e) Notwithstanding Ohio R.C. Chapter 2981, any drug paraphernalia that was used, possessed, sold or manufactured in violation of this section shall be seized, after a conviction for that violation shall be forfeited, and upon forfeiture shall be disposed of pursuant to Ohio R.C. 2981.12.

(f) (1) Whoever violates subsection (c)(1) hereof is guilty of illegal use or possession of drug paraphernalia, a misdemeanor of the fourth degree.

(2) Except as provided in subsection (f)(3) hereof, whoever violates subsection (c)(2) hereof is guilty of dealing in drug paraphernalia, a misdemeanor of the second degree.

(3) Whoever violates subsection (c)(2) hereof by selling drug paraphernalia to a juvenile is guilty of selling drug paraphernalia to juveniles, a misdemeanor of the first degree.

(4) Whoever violates subsection (c)(3) hereof is guilty of illegal advertising of drug paraphernalia, a misdemeanor of the second degree.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

(ORC 2925.14)

513.121 MARIHUANA DRUG PARAPHERNALIA.

(a) As used in this section, "drug paraphernalia" has the same meaning as in Section 513.12.

(b) In determining if any equipment, product, or material is drug paraphernalia, a court or law enforcement officer shall consider, in addition to other relevant factors, all factors identified in subsection (b) of Section 513.12.

(c) No person shall knowingly use, or possess with purpose to use, any drug paraphernalia that is equipment, a product, or material of any kind that is used by the person, intended by the person for use, or designed for use in storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body marihuana.

(d) This section does not apply to any person identified in subsection (d)(1) of Section 513.12 and it shall not be construed to prohibit the possession or use of a hypodermic as authorized by Section 513.10.

(e) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.

(f) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.

(g) In addition to any other sanction imposed upon an offender for a violation of this section, the court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years. If the offender is a professionally licensed person, in addition to any other sanction imposed for a violation of this section, the court immediately shall comply with Ohio R.C. 2925.38.

(ORC 2925.141)

513.13 COUNTERFEIT CONTROLLED SUBSTANCES.

(a) No person shall knowingly possess any counterfeit controlled substance.

(b) Whoever violates this section is guilty of possession of counterfeit controlled substances, a misdemeanor of the first degree.

(ORC 2925.37)

(c) The court may suspend for not more than five years the offender's driver's or commercial driver's license or permit. However, if the offender pleaded guilty to or was convicted of a violation of Ohio R.C. 4511.19 or a substantially similar municipal ordinance or the law of another state or the United States arising out of the same set of circumstances as the violation, the court shall suspend the offender's driver's or commercial driver's license or permit for not more than five years.

(ORC 2925.37)

513.14 OFFENDER MAY BE REQUIRED TO PAY FOR CONTROLLED SUBSTANCE TESTS.

In addition to the financial sanctions authorized or required under Ohio R.C. 2929.18 and 2929.28 and to any costs otherwise authorized or required under any provision of law, the court imposing sentence upon an offender who is convicted of or pleads guilty to a drug abuse offense may order the offender to pay to the state, municipal, or county law enforcement agencies that handled the investigation and prosecution all of the costs that the state, municipal corporation, or county reasonably incurred in having tests performed under Ohio R.C. 2925.51, or in any other manner on any substance that was the basis of, or involved in, the offense to determine whether the substance contained any amount of a controlled substance if the results of the tests indicate that the substance tested contained any controlled substance. No court shall order an offender under this section to pay the costs of tests performed on a substance if the results of the tests do not indicate that the substance tested contained any controlled substance.

The court shall hold a hearing to determine the amount of costs to be imposed under this section. The court may hold the hearing as

part of the sentencing hearing for the offender.
(ORC 2925.511)

513.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 515

Felon Registration

515.01 Report required.

515.02 Content of report.

515.03 Photograph; fingerprints.

515.04 Change of residence in the City.

515.05 Change of residence to outside the City.

515.06 Removal of reports.

515.07 Inspection of reports.

515.08 Pardoned crimes.

515.99 Penalty.

CROSS REFERENCES

Obstructing official business - see GEN. OFF. 525.07

Carrying concealed weapon - see GEN. OFF. 549.02

515.01 REPORT REQUIRED.

No person who takes up residence in the City who has been convicted on two or more separate occasions in any court of any state of a crime which is a felony under the laws of the United States government or which, if committed in the State, would have been a felony under the laws of the State and who has been incarcerated for such a crime at any time during the preceding five years, shall knowingly fail to report as required in Section 515.02

(Ord. 36-82. Passed 10-11-82.)

515.02 CONTENT OF REPORT.

Every person described in Section 515.01 shall report to the Bureau of Identification of the Police Department, within one week after taking up residence in the City, in a written statement on a form provided by the Bureau of Identification and signed by such person, the true name of such person and every other name or alias by which such person is or has been known, a full and complete physical description of himself, the name of each crime described in Section 515.01 of which he shall have been convicted, together with the name of the place where such crime was committed, the name under which he was convicted, and the year of the conviction therefor, the address of his residence in the City and the date of his most recent release from incarceration for the commission of a crime described in Section 515.01.

(Ord. 36-82. Passed 10-11-82.)

515.03 PHOTOGRAPH; FINGERPRINTS.

At the time of furnishing the information required by Section 515.02, such person shall be photographed and fingerprinted by the Bureau of Identification and such photograph and fingerprints shall be made a part of the records of the Police Department.

(Ord. 36-82. Passed 10-11-82.)

515.04 CHANGE OF RESIDENCE IN THE CITY.

No person described in Section 515.01, upon changing his place of residence in the City, shall knowingly fail, within thirty-one days after so changing his residence, to notify the Bureau of Identification of the Police Department, in a written statement on a form provided by the Bureau of Identification and signed by such person, of such change of address and the new address of his residence in the City.

(Ord. 36-82. Passed 10-11-82.)

515.05 CHANGE OF RESIDENCE TO OUTSIDE THE CITY.

No person described in Section 515.01, upon removing his place of residence from the City, shall knowingly fail, within thirty-one days after removing his place of residence from the City, to notify the Bureau of Identification of the Police Department, that he has removed his place of residence from the City.

(Ord. 36-82. Passed 10-11-82.)

515.06 REMOVAL OF REPORTS.

Five years after the most recent release from incarceration for a crime described in Section 515.01 of any person described in Section 515.01, the Bureau of Identification of the Police Department, shall remove from its files and destroy all reports, records, photographs and fingerprints of such person taken or received pursuant to this section.

(Ord. 36-82. Passed 10-11-82.)

515.07 INSPECTION OF REPORTS.

All reports, records, photographs and fingerprints taken pursuant to this chapter shall be the private records of the Police Department, open to the inspection only by City or police officers, or persons having official duties to perform in connection therewith. No person having access to such records shall disclose to any other person, other than in the regular discharge of his duties, any information contained therein.

(Ord. 36-82. Passed 10-11-82.)

515.08 PARDONED CRIMES.

Nothing in this chapter shall be deemed or construed to apply to any person who has received a pardon for each such crime of which he was convicted.

(Ord. 36-82. Passed 10-11-82.)

515.99 PENALTY.

Whoever violates any provision of this chapter is guilty of failure to register as a felon, a second degree misdemeanor.

(Ord. 36-82. Passed 10-11-82.)

CHAPTER 517

Gambling

517.01 Definitions.

517.02 Gambling.

517.03 Operating a gambling house.

517.04 Public gaming.

517.05 Cheating.

517.06 Methods of conducting a bingo game; prohibitions.

517.07 Instant bingo conduct.

517.08 Raffles.

517.09 Charitable instant bingo organizations.

517.10 Location of instant bingo.

517.11 Bingo or game of chance records.

517.12 Bingo operator prohibitions.

517.13 Bingo exceptions.

517.14 Instant bingo conduct by a veteran's or fraternal organization.

517.15 Skill-based amusement machines.

517.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Lotteries prohibited; exception - see Ohio Const., Art. XV, Sec. 6

Contributing to delinquency of minors - see Ohio R.C. 2151.41

Search warrants - see Ohio R.C. 2933.21(E)

Licensing charitable bingo games - see Ohio R.C. 2915.08

517.01 DEFINITIONS.

As used in this chapter:

- (a) "Bookmaking" means the business of receiving or paying off bets.
- (b) "Bet" means the hazarding of anything of value upon the result of an event, undertaking or contingency, but does not include a bona fide business risk.
- (c) "Scheme of chance" means a slot machine unless authorized under Ohio R.C. Chapter 3772, lottery unless authorized under Ohio R.C. Chapter 3770, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit. "Scheme of chance" includes the use of an electronic device to reveal the results of a game entry if valuable consideration is paid, directly or indirectly, for a chance to win a prize. Valuable consideration is deemed to be paid for a chance to win a prize in the following instances:
 - (1) Less than fifty percent of the goods or services sold by a scheme of chance operator in exchange for game entries are used or redeemed by participants at any one location;
 - (2) Less than fifty percent of participants who purchase goods or services at any one location do not accept, use or redeem the goods or services sold or purportedly sold;
 - (3) More than fifty percent of prizes at any one location are revealed to participants through an electronic device simulating a game of chance or a "casino game" as defined in Ohio R.C. 3772.01;
 - (4) The good or service sold by a scheme of chance operator in exchange for a game entry cannot be used or redeemed in the manner advertised;
 - (5) A participant pays more than fair market value for goods or services offered by a scheme of chance operator in order to receive one or more game entries;
 - (6) A participant may use the electronic device to purchase additional game entries;
 - (7) A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
 - (8) A scheme of chance operator pays out in prize money more than twenty percent of the gross revenue received at one location; or
 - (9) A participant makes a purchase or exchange in order to obtain any good or service that may be used to facilitate play on the electronic device.

As used in this subsection, "electronic device" means a mechanical, video, digital or electronic machine or device that is capable of displaying information on a screen or other mechanism and that is owned, leased or otherwise possessed by any person conducting a scheme of chance, or by that person's partners, affiliates, subsidiaries or contractors.

(d) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(e) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(f) "Gambling device" means any of the following:

- (1) A book, totalizer or other equipment for recording bets;
 - (2) A ticket, token or other device representing a chance, share or interest in a scheme of chance or evidencing a bet;
 - (3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;
 - (4) Any equipment, device, apparatus or paraphernalia specially designed for gambling purposes;
 - (5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.
- (g) "Gambling offense" means the following:

- (1) A violation of Ohio R.C. 2915.02 to 2915.092, 2915.10 or 2915.11;
- (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (g)(1) hereof or a violation of Ohio R.C. 2915.06 as it existed prior to July 1, 1996;
- (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;
- (4) A conspiracy or attempt to commit, or complicity in committing an offense under subsection (g)(1), (2) or (3) hereof.

(h) Except as otherwise provided in this chapter, "charitable organization" means either of the following:

- (1) An organization that is and has received from the Internal Revenue Service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
- (2) A volunteer rescue service organization, volunteer firefighter's organization, veteran's organization, fraternal organization, or sporting organization that is exempt from federal, income taxation under subsection 501(c)(4), (c)(7), (c)(8), (c)(10) or (c)(19) of the Internal Revenue Code.

To qualify as a charitable organization, an organization shall have been in continuous existence as such in this State for a period of two years immediately preceding either the making of an application for a bingo license under Ohio R.C. 2915.08 or the conducting of any game of chance as provided in division (D) of Ohio R.C. 2915.02.

(i) "Religious organization" means any church, body of communicants or group that is not organized or operated for profit, that gathers in common membership for regular worship and religious observances.

(j) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit is incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this subsection, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.

(k) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Ohio R.C. 146.01, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

(l) "Fraternal organization" means any society, order, state headquarters, or association within this State, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge or chapter of a national or state organization, that exists exclusively for the common business of sodality of its members.

(m) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization as defined in Ohio R.C. 4765.01.

(n) "Charitable bingo game" means any bingo game described in subsection (o)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license pursuant to Ohio R.C. 2915.08 and the proceeds of which are used for a charitable purpose.

(o) "Bingo" means either of the following:

- (1) A game with all of the following characteristics:
 - A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.
 - B. The participants cover the space on the bingo cards or sheets that correspond to combinations of letters and numbers that are announced by a bingo game operator.
 - C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.
 - D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in subsection (o)(1)C. hereof, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by a participant.

(2) Instant bingo, punch boards and raffles.

(p) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance, a scheme of chance, or a sweepstakes.

(q) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

(r) "Participant" means any person who plays bingo.

(s) "Bingo session" means a period that includes both of the following:

- (1) Not to exceed five continuous hours for the conduct of one or more games described in subsection (o)(1) of this section, instant bingo, and seal cards;
- (2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in subsection (s)(1) of this section.

(t) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

- (1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.
- (2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.
- (3) The food and beverages are sold at customary and reasonable prices.

(u) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or a police officer of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 to 109.79 and who is hired to provide security for the premises on which bingo is conducted.

(v) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

- (1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - (2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five percent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of Ohio R.C. 5739.02, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of Ohio R.C. 5739.02, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;
- (3) A fraternal organization that has been in continuous existence in this State for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in subsection (k) of this section.

(w) "Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.

(x) "Youth athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association.

(y) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates and maintains playing fields that satisfy both of the following:

- A. The playing fields are used at least one hundred days per year for athletic activities by one or more organizations not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating or contributing to the support of an athletic team, club, league or association;
- B. The playing fields are not used for any profit-making activity at any time during the year,

- (2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance and improvement of its playing fields of the type described in paragraph (1) hereof.
- (z) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.
- (aa) "Instant bingo" means a form of bingo that shall use folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners, and may also include games in which some winners are determined by the random selection of one or more bingo numbers by the use of a seal card or bingo blower. In all "instant bingo" the prize amount and structure shall be predetermined. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.
- (bb) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.
- (cc) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle. "Raffle" does not include the drawing of a ticket stub or other detachable section of a ticket purchased to attend a professional sporting event if both of the following apply:
- (1) The ticket stub or other detachable section is used to select the winner of a free prize given away at the professional sporting event; and
 - (2) The cost of the ticket is the same as the cost of a ticket to the professional sporting event on days when no free prize is given away.
- (dd) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.
- (ee) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.
- (ff) "Net profit" means gross profit minus expenses.
- (gg) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:
- (1) The purchase or lease of bingo supplies;
 - (2) The annual license fee required under Ohio R.C. 2915.08;
 - (3) Bank fees and service charges for a bingo session or game account described in Ohio R.C. 2915.10;
 - (4) Audits and accounting services;
 - (5) Safes;
 - (6) Cash registers;
 - (7) Hiring security personnel;
 - (8) Advertising bingo;
 - (9) Renting premises in which to conduct a bingo session;
 - (10) Tables and chairs;
 - (11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;
 - (12) Payment of real property taxes and assessments that are levied on a premises on which bingo is conducted;
 - (13) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the Attorney General under division (B)(1) of Ohio R.C. 2915.08.
- (hh) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
- (ii) "Revoke" means to void permanently all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (jj) "Suspend" means to interrupt temporarily all rights and privileges of the holder of a license issued under Ohio R.C. 2915.08, 2915.081, or 2915.082 or a charitable gaming license issued by another jurisdiction.
- (kk) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:
- (1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this State;
 - (2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this State.
- (ll) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who modifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.
- (mm) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection (o)(1) of this section plus the annual net profit derived from the conduct of bingo described in subsection (o)(2) of this section.
- (nn) "Instant bingo ticket dispenser" means a mechanical device that dispenses an instant bingo ticket or card as the sole item of value dispensed and that has the following characteristics:
- (1) It is activated upon the insertion of United States currency.
 - (2) It performs no gaming functions.
 - (3) It does not contain a video display monitor or generate noise.
 - (4) It is not capable of displaying any numbers, letters, symbols, or characters in winning or losing combinations.

- (5) It does not simulate or display rolling or spinning reels.
- (6) It is incapable of determining whether a dispensed bingo ticket or card is a winning or nonwinning ticket or card and requires a winning ticket or card to be paid by a bingo game operator.
- (7) It may provide accounting and security features to aid in accounting for the instant bingo tickets or cards it dispenses.
- (8) It is not part of an electronic network and is not interactive.
- (oo) (1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:
- A. It provides a means for a participant to input numbers and letters announced by a bingo caller.
 - B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.
 - C. It identifies a winning bingo pattern.
- (2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- (pp) "Deal of instant bingo tickets" means a single game of instant bingo tickets all with the same serial number.
- (qq) (1) "Slot machine" means either of the following:
- A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain;
 - B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct bingo or a scheme or game of chance.
- (2) "Slot machine" does not include a skill-based amusement machine or an instant bingo ticket dispenser.
- (rr) "Net profit from the proceeds of the sale of instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of instant bingo supplies, and, in the case of instant bingo conducted by a veteran's, fraternal or sporting organization, minus the payment by that organization of real property taxes, and assessments levied on a premises on which instant bingo is conducted.
- (ss) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and is a charitable organization as defined in this section. A "charitable instant bingo organization" does not include a charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization in regards to bingo conducted or assisted by a veteran's organization, a fraternal organization, or a sporting organization pursuant to Ohio R.C. 2915.13.
- (tt) "Game flare" means the board or placard that accompanies each deal of instant bingo tickets and that has printed on or affixed to it the following information for the game:
- (1) The name of the game;
 - (2) The manufacturer's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning instant bingo tickets by denomination and the respective winning symbol or number combinations for the winning instant bingo tickets;
 - (6) The cost per play;
 - (7) The serial number of the game.
- (uu) (1) "Skill-based amusement machine" means mechanical, video, digital, or electronic device that rewards the player or players, if at all, only with merchandise prizes or with redeemable vouchers redeemable only for merchandise prizes, provided that with respect to rewards for playing the game all of the following apply:
- A. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars;
 - B. Redeemable vouchers awarded for any single play of a machine are not redeemable for a merchandise prize with a wholesale value of more than ten dollars;
 - C. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 - D. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
- A card for the purchase of gasoline is a redeemable voucher for purposes of division (uu)(1) of this section even if the skill-based amusement machine for the play of which the card is awarded is located at a place where gasoline may not be legally distributed to the public or the card is not redeemable at the location of, or at the time of playing, the skill-based amusement machine.
- (2) A device shall not be considered a skill-based amusement machine and shall be considered a slot machine if it pays cash or one or more of the following apply:
- A. The ability of a player to succeed at the game is impacted by the number or ratio of prior wins to prior losses of players playing the game.
 - B. Any reward of redeemable vouchers is not based solely on the player achieving the object of the game or the player's score;
 - C. The outcome of the game, or the value of the redeemable voucher or merchandise prize awarded for winning the game, can be controlled by a source other than any player playing the game.
 - D. The success of any player is or may be determined by a chance event that cannot be altered by player actions.
 - E. The ability of any player to succeed at the game is determined by game features not visible or known to the player.
 - F. The ability of the player to succeed at the game is impacted by the exercise of a skill that no reasonable player could exercise.
- (3) All of the following apply to any machine that is operated as described in subsection (uu)(1) of this section:
- A. As used in subsection (uu) of this section, "game" and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a

machine that involves a single game, play, contest, competition or tournament may be awarded redeemable vouchers or merchandise prizes based on the results of play.

- B. Advance play for a single game, play, contest, competition or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single noncontest, competition or tournament play.
 - C. To the extent that the machine is used in a contest, competition or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of redeemable vouchers or merchandise prizes that are stated prior to the start of the contest, competition or tournament.
- (4) For purposes of subsection (uu)(1) of this section, the mere presence of a device, such as a pin-setting, ball-releasing, or scoring mechanism, that does not contribute to or affect the outcome of the play of the game does not make the device a skill-based amusement machine.
- (vv) “Merchandise prize” means any item of value, but shall not include any of the following:
- (1) Cash, gift cards, or any equivalent thereof;
 - (2) Plays on games of chance, state lottery tickets, bingo, or instant bingo;
 - (3) Firearms, tobacco, or alcoholic beverages; or
 - (4) A redeemable voucher that is redeemable for any of the items listed in subsection (vv)(1), (2) or (3) of this section.
- (ww) “Redeemable voucher” means any ticket, token, coupon, receipt, or other noncash representation of value.
- (xx) “Pool not conducted for profit” means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.
- (yy) “Sporting organization” means a hunting, fishing or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the league of Ohio sportsmen, and that has been in continuous existence in this State for a period of three years.
- (zz) “Community action agency” has the same meaning as in Ohio R.C. 122.66.
(ORC 2915.01)
- (aaa) (1) “Sweepstakes terminal device” means a mechanical, video, digital or electronic machine or device that is owned, leased or otherwise possessed by any person conducting a sweepstakes, or by that person’s partners, affiliates, subsidiaries, or contractors, that is intended to be used by a sweepstakes participant, and that is capable of displaying information on a screen or other mechanism. A device is a sweepstakes terminal device if any of the following apply:
- A. The device uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
 - B. The device utilizes software such that the simulated game influences or determines the winning of or value of the prize.
 - C. The device selects prizes from a predetermined finite pool of entries.
 - D. The device utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
 - E. The device predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
 - F. The device utilizes software to create a game result.
 - G. The device reveals the prize incrementally, even though the device does not influence the awarding of the prize or the value of any prize awarded.
 - H. The device determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
- (2) As used in this subsection and in Section 517.02:
- A. “Enter” means the act by which a person becomes eligible to receive any prize offered in a sweepstakes.
 - B. “Entry” means one event from the initial activation of the sweepstakes terminal device until all of the sweepstakes prize results from that activation are revealed.
 - C. “Prize” means any gift, award, gratuity, good, service, credit, reward or any other thing of value that may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.
 - D. “Sweepstakes terminal device facility” means any location in this Municipality where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).
- (bbb) “Sweepstakes” means any game, contest, advertising scheme or plan, or other promotion where consideration is not required for a person to enter to win or become eligible to receive any prize, the determination of which is based upon chance. “Sweepstakes” does not include bingo as authorized under this chapter, pari-mutuel wagering as authorized by Ohio R.C. Chapter 3769, lotteries conducted by the State Lottery Commission as authorized by Ohio R.C. Chapter 3770, and casino gaming as authorized by Ohio R.C. Chapter 3772.
(ORC 2915.01)

517.02 GAMBLING.

- (a) No person shall do any of the following:
- (1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;
 - (2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;
 - (3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of chance conducted for profit or any scheme of chance;
 - (4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;
 - (5) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility and either:

- A. Give to another person any item described in subsection (vv)(1), (2), (3) or (4) of Section 517.01 as a prize for playing or participating in a sweepstakes; or
 - B. Give to another person any merchandise prize, or a redeemable voucher for a merchandise prize, the wholesale value of which is in excess of ten dollars and which is awarded as a single entry for playing or participating in a sweepstakes. Redeemable vouchers shall not be redeemable for a merchandise prize that has a wholesale value of more than ten dollars.
- (6) Conduct, or participate in the conduct of, a sweepstakes with the use of a sweepstakes terminal device at a sweepstakes terminal device facility without first obtaining a current annual "certificate of registration" from the Attorney General as required by division (F) of Ohio R.C. 2915.02.
- (7) With purpose to violate subsection (a)(1), (2), (3), (4), (5) or (6) of this section, acquire, possess, control, or operate any gambling device.
- (b) For purposes of subsection (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of subsection (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.
- (c) This section does not prohibit conduct in connection with gambling expressly permitted by law.
- (d) This section does not apply to any of the following:
- (1) Games of chance, if all of the following apply:
 - A. The games of chance are not craps for money or roulette for money.
 - B. The games of chance are conducted by a charitable organization that is, and has received from the Internal Revenue Service a determination letter that is currently in effect, stating that the organization is, exempt from Federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.
 - C. The games of chance are conducted at festivals of the charitable organization that are conducted not more than a total of five days a calendar year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof if the veteran's or fraternal organization has already leased the premises twelve times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in subsection (d)(1)C. hereof, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under Section 517.06(b)(1) when it leases premises from another charitable organization to conduct bingo games.
 - D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated or otherwise transferred to, any organization that is described in subsection 509(a)(1), (2) or (3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;
 - E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only pursuant to Section 517.13.
- No person shall receive any commission, wage, salary, reward, tip, donations, gratuity or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.
- (2) Any tag fishing tournament operated under a permit issued under Ohio R.C. 1533.92, as "tag fishing tournament" is defined in Ohio R.C. 1531.01.
 - (3) Bingo conducted by a charitable organization that holds a license issued under Ohio R.C. 2915.08.
- (e) Subsection (d) hereof shall not be construed to authorize the sale, lease or other temporary or permanent transfer of the right to conduct games of chance, as granted by subsection (d) hereof, by any charitable organization that is granted that right.
- (f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, gambling is a felony and shall be prosecuted under appropriate State law. (ORC 2915.02)

517.03 OPERATING A GAMBLING HOUSE.

- (a) No person, being the owner or lessee, or having custody, control or supervision of premises, shall:
 - (1) Use or occupy such premises for gambling in violation of Section 517.02;
 - (2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 517.02.
- (b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. If the offender previously has been convicted of a gambling offense, operating a gambling house is a felony and shall be prosecuted under appropriate State law.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement pursuant to Ohio R.C. Chapter 3767. (ORC 2915.03)

517.04 PUBLIC GAMING.

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.

(b) No person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of subsection (a) of this section.

(c) Subsections (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this subsection, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of subsection (b) of this section constitute a nuisance subject to abatement under Ohio R.C. Chapter 3767. (ORC 2915.04)

517.05 CHEATING.

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

- (1) The subject of a bet;
- (2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;
- (3) A scheme or game of chance;
- (4) Bingo.

(b) Whoever violates this section is guilty of cheating. Except as otherwise provided in this subsection cheating is a misdemeanor of the first degree. If the potential gain from the cheating is one thousand dollars (\$1,000) or more, or if the offender previously has been convicted of any gambling offense or of any theft offense as defined in Ohio R.C. 2913.01, cheating is a felony and shall be prosecuted under appropriate State law. (ORC 2915.05)

517.06 METHODS OF CONDUCTING A BINGO GAME; PROHIBITIONS.

(a) No charitable organization that conducts bingo shall fail to do any of the following:

- (1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo, or from the landlord of a premises where bingo is conducted, for a rental rate that is not more than is customary and reasonable for that equipment;
- (2) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in Section 517.01(v), or distribute all of the net profit from the proceeds of the sale of instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101.

(b) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall fail to do any of the following:

- (1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars (\$600.00) per bingo session or forty-five percent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars (\$450.00) per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars (\$450.00) per bingo session. No charitable organization is required to pay property taxes or assessments on premises that the charitable organization leases from another person to conduct bingo sessions. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service. A charitable organization shall not lease or sublease premises that it owns or leases to more than three other charitable organizations per calendar week for conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than three charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine bingo sessions be conducted on any premises in any calendar week.
- (2) Display its license conspicuously at the premises where the bingo session is conducted;
- (3) Conduct the bingo session in accordance with the definition of bingo set forth in Section 517.01(o)(1).

(c) No charitable organization that conducts a bingo game described in Section 517.01(o)(1) shall do any of the following:

- (1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;
- (2) Pay consulting fees to any person for any services performed in relation to the bingo session;
- (3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;
- (4) Except as otherwise provided in subsection (c)(4) of this section, conduct more than three bingo sessions in any seven-day

period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than three bingo sessions in a seven-day period after notifying the Attorney General when it will conduct the sessions;

- (5) Pay out more than six thousand dollars (\$6,000) in prizes for bingo games described in Section 517.01(o)(1) during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo;
- (6) Conduct a bingo session at any time during the eight-hour period between two a.m. and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only pursuant to Ohio R.C. 2915.12, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Subsection (c)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the Attorney General for an amended license, pursuant to division (F) of Ohio R.C. 2915.08. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day of the week, and at the time specified on its amended license;
- (7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;
- (8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;
- (9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service;
- (10) Purchase or lease bingo supplies from any person except a distributor issued a license under Ohio R.C. 2915.081;
- (11) A. Use or permit the use of electronic bingo aids except under the following circumstances:
 1. For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.
 2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.
 3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.
 4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.
 5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.
 6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.B. The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that govern the use of electronic bingo aids. The rules may include a requirement that an electronic bingo aid be capable of being audited by the Attorney General to verify the number of bingo cards or sheets played during each bingo session.
- (12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in Section 517.01(o)(1).
- (d) (1) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.
- (2) Except as otherwise provided in subsection (d)(3) hereof, no charitable organization shall provide to a bingo game operator any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting instant bingo other than at a bingo session at the site of instant bingo other than at a bingo session.
- (3) Nothing in subsection (d) hereof prohibits an employee of a fraternal organization, veteran's organization, or sporting organization from selling instant bingo tickets or cards to the organization's members or invited guests, as long as no portion of the employee's compensation is paid from any receipts of bingo.
- (e) Notwithstanding subsection (b)(1) of this section, a charitable organization that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the Attorney General in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the Attorney General prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the Attorney General prior to December 6, 1977.
- (f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo

ticket as a prize.

(g) Except as otherwise provided in this subsection, whoever violates subsection (a)(1) or (2), (b)(1), (2), or (3), (c)(1) to (11) or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of subsection (a)(1) or (2), (b)(1), (2) or (3), (c)(1) to (11), or (d) of this section, a violation of subsection (a)(1) or (2), (b)(1), (2) or (3) or (c)(1) to (11) or (d) of this section is a misdemeanor of the first degree. Whoever violates subsection (c)(12) of this section is guilty of a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c)(12) of this section, a violation of subsection (c)(12) is a felony and shall be prosecuted under appropriate State law.
(ORC 2915.09)

517.07 INSTANT BINGO CONDUCT.

(a) No charitable organization that conducts instant bingo shall do any of the following:

(1) Fail to comply with the requirements of divisions (A)(1), (2), and (3) of Ohio R.C. 2915.09;

(2) Conduct instant bingo unless either of the following applies:

A. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(3) of the Internal Revenue Code, is a charitable organization as defined in Section 517.01, is in good standing in the State pursuant to Ohio R.C. 2915.08, and is in compliance with Ohio R.C. Chapter 1716;

B. That organization is, and has received from the Internal Revenue Service a determination letter that is currently in effect stating that the organization is, exempt from federal income taxation under subsection 501(a), is described in subsection 501(c)(8), 501(c)(10), or 501(c)(19) or is a veteran's organization described in subsection 501(c)(4) of the Internal Revenue Code, and conducts instant bingo under Section 517.14.

(3) Conduct instant bingo on any day, at any time, or at any premises not specified on the organization's license issued pursuant to Ohio R.C. 2915.08;

(4) Permit any person whom the organization knows or should have known has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator in the conduct of instant bingo;

(5) Purchase or lease supplies used to conduct instant bingo or punch board games from any person except a distributor licensed under Ohio R.C. 2915.081;

(6) Sell or provide any instant bingo ticket or card for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare;

(7) Sell an instant bingo ticket or card to a person under eighteen years of age;

(8) Fail to keep unsold instant bingo tickets or cards for less than three years;

(9) Pay any compensation to a bingo game operator for conducting instant bingo that is conducted by the organization or for preparing, selling, or serving food or beverages at the site of the instant bingo game, permit any auxiliary unit or society of the organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at an instant bingo game conducted by the organization, or permit any auxiliary unit or society of the organization to prepare, sell, or serve food or beverages at an instant bingo game conducted by the organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(10) Pay fees to any person for any services performed in relation to an instant bingo game, except as provided in Section 517.09(d);

(11) Pay fees to any person who provides refreshments to the participants in an instant bingo game;

(12) A. Allow instant bingo tickets or cards to be sold to bingo game operators at a premises at which the organization sells instant bingo tickets or cards or to be sold to employees of a D permit holder who are working at a premises at which instant bingo tickets or cards are sold;

B. Subsection (a)(12)A. of this section does not prohibit a licensed charitable organization or a bingo game operator from giving any person an instant bingo ticket as a prize in place of a cash prize won by a participant in an instant bingo game. In no case shall an instant bingo ticket or card be sold or provided for a price different from the price printed on it by the manufacturer on either the instant bingo ticket or card or on the game flare.

(13) Fail to display its bingo license, and the serial numbers of the deal of instant bingo tickets or cards to be sold, conspicuously at each premises at which it sells instant bingo tickets or cards;

(14) Possess a deal of instant bingo tickets or cards that was not purchased from a distributor licensed under Ohio R.C. 2915.081 as reflected on an invoice issued by the distributor that contains all of the information required by Section 517.11(f);

(15) Fail, once it opens a deal of instant bingo tickets or cards, to continue to sell the tickets or cards in that deal until the tickets or cards with the top two highest tiers of prizes in that deal are sold;

(16) Possess bingo supplies that were not obtained in accordance with Ohio R.C. 2915.01 to 2915.13.

(b) A charitable organization may purchase, lease, or use instant bingo ticket dispensers to sell instant bingo tickets or cards.

(c) Whoever violates subsection (a) of this section or a rule adopted under Ohio R.C. 2915.091(C) is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (a) of this section or of such a rule, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.091)

517.08 RAFFLES.

(a) (1) Subject to subsection (a)(2) of this section, a charitable organization, a public school, a chartered nonpublic school, a community school, or a veteran's organization, fraternal organization, or sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(3), 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code may conduct a raffle to raise money for the organization or school and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit.

(2) If a charitable organization that is described in subsection (a)(1) of this section, but that is not also described in subsection

501(c)(3) of the Internal Revenue Code, conducts a raffle, the charitable organization shall distribute at least fifty percent of the net profit from the raffle to a charitable purpose described in Section 517.01(v) or to a department or agency of the federal government, the state, or any political subdivision.

(b) Except as provided in subsection (a) of this section, no person shall conduct a raffle drawing that is for profit or a raffle drawing that is not for profit.

(c) Whoever violates subsection (b) of this section is guilty of illegal conduct of a raffle. Except as otherwise provided in this subsection, illegal conduct of a raffle is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (b) of this section, illegal conduct of a raffle is a felony and shall be prosecuted under appropriate State law. (ORC 2915.092)

517.09 CHARITABLE INSTANT BINGO ORGANIZATIONS.

(a) As used in this section, "retail income from all commercial activity" means the income that a person receives from the provision of goods, services, or activities that are provided at the location where instant bingo other than at a bingo session is conducted, including the sale of instant bingo tickets. A religious organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, at not more than one location at which it conducts its charitable programs, may include donations from its members and guests as retail income.

(b) (1) If a charitable instant bingo organization conducts instant bingo other than at a bingo session, the charitable instant bingo organization shall enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted to allow the owner or lessor to assist in the conduct of instant bingo other than at a bingo session, identify each location where the instant bingo other than at a bingo session is being conducted, and identify the owner or lessor of each location.

(2) A charitable instant bingo organization that conducts instant bingo other than at a bingo session is not required to enter into a written contract with the owner or lessor of the location at which the instant bingo is conducted provided that the owner or lessor is not assisting in the conduct of the instant bingo other than at a bingo session and provided that the conduct of the instant bingo other than at a bingo session at that location is not more than five days per calendar year and not more than ten hours per day.

(c) Except as provided in subsection (f) of this section, no charitable instant bingo organization shall conduct instant bingo other than at a bingo session at a location where the primary source of retail income from all commercial activity at that location is the sale of instant bingo tickets.

(d) The owner or lessor of a location that enters into a contract pursuant to subsection (b) of this section shall pay the full gross profit to the charitable instant bingo organization, in return for the deal of instant bingo tickets. The owner or lessor may retain the money that the owner or lessor receives for selling the instant bingo tickets, provided, however, that after the deal has been sold, the owner or lessor shall pay to the charitable instant bingo organization the value of any unredeemed instant bingo prizes remaining in the deal of instant bingo tickets.

The charitable instant bingo organization shall pay six percent of the total gross receipts of any deal of instant bingo tickets for the purpose of reimbursing the owner or lessor for expenses described in this subsection.

As used in this subsection, "expenses" means those items provided for in subsections (gg)(4), (5), (6), (7), (8), (12) and (13) of Section 517.01 and that percentage of the owner's or lessor's rent for the location where instant bingo is conducted. "Expenses" in the aggregate, shall not exceed six percent of the total gross receipts of any deal of instant bingo tickets.

As used in this subsection, "full gross profit" means the amount by which the total receipts of all instant bingo tickets, if the deal had been sold in full, exceeds the amount that would be paid out if all prizes were redeemed.

(e) A charitable instant bingo organization shall provide the Attorney General with all of the following information:

- (1) That the charitable instant bingo organization has terminated a contract entered into pursuant to subsection (b) of this section with an owner or lessor of a location;
- (2) That the charitable instant bingo organization has entered into a written contract pursuant to subsection (b) of this section with a new owner or lessor of a location;
- (3) That the charitable instant bingo organization is aware of conduct by the owner or lessor of a location at which instant bingo is conducted that is in violation of this chapter or Ohio R.C. Chapter 2915.

(f) Subsection (c) of this section does not apply to a volunteer firefighter's organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that conducts instant bingo other than at a bingo session on the premises where the organization conducts firefighter training, that has conducted instant bingo continuously for at least five years prior to July 1, 2003, and that, during each of those five years, had gross receipts of at least one million five hundred thousand dollars. (ORC 2915.093)

517.10 LOCATION OF INSTANT BINGO.

(a) No owner or lessor of a location shall assist a charitable instant bingo organization in the conduct of instant bingo other than at a bingo session at that location unless the owner or lessor has entered into a written contract, as described in Section 517.09, with the charitable instant bingo organization to assist in the conduct of instant bingo other than at a bingo session.

(b) The location of the lessor or owner shall be designated as a location where the charitable instant bingo organization conducts instant bingo other than at a bingo session.

(c) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate any provision of Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of Ohio R.C. Chapter 2915.

(d) No owner or lessor of a location that enters into a written contract as prescribed in subsection (a) of this section shall violate the terms of the contract.

(e) (1) Whoever violates subsection (c) or (d) of this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of subsection (c) or (d) of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(2) If an owner or lessor of a location knowingly, intentionally, or recklessly violates subsection (c) or (d) of this section, any license that the owner or lessor holds for the retail sale of any goods on the owner's or lessor's premises that is issued by the State or a political subdivision is subject to suspension, revocation, or payment of a monetary penalty at the

request of the Attorney General. (ORC 2915.094)

517.11 BINGO OR GAME OF CHANCE RECORDS.

(a) No charitable organization that conducts bingo or a game of chance pursuant to Section 517.02(d), shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

- (1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number;
- (2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;
- (3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars (\$600.00) or more in value;
- (4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in Section 517.01(v), Section 517.02(d), or Ohio R.C. 2915.101, a list of each purpose and an itemized list of each expenditure for each purpose;
- (5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;
- (6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from "gross receipts" Section 517.01(t);
- (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(b) A charitable organization shall keep the records that it is required to maintain pursuant to subsection (a) of this section at its principal place of business in this State or at its headquarters in this State and shall notify the Attorney General of the location at which those records are kept.

(c) The gross profit from each bingo session or game described in Section 517.01(o)(1) or (2) shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks or electronic fund transfers drawn on the bingo session or game account.

(d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(e) The Attorney General may adopt rules in accordance with Ohio R.C. Chapter 119 that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name of the manufacturer from which the distributor purchased the bingo supplies and the date of the purchase;
- (2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;
- (3) A description that clearly identifies the bingo supplies;
- (4) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

(g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this State. The record shall include all of the following for each instance:

- (1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;
- (2) A description that clearly identifies the bingo supplies, including serial numbers;
- (3) Invoices that include the nonrepeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

(h) The Attorney General, or any law enforcement agency, may do all of the following:

- (1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;
- (2) Examine the accounts and records of the organization;
- (3) Conduct inspections, audits, and observations of bingo or games of chance;
- (4) Conduct inspections of the premises where bingo or games of chance are conducted;
- (5) Take any other necessary and reasonable action to determine if a violation of any provision of this chapter has occurred and to determine whether Section 517.12 has been complied with.

If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this subsection.

(i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the Attorney General or a law enforcement agency pursuant to subsection (h) of this section.

(j) Whoever violates subsection (a) or (i) of this section is guilty of a misdemeanor of the first degree. (ORC 2915.10)

517.12 BINGO OPERATOR PROHIBITIONS.

- (a) No person shall be a bingo game operator unless he is eighteen years of age or older.
- (b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.
- (c) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the third degree.
- (d) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the first degree. (ORC 2915.11)

517.13 BINGO EXCEPTIONS.

(a) Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either subsection (a)(1) or (2) hereof:

- (1) A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards, sheets, objects to cover the spaces or other devices used in playing bingo, for the privilege of participating in the bingo game or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.
- B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars (\$100.00).
- C. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- D. The bingo game is not conducted either during or within ten hours of any of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme or game of chance or bingo described in Section 517.01(o)(2).
- E. The number of players participating in the bingo game does not exceed fifty.
- (2) A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents (25¢) to purchase a bingo card or sheet, objects to cover the spaces or other devices used in playing bingo.
- B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces or other devices used in playing bingo does not exceed one hundred dollars (\$100.00).
- C. All of the money paid for bingo cards or sheets, objects to cover spaces or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.
- D. The total value of all prizes awarded during the game does not exceed one hundred dollars (\$100.00).
- E. No commission, wages, salary, reward, tip, donation, gratuity or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.
- F. The bingo game is not conducted during or within ten hours of either of the following:
 - 1. A bingo session during which a charitable bingo game is conducted pursuant to Ohio R.C. 2915.07 to 2915.11 or Section 517.06 et seq. of this chapter;
 - 2. A scheme of chance or game of chance or bingo described in Section 517.01(o)(2).
- G. All of the participants reside at the premises where the bingo game is conducted.
- H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.
- (b) The Attorney General, or any local law enforcement agency, may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with subsection (a) hereof. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the Attorney General when commencing the action. (ORC 2915.12)

517.14 INSTANT BINGO CONDUCT BY A VETERAN'S OR FRATERNAL ORGANIZATION.

(a) A veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. 2915.01 to 2915.12 may conduct instant bingo other than at a bingo session if all of the following apply:

- (1) The veteran's organization, fraternal organization or sporting organization limits the sale of instant bingo to twelve hours during any day, provided that the sale does not begin earlier than ten a.m. and ends not later than two a.m.
- (2) The veteran's organization, fraternal organization or a sporting organization limits the sale of instant bingo to its own premises and to its own members and invited guests.
- (3) The veteran's organization, fraternal organization, or sporting organization is raising money for an organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State and executes a written contract with that organization as required in subsection (b) of this section.

(b) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section is raising money for another organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State, the veteran's organization, fraternal organization, or sporting organization shall execute a written contract with the organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State in order to conduct instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veteran's, fraternal or sporting organization will be distributing to the organization that is described in subsection 509(a)(1), 509(a)

(2) or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that maintains its principal place of business in this State, that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and that is in good standing in this State.

(c) (1) If a veteran's organization, fraternal organization or a sporting organization authorized to conduct instant bingo pursuant to subsection (a) of this section has been issued a liquor permit under Ohio R.C. Chapter 4303, that permit may be subject to suspension, revocation, or cancellation if the veteran's organization, fraternal organization, or a sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.

(2) No veteran's organization, fraternal organization, or a sporting organization that enters into a written contract pursuant to subsection (b) of this section shall violate any provision of this chapter or Ohio R.C. Chapter 2915, or permit, aid, or abet any other person in violating any provision of this chapter or Ohio R.C. Chapter 2915.

(d) A veteran's organization, fraternal organization, or a sporting organization shall give all required proceeds earned from the conduct of instant bingo to the organization with which the veteran's organization, fraternal organization, or a sporting organization has entered into a written contract.

(e) Whoever violates this section is guilty of illegal instant bingo conduct. Except as otherwise provided in this subsection, illegal instant bingo conduct is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section, illegal instant bingo conduct is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.13)

517.15 SKILL-BASED AMUSEMENT MACHINES.

(a) (1) No person shall give to another person any item described in Section 517.01(vv)(1), (2), (3), or (4) in exchange for a noncash prize, toy, or novelty received as a reward for playing or operating a skill-based amusement machine or for a free or reduced-prize game won on a skill-based amusement machine.

(2) Whoever violates subsection (a)(1) of this section is guilty of skill-based amusement machine prohibited conduct. Except as provided herein, a violation of subsection (a)(1) is a misdemeanor of the first degree for each redemption of a prize that is involved in the violation. If the offender previously has been convicted of a violation of subsection (a)(1), a violation of subsection (a)(1) is a felony and shall be prosecuted under appropriate State law.

(ORC 2915.06)

(b) Any regulation of skill-based amusement machines shall be governed by this chapter and Ohio R.C. Chapter 2915 and not by Ohio R.C. Chapter 1345.

(ORC 2915.061)

517.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 521

Health, Safety and Sanitation

521.01 Abandoned refrigerators and airtight containers.

521.02 Venting of heaters and burners.

521.03 Dangerous excavation.

521.04 Erosion or dust from unimproved property.

521.05 Fences.

521.06 Spitting prohibited.

521.07 Emergency vehicle at motor vehicle and motorcycle races.

521.08 Smoking and tobacco possession under 18 prohibited.

521.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Flagpole installation in sidewalk - see Ohio R.C. 723.012

Excavation liability - see Ohio R.C. 723.49 et seq.

Nuisances - see Ohio R.C. Ch. 3767

Tampering with safety devices - see GEN. OFF. 541.04

521.01 ABANDONED REFRIGERATORS AND AIRTIGHT CONTAINERS.

(a) No person shall abandon, discard, or knowingly permit to remain on premises under his control, in a place accessible to children, any abandoned or discarded icebox, refrigerator or other airtight or semiairtight container which has a capacity of one and one-half cubic feet or more and an opening of fifty square inches or more and which has a door or lid equipped with hinge, latch or other fastening device capable of securing such door or lid, without rendering such equipment harmless to human life by removing such hinges, latches or other hardware which may cause a person to be confined therein. This section shall not apply to an icebox, refrigerator or other airtight or semiairtight container located in that part of a building occupied by a dealer, warehouseman or repairman.

(ORC 3767.29)

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

521.02 VENTING OF HEATERS AND BURNERS.

(a) A brazier, salamander, space heater, room heater, furnace, water heater or other burner or heater using wood, coal, coke, fuel oil, kerosene, gasoline, natural gas, liquid petroleum gas or similar fuel, and tending to give off carbon monoxide or other harmful gas:

(1) When used in living quarters, or in any enclosed building or space in which persons are usually present, shall be used with a flue or vent so designed, installed and maintained as to vent the products of combustion outdoors; except in storage, factory or industrial buildings which are provided with sufficient ventilation to avoid the danger of carbon

monoxide poisoning;

(2) When used as a portable or temporary burner or heater at a construction site, or in a warehouse, shed or structure in which persons are temporarily present, shall be vented as provided in subsection (a) hereof, or used with sufficient ventilation to avoid the danger of carbon monoxide poisoning.

(b) This section does not apply to domestic ranges, laundry stoves, gas logs installed in a fireplace with an adequate flue, or hot plates, unless the same are used as space or room heaters.

(c) No person shall negligently use, or, being the owner, person in charge, or occupant of premises, negligently permit the use of a burner or heater in violation of the standards for venting and ventilation provided in this section.

(d) Subsection (a) hereof does not apply to any kerosene-fired space or room heater that is equipped with an automatic extinguishing tip-over device, or to any natural gas-fired or liquid petroleum gas-fired space or room heater that is equipped with an oxygen depletion safety shutoff system, and that has its fuel piped from a source outside of the building in which it is located, that are approved by an authoritative source recognized by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82.

(e) The State Fire Marshal may make rules to ensure the safe use of unvented kerosene, natural gas or liquid petroleum gas heaters exempted from subsection (a) hereof when used in assembly buildings, business buildings, high hazard buildings, institutional buildings, mercantile buildings and type R-1 and R-2 residential buildings, as these groups of buildings are defined in rules adopted by the Board of Building Standards under Ohio R.C. 3781.10. No person shall negligently use, or, being the owner, person in charge or occupant of premises, negligently permit the use of a heater in violation of any rules adopted under this subsection.

(f) The State Fire Marshal may make rules prescribing standards for written instructions containing ventilation requirements and warning of any potential fire hazards that may occur in using a kerosene, natural gas, or liquid petroleum gas heater. No person shall sell or offer for sale any kerosene, natural gas or liquid petroleum gas heater unless the manufacturer provides with the heater written instructions that comply with any rules adopted under this subsection.

(g) No product labeled as a fuel additive for kerosene heaters and having a flash point below one hundred degrees fahrenheit or thirty-seven and eight-tenths degrees centigrade shall be sold, offered for sale or used in any kerosene space heater.

(h) No device that prohibits any safety feature on a kerosene, natural gas or liquid petroleum gas space heater from operating shall be sold, offered for sale or used in connection with any kerosene, natural gas or liquid petroleum gas space heater.

(i) No person shall sell or offer for sale any kerosene-fired, natural gas or liquid petroleum gas-fired heater that is not exempt from subsection (a) hereof unless it is marked conspicuously by the manufacturer on the container with the phrase "Not Approved For Home Use."

(j) No person shall use a cabinet-type, liquid petroleum gas-fired heater having a fuel source within the heater, inside any building, except as permitted by the State Fire Marshal in the State Fire Code adopted by him under Ohio R.C. 3737.82. (ORC 3701.82)

(k) Whoever violates this section is guilty of a misdemeanor of the first degree.
(ORC 3701.99(C))

521.03 DANGEROUS EXCAVATION.

(a) No property owner, tenant or person having control of property within the City shall have on any property or allow to remain open or in a dangerous condition for a period of more than thirty days any well or cistern, whether in use or abandoned, or any basement, pit, hole or excavation where water might accumulate or where a danger to persons or property exists.
(Ord. 35-59. Passed 5-25-59.)

(b) Whoever violates this section is guilty of a first degree misdemeanor. Each day the violation continues shall constitute a separate offense.

(Ord. 51-97. Passed 8-11-97.)

521.04 EROSION OR DUST FROM UNIMPROVED PROPERTY.

(a) No property owner, tenant or person having control of real property within the City shall maintain or allow the top soil of such property to remain in an unimproved or unseeded condition for an unreasonable length of time so as to allow erosion of dirt and mud or the dispersment of dust to the detriment and damage of other property owners in the City.
(Ord. 49-61. Passed 9-11-61.)

(b) Whoever violates this section is guilty of a minor misdemeanor.

521.05 FENCES.

(a) Barbed Wire. No person shall construct or cause to be constructed a partition fence from barbed wire unless written consent of the adjoining owner is first obtained. Such consent is not necessary to the use of one or two barbed wires, provided that neither is less than forty-eight inches from the ground, and is placed on the top of a fence other than a barbed wire fence.

This subsection (a) shall apply only to fences within areas zoned for residential use.
(Ord. 72-55. Passed 11-28-55.)

(b) Whoever violates this section is guilty of a minor misdemeanor.

521.06 SPITTING PROHIBITED.

(a) No person shall expectorate upon any improved public sidewalk or upon the floor of any portion of the interior of any church, public hall, public library or theater, or upon the floor or any portion of the interior of any public conveyance in the City.

(1939 R.O., 10:08)

(b) Whoever violates this section is guilty of a minor misdemeanor.

521.07 EMERGENCY VEHICLE AT MOTOR VEHICLE AND MOTORCYCLE RACES.

(a) The owner or operator of any facility which permits motor vehicle or motorcycle races or a demolition derby event shall arrange for and have at least one emergency vehicle and a minimum of two certified emergency medical technicians present at such races or demolition derby.

(b) Whoever violates any provision of this section shall be deemed guilty of a misdemeanor of the third degree for the first offense and for each subsequent offense it shall be a misdemeanor of the second degree.

(Ord. 16-84. Passed 5-14-84.)

521.08 SMOKING AND TOBACCO POSSESSION UNDER 18 PROHIBITED.

(a) Definitions. For the purpose of this section, the following words shall have the meaning given herein.

(1) "Smoke" means to burn any substance containing tobacco, including a lighted cigarette, cigar or pipe, or to burn a clove cigarette.

(2) "Use tobacco" means to chew or maintain any substance containing tobacco, including smokeless tobacco, in the mouth to derive the effects of tobacco.

(b) No person under the age of eighteen years shall smoke or use tobacco or possess any substance containing tobacco.

(c) No person under the age of eighteen years shall attempt to purchase cigarettes or other tobacco products.

(d) It is an affirmative defense to a prosecution under subsection (b) hereof that the defendant possessed or used the tobacco product in the home of, or under the direct supervision of, his parent or guardian.

(e) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 32-96. Passed 10-28-96.)

521.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 525

Law Enforcement and Public Office

525.01 Definitions.

525.02 Falsification.

525.03 Impersonation of peace officer.

525.04 Compounding a crime.

525.05 Failure to report a crime, injury or knowledge of death.

525.06 Failure to aid a law enforcement officer.

525.07 Obstructing official business.

525.08 Obstructing justice.

525.09 Resisting arrest.

525.10 Having an unlawful interest in a public contract.

525.11 Soliciting or receiving improper compensation. (Repealed)

525.12 Dereliction of duty.

525.13 Interfering with civil rights.

525.14 Unauthorized display of law enforcement emblems on motor vehicles.

525.15 Assaulting police dog or horse or an assistance dog.

525.16 False allegation of peace officer misconduct.

525.17 Refusal to disclose personal information in a public place.

525.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Law enforcement officer defined - see GEN. OFF. 501.01(k)

Misconduct at an emergency - see GEN. OFF. 509.05

Making false alarms - see GEN. OFF. 509.07

Personating an officer to defraud - see GEN. OFF. 545.16

525.01 DEFINITIONS.

As used in this chapter:

(a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and includes, but is not limited to, legislators, judges and law enforcement officers. "Public official" does not include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

(b) "Public servant" means any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including, but not limited to, a juror, member of a temporary commission, master, arbitrator, advisor or consultant;

(3) A person who is a candidate for public office, whether or not the person is elected or appointed to the office for which the person is a candidate. A person is a candidate for purposes of this subsection if the person has been nominated according to law for election or appointment to public office, or if the person has filed a petition or petitions as required by law to have the person's name placed on the ballot in a primary, general or special election, or if the person campaigns as a write-in candidate in any primary, general or special election. "Public servant" does not

include an employee, officer, or governor-appointed member of the board of directors of the nonprofit corporation formed under Ohio R.C. 187.01.

- (c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which the person directs, conducts or participates in directing or conducting party affairs at any level of responsibility.
- (d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.
- (e) "Detention" means arrest, confinement in any vehicle subsequent to an arrest, confinement in any public or private facility for custody of persons charged with or convicted of a crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States; hospitalization, institutionalization or confinement in any public or private facility that is ordered pursuant to or under the authority of Ohio R.C. 2945.37, 2945.371, 2945.38, 2945.39 or 2945.40, 2945.401 or 2945.402; confinement in any vehicle for transportation to or from any facility of any of those natures; detention for extradition or deportation, except as provided in this subsection, supervision by any employee of any facility of any of those natures; that is incidental to hospitalization, institutionalization or confinement in the facility but that occurs outside the facility; supervision by an employee of the Department of Rehabilitation and Correction of a person on any type of release from a State correctional institution; or confinement in any vehicle, airplane, or place while being returned from outside of this State into this State by a private person or entity pursuant to a contract entered into under Ohio R.C. 311.29(E) or Ohio R.C. 5149.03(B). For a person confined in a county jail who participates in a county jail industry program pursuant to Ohio R.C. 5147.30, "detention" includes time spent at an assigned work site and going to and from the work site.
- (f) "Detention facility" means any public or private place used for the confinement of a person charged with or convicted of any crime in this State or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this State or another state or under the laws of the United States.
- (g) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before September 17, 1986.
- (h) "Campaign committee," "contribution," "political action committee," "legislative campaign fund", "political party" and "political contributing entity" have the same meanings as in Ohio R.C. 3517.01.
- (i) "Provider agreement" has the same meaning as in Ohio R.C. 5164.01.
(ORC 2921.01)

525.02 FALSIFICATION.

(a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

- (1) The statement is made in any official proceeding.
- (2) The statement is made with purpose to incriminate another.
- (3) The statement is made with purpose to mislead a public official in performing the public official's official function.
- (4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention and contingency benefits and services; disability financial assistance; retirement benefits or health care coverage from a state retirement system; economic development assistance as defined in Ohio R.C. 9.66; or other benefits administered by a governmental agency or paid out of a public treasury.
- (5) The statement is made with purpose to secure the issuance by a governmental agency of a license, permit, authorization, certificate, registration, release or provider agreement.
- (6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.
- (7) The statement is in writing on or in connection with a report or return that is required or authorized by law.
- (8) The statement is in writing, and is made with purpose to induce another to extend credit to or employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom the statement is directed relies upon it to that person's detriment.
- (9) The statement is made with purpose to commit or facilitate the commission of a theft offense.
- (10) The statement is knowingly made to a probate court in connection with any action, proceeding or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint or other pleading, or an inventory, account or report.
- (11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.
- (12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the Secretary of State, a county recorder, or the clerk of a court of record.
- (13) The statement is required under Ohio R.C. 5743.71 in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(b) It is no defense to a charge under subsection (a)(6) hereof that the oath or affirmation was administered or taken in an irregular manner.

(c) If contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.

- (d) (1) Whoever violates any provision of subsection (a)(1) to (8) or (10) to (13) hereof is guilty of falsification, a misdemeanor of the first degree.
- (2) Whoever violates subsection (a)(9) hereof is guilty of falsification in a theft offense, a misdemeanor of the first degree. If the value of the property or services stolen is one thousand dollars (\$1,000) or more, falsification in a theft offense is a felony and shall be prosecuted under appropriate State law.

(e) A person who violates this section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this section. A civil action under this section is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.

(ORC 2921.13)

525.03 IMPERSONATION OF PEACE OFFICER.

(a) As used in this section:

- (1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable who is employed by a political subdivision of this State; a member of a police force employed by a metropolitan housing authority under Ohio R.C. 3735.31(D); a member of a police force employed by a regional transit authority under Ohio R.C. 306.35(Y), a State university law enforcement officer appointed under Ohio R.C. 3345.04; a veterans' home police officer appointed under Ohio R.C. 5907.02; a special police officer employed by a port authority under Ohio R.C. 4582.04 or 4582.28; an officer, agent, or employee of the State or any of its agencies, instrumentalities or political subdivisions, upon whom, by statute, a duty to conserve the peace or to enforce all or certain laws is imposed and the authority to arrest violators is conferred, within limits of that statutory duty and authority; or a State highway patrol trooper whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.
- (2) "Private police officer" means any security guard, special police officer, private detective or other person who is privately employed in a police capacity.
- (3) "Federal law enforcement officer" means an employee of the United States who serves in a position the duties of which are primarily the investigation, apprehension or detention of individuals suspected or convicted of offenses under the criminal laws of the United States.
- (4) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
- (5) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of or display the identification of a particular person or of a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(b) No person shall impersonate a peace officer, private police officer, federal law enforcement officer or investigator of the Bureau of Criminal Identification and Investigation.

(c) No person, by impersonating a peace officer, private police officer, federal law enforcement officer, or investigator of the Bureau of Criminal Identification and Investigation, shall arrest or detain any person, search any person or search the property of any person.

(d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, private police officer, federal law enforcement officer, an officer, agent or employee of the State or the Municipality or investigator of the Bureau of Criminal Identification and Investigation.

(e) It is an affirmative defense to a charge under subsection (b) hereof that the impersonation of the peace officer was for a lawful purpose.

(f) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree. Whoever violates subsections (c) or (d) hereof is guilty of a misdemeanor of the first degree. If the purpose of a violation of subsection (d) hereof is to commit or facilitate the commission of a felony, such violation is a felony and shall be prosecuted under appropriate State law.

(ORC 2921.51)

525.04 COMPOUNDING A CRIME.

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

- (1) The pending prosecution involved is for violation of Sections 545.05, 545.07, 545.09 or 545.10(b)(2), or Ohio R.C. 2913.02, 2913.11, 2913.21(B)(2) or 2913.47, of which the actor under this section was the victim.
- (2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount that the actor reasonably believed due him as restitution for the loss caused him by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under subsection (b) hereof, the abandonment or agreement in no way binds the State or Municipality to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree.

(ORC 2921.21)

525.05 FAILURE TO REPORT A CRIME, INJURY OR KNOWLEDGE OF DEATH.

(a) (1) Except as provided in subsection (a)(2) hereof, no person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(2) No person, knowing that a violation of division (B) of Ohio R.C. 2913.04 has been, or is being committed or that the person has received information derived from such a violation, shall knowingly fail to report the violation to law enforcement authorities.

(b) Except for conditions that are within the scope of subsection (e) of this section, no person giving aid to a sick or injured person shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by the person, or any serious physical harm to persons that the person knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers the body or acquires the first knowledge of the death of a person shall fail to report the death

immediately to a physician or advanced practice registered nurse whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. For purposes of this subsection (c), "advanced practice registered nurse" does not include a certified registered nurse anesthetist.

(d) No person shall fail to provide upon request of the person to whom a report required by subsection (c) of this section was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.

(e) (1) As used in this subsection, "burn injury" means any of the following:

- A. Second or third degree burns;
- B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of superheated air;
- C. Any burn injury or wound that may result in death;
- D. Any physical harm to persons caused by or as the result of the use of fireworks, novelties and trick noisemakers, and wire sparklers, as each is defined by Ohio R.C. 3743.01.

(2) No physician, nurse, physician assistant, or limited practitioner who, outside a hospital, sanitarium, or other medical facility, attends or treats a person who has sustained a burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury that is inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson, or fire and explosion investigation, bureau, if there is a bureau of this type in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under subsection (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the office of the State Fire Marshal. The report shall comply with the uniform standard developed by the State Fire Marshal pursuant to Ohio R.C. 3737.22(A)(15).

(5) Anyone participating in the making of reports under subsection (e) of this section or anyone participating in a judicial proceeding resulting from the reports is immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Ohio R.C. 4731.22, the physician-patient relationship or advanced practice registered nurse-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted under subsection (e) of this section.

(f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, nurse, psychologist, social worker, independent social worker, social work assistant, licensed professional clinical counselor, licensed professional counselor, independent marriage and family therapist or marriage and family therapist who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Ohio R.C. 3113.31, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding Ohio R.C. 4731.22, the physician-patient privilege or advanced practice registered nurse-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted under subsection (f)(1) of this section, and the information may be admitted as evidence in accordance with the Rules of Evidence.

(g) Subsections (a) and (d) of this section do not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client; physician and patient; advanced practice registered nurse and patient; licensed psychologist or licensed school psychologist and client; licensed professional clinical counselor, licensed professional counselor, independent social worker, social worker, independent marriage and family therapist, or marriage and family therapist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under Ohio R.C. 2739.04 or 2739.12.

(4) Disclosure of the information would amount to disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member of the clergy in that member's capacity as a member of the clergy by a person seeking the aid or counsel of that member of the clergy.

(5) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency, or community addiction services provider whose alcohol and drug addiction services are certified pursuant to Ohio R.C. 5119.36.

(6) Disclosure would amount to revealing information acquired by the actor in the course of the actor's duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Ohio R.C. 2907.02 or 2907.05 or to victims of felonious sexual penetration in violation of former Ohio R.C. 2907.12. As used in this subsection, "counseling services" include services provided in an informal setting by a person who, by education or experience, is competent to provide those services.

(h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(i) Whoever violates subsection (a) or (b) of this section is guilty of failure to report a crime. Violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. Violation of subsection (a)(2) or (b) of this section is a misdemeanor of the second degree.

(j) Whoever violates subsection (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(k) (1) Whoever negligently violates subsection (e) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates subsection (e) of this section is guilty of a misdemeanor of the second degree.

(l) As used in this section, "nurse" includes an advanced practice registered nurse, registered nurse, and licensed practical nurse. (ORC 2921.22)

525.06 FAILURE TO AID A LAW ENFORCEMENT OFFICER.

(a) No person shall negligently fail or refuse to aid a law enforcement officer, when called upon for assistance in preventing or halting the commission of an offense, or in apprehending or detaining an offender, when such aid can be given without a substantial risk of physical harm to the person giving it.

(b) Whoever violates this section is guilty of failure to aid a law enforcement officer, a minor misdemeanor.

(ORC 2921.23)

525.07 OBSTRUCTING OFFICIAL BUSINESS.

(a) No person, without privilege to do so and with purpose to prevent, obstruct or delay the performance by a public official of any authorized act within the public official's official capacity, shall do any act that hampers or impedes a public official in the performance of the public official's lawful duties.

(b) Whoever violates this section is guilty of obstructing official business. Except as otherwise provided in this subsection (b), obstructing official business is a misdemeanor of the second degree. If a violation of this section creates a risk of physical harm to any person, obstructing official business is a felony and shall be prosecuted under appropriate State law.

(ORC 2921.31)

525.08 OBSTRUCTING JUSTICE.

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction, or punishment of another for a misdemeanor, or to assist another to benefit from the commission of a misdemeanor, and no person, with purpose to hinder the discovery, apprehension, prosecution, adjudication as a delinquent child, or disposition of a child for an act that if committed by an adult would be a misdemeanor or to assist a child to benefit from the commission of an act that if committed by an adult would be a misdemeanor, shall do any of the following:

(1) Harbor or conceal the other person or child;

(2) Provide the other person or child with money, transportation, a weapon, a disguise, or other means of avoiding discovery or apprehension;

(3) Warn the other person or child of impending discovery or apprehension;

(4) Destroy or conceal physical evidence of the misdemeanor, or act, or induce any person to withhold testimony or information or to elude legal process summoning the person to testify or supply evidence;

(5) Communicate false information to any person.

(6) Prevent or obstruct any person, by means of force, intimidation, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person or child.

(b) A person may be prosecuted for, and may be convicted of or adjudicated a delinquent child for committing, a violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed. The crime or act the person or child aided committed shall be used under subsection (c) hereof in determining the penalty for the violation of subsection (a) hereof, regardless of whether the person or child aided ultimately is apprehended for, is charged with, is convicted of, pleads guilty to, or is adjudicated a delinquent child for committing the crime or act the person or child aided committed.

(c) (1) Whoever violates this section is guilty of obstructing justice.

(2) If the crime committed by the person aided is a misdemeanor or if the act committed by the child aided would be a misdemeanor if committed by an adult, obstructing justice is a misdemeanor of the same degree as the misdemeanor committed by the person aided or a misdemeanor of the same degree that the act committed by the child aided would be if committed by an adult.

(d) As used in this section:

(1) "Adult" and "child" have the same meanings as in Ohio R.C. 2151.011.

(2) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.

(ORC 2921.32)

525.09 RESISTING ARREST.

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the resistance or interference, cause physical harm to a law enforcement officer.

(c) Whoever violates this section is guilty of resisting arrest. A violation of subsection (a) hereof is a misdemeanor of the second degree. A violation of subsection (b) hereof is a misdemeanor of the first degree.

(ORC 2921.33)

525.10 HAVING AN UNLAWFUL INTEREST IN A PUBLIC CONTRACT.

(a) No public official shall knowingly do any of the following:

(1) During the public official's term of office or within one year thereafter, occupy any position of profit in the prosecution of a

public contract authorized by the public official or by a legislative body, commission or board of which the public official was a member at the time of authorization unless the contract was let by competitive bidding, to the lowest and best bidder;

- (2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the Municipality or governmental agency or instrumentality with which the public official is connected;
 - (3) Have an interest in the profits or benefits of a public contract that is not let by competitive bidding if required by law, and that involves more than one hundred fifty dollars (\$150.00).
- (b) In the absence of bribery or a purpose to defraud, a public official, member of a public official's family or any of a public official's business associates shall not be considered as having an interest in a public contract if all of the following apply:
- (1) The interest of that person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization that is the contractor on the public contract involved, or that is the issuer of the security in which public funds are invested;
 - (2) The shares owned or controlled by that person do not exceed five percent (5%) of the outstanding shares of the corporation, and the amount due that person as creditor does not exceed five percent (5%) of the total indebtedness of the corporation or other organization;
 - (3) That person, prior to the time the public contract is entered into, files with the Municipality or governmental agency or instrumentality involved, an affidavit giving that person's exact status in connection with the corporation or other organization.
- (c) This section does not apply to a public contract in which a public official, member of a public official's family, or one of a public official's business associates, has an interest, when all of the following apply:
- (1) The subject of the public contract is necessary supplies or services for the Municipality or governmental agency or instrumentality involved;
 - (2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the Municipality or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the Municipality or governmental agency or instrumentality involved;
 - (3) The treatment accorded the Municipality or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;
 - (4) The entire transaction is conducted at arm's length, with full knowledge by the Municipality or governmental agency or instrumentality involved, of the interest of the public official, member of the public official's family or business associate, and the public official takes no part in the deliberations or decisions of the Municipality or governmental agency or instrumentality with respect to the public contract.

(d) Subsection (a)(4) does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of the public employee's office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not constitute an unlawful interest in a public contract in violation of this section.

(e) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.

(f) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Ohio R.C. 309.06 and 2921.421, or for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Ohio R.C. 733.621 and 2921.421.

(g) Any public contract in which a public official, a member of the public official's family, or any of the public official's business associates has an interest in violation of this section is void and unenforceable. Any contract securing the investment of public funds in which a public official, a member of the public official's family, or any of the public official's business associates has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees and that was entered into in violation of this section is void and unenforceable.

(h) As used in this section:

- (1) "Public contract" means any of the following:
 - A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.
 - B. A contract for the design, construction, alteration, repair or maintenance of any public property.
- (2) "Chief legal officer" has the same meaning as in Ohio R.C. 733.621.

(ORC 2921.42)

525.11 SOLICITING OR RECEIVING IMPROPER COMPENSATION. (REPEALED)

EDITOR'S NOTE: Former Section 525.11 was repealed by Ordinance 22-98, passed March 9, 1998.

525.12 DERELICTION OF DUTY.

- (a) No law enforcement officer shall negligently do any of the following:
 - (1) Fail to serve a lawful warrant without delay;
 - (2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in the law enforcement officer's power to do so alone or with available assistance.
- (b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.
- (c) No officer, having charge of a detention facility, shall negligently do any of the following:
 - (1) Allow the detention facility to become littered or unsanitary;
 - (2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;
 - (3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;
 - (4) Allow a prisoner to escape;

(5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

(d) No public official of the Municipality shall recklessly create a deficiency, incur a liability or expend a greater sum than is appropriated by the legislative authority of the Municipality for the use in any one year of the department, agency or institution with which the public official is connected.

(e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to the public servant's office, or recklessly do any act expressly forbidden by law with respect to the public servant's office.

(f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree.

(g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Ohio R.C. 9.08.

525.13 INTERFERING WITH CIVIL RIGHTS.

(a) No public servant, under color of the public servant's office, employment, or authority, shall knowingly deprive, or conspire or attempt to deprive any person of a constitutional or statutory right.

(b) Whoever violates this section is guilty of interfering with civil rights, a misdemeanor of the first degree. (ORC 2921.45)

525.14 UNAUTHORIZED DISPLAY OF LAW ENFORCEMENT EMBLEMS ON MOTOR VEHICLES.

(a) No person who is not entitled to do so shall knowingly display on a motor vehicle the emblem of a law enforcement agency or an organization of law enforcement officers.

(b) Whoever violates this section is guilty of the unlawful display of the emblem of a law enforcement agency or an organization of law enforcement officers, a minor misdemeanor.

(ORC 2913.441)

525.15 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog or horse in either of the following circumstances:

(1) The police dog or horse is assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted.

(2) The police dog or horse is not assisting a law enforcement officer in the performance of the officer's official duties at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog or horse is a police dog or horse.

(b) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike a police dog or horse;

(2) Throw an object or substance at a police dog or horse;

(3) Interfere with or obstruct a police dog or horse, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog or horse, in a manner that does any of the following:

A. Inhibits or restricts the law enforcement officer's control of the police dog or horse;

B. Deprives the law enforcement officer of control of the police dog or horse;

C. Releases the police dog or horse from its area of control;

D. Enters the area of control of the police dog or horse without the consent of the law enforcement officer, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the police dog or horse to assist a law enforcement officer.

(4) Engage in any conduct that is likely to cause serious physical injury or death to a police dog or horse.

(5) If the person is the owner, keeper, or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger a police dog or horse that at the time of the conduct is assisting a law enforcement officer in the performance of the officer's duties or that the person knows is a police dog or horse.

(c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog in either of the following circumstances:

(1) The dog is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted.

(2) The dog is not assisting or serving a blind, deaf or hearing impaired, or mobility impaired person at the time the physical harm is caused or attempted, but the offender has actual knowledge that the dog is an assistance dog.

(d) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike an assistance dog;

(2) Throw an object or substance at an assistance dog;

(3) Interfere with or obstruct an assistance dog, or interfere with or obstruct a blind, deaf or hearing impaired, or mobility impaired person who is being assisted or served by an assistance dog, in a manner that does any of the following:

A. Inhibits or restricts the assisted or served person's control of the dog;

B. Deprives the assisted or served person of control of the dog;

C. Releases the dog from its area of control;

D. Enters the area of control of the dog without the consent of the assisted or served person, including placing food or any other object or substance into that area;

E. Inhibits or restricts the ability of the dog to assist the assisted or served person.

(4) Engage in any conduct that is likely to cause serious physical injury or death to an assistance dog;

(5) If the person is the owner, keeper or harbinger of a dog, fail to reasonably restrain the dog from taunting, tormenting, chasing, approaching in a menacing fashion or apparent attitude of attack, or attempting to bite or otherwise endanger an assistance dog that at the time of the conduct is assisting or serving a blind, deaf or hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

(e) (1) Whoever violates subsection (a) hereof is guilty of assaulting a police dog or horse. If the violation results in physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the police dog or horse, assaulting a police dog or horse is a misdemeanor of the second degree. If the violation results in death or serious

physical harm to the police dog or horse, such violation is a felony and shall be prosecuted under appropriate State law.

- (2) Whoever violates subsection (b) hereof is guilty of harassing a police dog or horse. Except as otherwise provided in this subsection, harassing a police dog or horse is a misdemeanor of the second degree. If the violation results in the death of the police dog or horse or if the violation results in serious physical harm to the police dog or horse but does not result in its death, harassing a police dog or horse is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the police dog or horse but does not result in its death or in serious physical harm to it, harassing a police dog or horse is a misdemeanor of the first degree.
- (3) Whoever violates subsection (c) hereof is guilty of assaulting an assistance dog. If the violation results in physical harm to the dog other than death or serious physical harm, assaulting an assistance dog is a misdemeanor of the first degree. If the violation does not result in death, serious physical harm, or physical harm to the dog, assaulting an assistance dog is a misdemeanor of the second degree. If the violation results in death or serious physical harm to the dog, such violation is a felony and shall be prosecuted under appropriate State law.
- (4) Whoever violates subsection (d) of this section is guilty of harassing an assistance dog. Except as otherwise provided in this subsection, harassing an assistance dog is a misdemeanor of the second degree. If the violation results in the death of or serious physical harm to the assistance dog but does not result in its death, harassing an assistance dog is a felony and shall be prosecuted under appropriate State law. If the violation results in physical harm to the assistance dog but does not result in its death or in serious physical harm to it, harassing an assistance dog is a misdemeanor of the first degree.
- (5) In addition to any other sanction or penalty imposed for the offense under this section, whoever violates subsection (a), (b), (c) or (d) of this section is responsible for the payment of all of the following:
 - A. Any veterinary bill or bill for medication incurred as a result of the violation by the Police Department regarding a violation of subsection (a) or (b) of this section or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of subsection (c) or (d) of this section;
 - B. The cost of any damaged equipment that results from the violation;
 - C. If the violation did not result in the death of the police dog or horse or the assistance dog that was the subject of the violation and if, as a result of that dog or horse being the subject of the violation, the dog or horse needs further training or retraining to be able to continue in the capacity of a police dog or horse or an assistance dog, the cost of any further training or retraining of that dog or horse by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog;
 - D. If the violation resulted in the death of the assistance dog that was the subject of the violation or resulted in serious physical harm to the police dog or horse or the assistance dog or horse that was the subject of the violation to the extent that the dog or horse needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog or horse and of any further training of a new police dog or horse or a new assistance dog by a law enforcement officer or by the blind, deaf or hearing impaired, or mobility impaired person assisted or served by the assistance dog, which replacement or training is required because of the death of or the serious physical harm to the dog or horse that was the subject of the violation.
- (f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. Chapter 4741.
- (g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or horse or assistance dog that is the subject of a violation under this section is a police dog or horse or assistance dog.
- (h) As used in this section:
 - (1) "Physical harm" means any injury, illness, or other physiological impairment, regardless of its gravity or duration.
 - (2) "Police dog or horse" means a dog or horse that has been trained, and may be used, to assist law enforcement officers in the performance of their official duties.
 - (3) "Serious physical harm" means any of the following:
 - A. Any physical harm that carries a substantial risk of death;
 - B. Any physical harm that causes permanent maiming or that involves some temporary, substantial maiming;
 - C. Any physical harm that causes acute pain of a duration that results in substantial suffering.
 - (4) "Assistance dog", "blind", and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011.

(ORC 2921.321)

525.16 FALSE ALLEGATION OF PEACE OFFICER MISCONDUCT.

- (a) As used in this section, "peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - (b) No person shall knowingly file a complaint against a peace officer that alleges that the peace officer engaged in misconduct in the performance of the officer's duties if the person knows that the allegation is false.
 - (c) Whoever violates this section is guilty of making a false allegation of peace officer misconduct, a misdemeanor of the first degree.

(ORC 2921.15)

525.17 REFUSAL TO DISCLOSE PERSONAL INFORMATION IN PUBLIC PLACE.

- (a) No person who is in a public place shall refuse to disclose the person's name, address, or date of birth, when requested by a law enforcement officer who reasonably suspects either of the following:
- (1) The person is committing, has committed, or is about to commit a criminal offense.
 - (2) The person witnessed any of the following:
 - A. An offense of violence that would constitute a felony under the laws of this State;
 - B. A felony offense that causes or results in, or creates a substantial risk of, serious physical harm to another person or to property;
 - C. Any attempt or conspiracy to commit, or complicity in committing, any offense identified in subsection (a)(2)A. or B. of this section;
 - D. Any conduct reasonably indicating that any offense identified in subsection (a)(2)A. or B. of this section or any attempt, conspiracy, or complicity described in subsection (a)(2)C. of this section has been, is being, or is about to be committed.
- (b) Whoever violates this section is guilty of failure to disclose one's personal information, a misdemeanor of the fourth degree.
- (c) Nothing in this section requires a person to answer any questions beyond that person's name, address, or date of birth. Nothing in this section authorizes a law enforcement officer to arrest a person for not providing any information beyond that person's name, address, or date of birth or for refusing to describe the offense observed.
- (d) It is not a violation of this section to refuse to answer a question that would reveal a person's age or date of birth if age is an element of the crime that the person is suspected of committing.

(ORC 2921.29)

525.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 529

Liquor Control

529.01 Definitions.

529.02 Sales to and use by underage persons; securing public accommodations.

529.021 Purchase by minor; misrepresentation.

529.03 Sales to intoxicated persons.

529.04 Liquor consumption in motor vehicle.

529.05 Permit required.

529.06 Low-alcohol beverages: sale to and purchase by underage persons prohibited.

529.07 Open container prohibited.

529.08 Hours of sale or consumption.

529.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Prohibiting sale of intoxicating liquor on Sunday - see Ohio R.C. 4301.22(D)

Local option - see Ohio R.C. 4301.32 et seq., 4303.29

Disorderly conduct; intoxication - see GEN. OFF. 509.03

Using weapons while intoxicated - see GEN. OFF. 549.03

529.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "Alcohol". Ethyl alcohol, whether rectified or diluted with water or not, whatever its origin may be, and includes synthetic ethyl alcohol. The term does not include denatured alcohol and wood alcohol.
- (b) "At Retail". For use or consumption by the purchaser and not for resale.
- (c) "Beer".
 - (1) Includes all beverages brewed or fermented wholly or in part from malt products and containing one-half of one percent (0.5%) or more of alcohol by volume.
 - (2) Beer, regardless of the percent of alcohol by volume, is not intoxicating liquor for purposes of this code, the Ohio Revised Code, or any rules adopted under it.
- (d) "Cider". All liquids that are fit to use for beverage purposes that contain one-half of one percent (0.5%) of alcohol by volume, but not more than six percent (6%) of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.
- (e) "Hotel". The same meaning as in Ohio R.C. 3731.01, subject to the exceptions mentioned in Ohio R.C. 3731.03.
- (f) "Intoxicating Liquor" and "Liquor". All liquids and compounds, other than beer, containing one half of one percent (0.5%) or more of alcohol by volume which are fit to use for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether they are medicated, proprietary, or patented. The terms include cider and alcohol, and all solids and confections which contain one-half of one percent (0.5%) or more of alcohol by volume.
- (g) "Low-Alcohol Beverage". Any brewed or fermented malt product or any product made from the fermented juices of grapes, fruits, or other agricultural products that contains either no alcohol or less than one-half of one percent (0.5%) of alcohol by volume. The beverages described in this definition do not include a soft drink such as root beer, birch beer, or ginger beer.
- (h) "Manufacture". All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.
- (i) "Manufacturer". Any person engaged in the business of manufacturing beer or intoxicating liquor.
- (j) "Mixed Beverages". Include bottled and prepared cordials, cocktails, highballs, and solids and confections that are obtained by

mixing any type of whiskey, neutral spirits, brandy, gin or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume. The phrase includes the contents of a pod.

- (k) "Person". Includes firms and corporations.
- (l) "POD". Means a sealed capsule made from plastic, glass, aluminum, or a combination thereof to which all of the following apply:
 - (1) The capsule contains intoxicating liquor of more than twenty-one percent (21%) of alcohol by volume.
 - (2) The capsule also contains a concentrated flavoring mixture.
 - (3) The contents of the capsule are not readily accessible or intended for consumption unless certain manufacturer's processing instructions are followed.
 - (4) The instructions include releasing the contents of the capsule through a machine specifically designed to process the contents.
 - (5) After being properly processed according to the manufacturer's instructions, the final product produced from the capsule contains not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.
- (m) "Restaurant". A place located in a permanent building provided with space and accommodations wherein, in consideration of the payment of money, hot meals are habitually prepared, sold, and served at noon and evening, as the principal business of the place. The term does not include pharmacies, confectionery stores, lunch stands, nightclubs, and filling stations.
- (n) "Sale" and "Sell". The exchange, barter, gift, offer for sale, sale, distribution, and delivery of any kind, and the transfer of title or possession of beer and intoxicating liquor either by constructive or actual delivery by any means or devices whatever, including the sale of beer or intoxicating liquor by means of a controlled access alcohol and beverage cabinet pursuant to Ohio R.C. 4301.21. Such terms do not include the mere solicitation of orders for beer or intoxicating liquor from the holders of permits issued by the Division of Liquor Control authorizing the sale of the beer or intoxicating liquor, but no solicitor shall solicit any orders until the solicitor has been registered with the Division pursuant to Ohio R.C. 4303.25.
- (o) "Sealed Container". Any container having a capacity of not more than 128 fluid ounces, the opening of which is closed to prevent the entrance of air.
- (p) "Spirituos Liquor". All intoxicating liquors containing more than twenty-one percent (21%) of alcohol by volume. The phrase does not include the contents of a pod.
- (q) "Vehicle". All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.
- (r) "Wine". All liquids fit to use for beverage purposes containing not less than one-half of one percent (0.5%) of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume, which is made from the fermented juices of grapes, fruits, or other agricultural products. Except as provided in Ohio R.C. 4301.01(B)(3), the term does not include cider.
(ORC 4301.01, 4301.244)

529.02 SALES TO AND USE BY UNDERAGE PERSONS; SECURING PUBLIC ACCOMMODATIONS.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall sell beer or intoxicating liquor to an underage person, or shall buy beer or intoxicating liquor for an underage person, or shall furnish it to, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is supervised by a parent, spouse who is not an underage person or legal guardian.

In proceedings before the Liquor Control Commission, no permit holder, or no employee or agent of a permit holder, charged with a violation of this subsection shall be charged, for the same offense, with a violation of Ohio R.C. 4301.22(A)(1).

(b) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming beer or intoxicating liquor, unless the intoxicating liquor or beer is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person or legal guardian and the parent, spouse who is not an underage person or legal guardian is present at the time of the person's possession or consumption of the beer or intoxicating liquor.

An owner of a public or private place is not liable for acts or omissions in violation of this subsection that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(c) No person shall engage or use accommodations at a hotel, inn, cabin, campground or restaurant when he knows or has reason to know either of the following:

- (1) That beer or intoxicating liquor will be consumed by an underage person on the premises of the accommodations that the person engages or uses, unless the person engaging or using the accommodations is the spouse of the underage person and is not an underage person, or is the parent or legal guardian of all of the underage persons, who consume beer or intoxicating liquor on the premises and that person is on the premises at all times when beer or intoxicating liquor is being consumed by an underage person;
 - (2) That a drug of abuse will be consumed on the premises of the accommodations by any person, except a person who obtained the drug of abuse pursuant to a prescription issued by a practitioner and has the drug of abuse in the original container in which it was dispensed to the person.
- (d) (1) No person is required to permit the engagement of accommodations at any hotel, inn, cabin or campground by an underage person or for an underage person, if the person engaging the accommodations knows or has reason to know that the underage person is intoxicated, or that the underage person possesses any beer or intoxicating liquor and is not supervised by a parent, spouse who is not an underage person or legal guardian who is or will be present at all times when the beer or intoxicating liquor is being consumed by the underage person.
- (2) No underage person shall knowingly engage or attempt to engage accommodations at any hotel, inn, cabin or campground by presenting identification that falsely indicates that the underage person is twenty-one years of age or older for the purpose of violating this section.

(e) No underage person shall knowingly order, pay for, share the cost of, attempt to purchase, possess, or consume any beer or intoxicating liquor, in any public or private place. No underage person shall knowingly be under the influence of any beer or intoxicating liquor in any public place. The prohibitions set forth in this subsection (e) hereof against an underage person knowingly possessing, consuming, or being under the influence of any beer or intoxicating liquor shall not apply if the underage person is supervised by a parent, spouse who is not an underage person, or legal guardian, or the beer or intoxicating liquor is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(f) No parent, spouse who is not an underage person or legal guardian of a minor shall knowingly permit the minor to violate this section or Section 529.021(a) to (c).

(g) The operator of any hotel, inn, cabin or campground shall make the provisions of this section available in writing to any person engaging or using accommodations at the hotel, inn, cabin or campground.

(h) As used in this section:

(1) "Drug of abuse" has the same meaning as in Ohio R.C. 3719.011.

(2) "Hotel" has the same meaning as in Ohio R.C. 3731.01.

(3) "Licensed health professional authorized to prescribe drugs" and "prescription" have the same meanings as in Ohio R.C. 4729.01.

(4) "Minor" means a person under the age of eighteen years.

(5) "Underage person" means a person under the age of twenty-one years.

(ORC 4301.69)

(i) Whoever violates this section is guilty of a misdemeanor of the first degree. In addition, whoever violates subsection (a) hereof shall be fined not less than five hundred dollars (\$500.00). (ORC 4301.99)

529.021 PURCHASE BY MINOR; MISREPRESENTATION.

(a) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall purchase beer or intoxicating liquor.

(ORC 4301.63)

(b) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person shall knowingly furnish any false information as to the name, age or other identification of any person under twenty-one years of age for the purpose of obtaining or with the intent to obtain, beer or intoxicating liquor for a person under twenty-one years of age, by purchase, or as a gift.

(ORC 4301.633)

(c) Except as otherwise provided in this chapter or Ohio R.C. Chapter 4301, no person under the age of twenty-one years shall knowingly show or give false information concerning the person's name, age or other identification for the purpose of purchasing or otherwise obtaining beer or intoxicating liquor in any place where beer or intoxicating liquor is sold under a permit issued by the Division of Liquor Control or sold by the Division of Liquor Control.

(ORC 4301.634)

(d) (1) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the first degree.

(2) Whoever violates subsection (a) hereof, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (a) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

(3) A. Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. If, in committing a first violation of that subsection, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than two hundred fifty dollars (\$250.00) and not more than one thousand dollars (\$1,000) and may be sentenced to a term of imprisonment of not more than six months.

B. On a second violation in which, for the second time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. The court also may impose a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(7).

C. On a third or subsequent violation in which, for the third or subsequent time, the offender presented to the permit holder or the permit holder's employee or agent a false, fictitious or altered identification card, a false or fictitious driver's license purportedly issued by any state, or a driver's license issued by any state that has been altered, the offender is guilty of a misdemeanor of the first degree and shall be fined not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000), and may be sentenced to a term of imprisonment of not more than six months. Except as provided in this subsection, the court also may impose a class six suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in Ohio R.C. 4510.02(A)(6), and the court may order that the suspension or denial remain in effect until the offender attains the age of twenty-one years. The court, in lieu of suspending the offenders temporary instruction permit, probationary driver's license or driver's license, instead may order the offender to perform a determinate number of hours of community service, with the court determining the actual number of hours and the nature of the community service the offender shall perform. (ORC 4301.99)

529.03 SALES TO INTOXICATED PERSONS.

(a) No permit holder and no agent or employee of a permit holder shall sell or furnish beer or intoxicating liquor to an intoxicated person.

(ORC 4301.22)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4301.99)

529.04 LIQUOR CONSUMPTION IN MOTOR VEHICLE.

(a) No person shall consume any beer or intoxicating liquor in a motor vehicle. This section does not apply to persons described in Section 529.07(d).

(ORC 4301.64)

(b) Whoever violates subsection (a) hereof is guilty of a misdemeanor of the fourth degree.

(c) If an offender who violates this section was under the age of eighteen years at the time of the offense, the court, in addition to any other penalties it imposes upon the offender, shall suspend the offender's temporary instruction permit, probationary driver's license, or driver's license for a period of not less than six months and not more than one year. In lieu of suspending the offender's temporary instruction permit, probationary driver's license or driver's license, the court may instead require the offender to perform community service for a number of hours to be determined by the court. If the offender is fifteen years and six months of age or older and has not been issued a temporary instruction permit or probationary driver's license, the offender shall not be eligible to be issued such a license or permit for a period of six months. If the offender has not attained the age of fifteen years and six months, the offender shall not be eligible to be issued a temporary instruction permit until the offender attains the age of sixteen years. (ORC 4301.99)

529.05 PERMIT REQUIRED.

(a) No person personally or by the person's clerk, agent or employee shall manufacture, manufacture for sale, offer, keep or possess for sale, furnish or sell, or solicit the purchase or sale of any beer or intoxicating liquor in this Municipality, or transport, import or cause to be transported or imported any beer, intoxicating liquor or alcohol on or into this Municipality for delivery, use or sale, unless the person has fully complied with Ohio R.C. Chapters 4301 and 4303 or is the holder of a permit issued by the Division of Liquor Control and in force at the time.

(ORC 4303.25)

(b) Whoever violates this section is guilty of a minor misdemeanor.

529.06 LOW-ALCOHOL BEVERAGES: SALE TO AND PURCHASE BY UNDERAGE PERSONS PROHIBITED.

(a) As used in this section, "underage person" means a person under eighteen years of age.

(b) No underage person shall purchase any low-alcohol beverage.

(c) No underage person shall order, pay for, share the cost of, or attempt to purchase any low-alcohol beverage.

(d) No person shall knowingly furnish any false information as to the name, age, or other identification of any underage person for the purpose of obtaining or with the intent to obtain any low-alcohol beverage for an underage person, by purchase or as a gift.

(e) No underage person shall knowingly show or give false information concerning the person's name, age, or other identification for the purpose of purchasing or otherwise obtaining any low-alcohol beverage in any place in this Municipality.

(f) No person shall sell or furnish any low-alcohol beverage to, or buy any low-alcohol beverage for, an underage person, unless given by a physician in the regular line of his practice or given for established religious purposes, or unless the underage person is accompanied by a parent, spouse who is not an underage person, or legal guardian.

(g) No person who is the owner or occupant of any public or private place shall knowingly allow any underage person to remain in or on the place while possessing or consuming any low-alcohol beverage, unless the low-alcohol beverage is given to the person possessing or consuming it by that person's parent, spouse who is not an underage person, or legal guardian, and the parent, spouse who is not an underage person, or legal guardian is present when the person possesses or consumes the low-alcohol beverage.

An owner of a public or private place is not liable for acts or omissions in violation of this division that are committed by a lessee of that place, unless the owner authorizes or acquiesces in the lessee's acts or omissions.

(h) No underage person shall knowingly possess or consume any low-alcohol beverage in any public or private place, unless accompanied by a parent, spouse who is not an underage person, or legal guardian, or unless the low-alcohol beverage is given by a physician in the regular line of the physician's practice or given for established religious purposes.

(i) No parent, spouse who is not an underage person, or legal guardian of an underage person shall knowingly permit the underage person to violate this section.

(ORC 4301.631)

(j) Whoever violates any provision of this section for which no other penalty is provided is guilty of a misdemeanor of the fourth degree.

(k) Whoever violates subsection (b) hereof shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00). The court imposing a fine for a violation of subsection (b) hereof may order that the fine be paid by the performance of public work at a reasonable hourly rate established by the court. The court shall designate the time within which the public work shall be completed.

(ORC 4301.99)

529.07 OPEN CONTAINER PROHIBITED.

(a) As used in this section:

(1) "Chauffeured limousine" means a vehicle registered under Ohio R.C. 4503.24.

(2) "Street," "highway" and "motor vehicle" have the same meanings as in Ohio R.C. 4511.01.

(b) No person shall have in the person's possession an opened container of beer or intoxicating liquor in any of the following circumstances:

(1) In a State liquor store;

(2) Except as provided in subsection (c) hereof, on the premises of the holder of any permit issued by the Division of Liquor Control;

(3) In any other public place;

(4) Except as provided in subsection (d) or (e) hereof, while operating or being a passenger in or on a motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking;

(5) Except as provided in subsection (d) or (e) hereof, while being in or on a stationary motor vehicle on any street, highway or other public or private property open to the public for purposes of vehicular travel or parking.

- (c) (1) A person may have in the person's possession an opened container of any of the following:
- A. Beer or intoxicating liquor that has been lawfully purchased for consumption on the premises where bought from the holder of an A-1-A, A-2, A-2(f), A-3a, D-1, D-2, D-3, D-3a, D-4, D-4a, D-5, D-5a, D-5b, D-5c, D-5d, D-5e, D-5f, D-5g, D-5h, D-5i, D-5j, D-5k, D-5l, D-5m, D-5n, D-5o, D-7, D-8, E, F, F-2, F-5, F-7 or F-8 permit;
 - B. Beer, wine, or mixed beverages served for consumption on the premises by the holder of an F-3 permit, wine served as a tasting sample by an A-2 permit holder or S permit holder for consumption on the premises of a farmers market for which an F-10 permit has been issued, or wine served for consumption on the premises by the holder of an F-4 or F-6 permit;
 - C. Beer or intoxicating liquor consumed on the premises of a convention facility as provided in Ohio R.C. 4303.201;
 - D. Beer or intoxicating liquor to be consumed during tastings and samplings approved by rule of the Liquor Control Commission.
 - E. Spirituous liquor to be consumed for purposes of a tasting sample, as defined in Ohio R.C. 4301.171.
- (2) A person may have in the person's possession on an F liquor permit premises an opened container of beer or intoxicating liquor that was not purchased from the holder of the F permit if the premises for which the F permit is issued is a music festival and the holder of the F permit grants permission for that possession on the premises during the period for which the F permit is issued. As used in this section, "music festival" means a series of outdoor live musical performances, extending for a period of at least three consecutive days and located on an area of land of at least forty acres.
- (3) A. A person may have in the person's possession on a D-2 liquor permit premises an opened or unopened container of wine that was not purchased from the holder of the D-2 permit if the premises for which the D-2 permit is issued is an outdoor performing arts center, the person is attending an orchestral performance, and the holder of the D-2 permit grants permission for the possession and consumption of wine in certain predesignated areas of the premises during the period for which the D-2 permit is issued.
- B. As used in subsection (c)(3)A. of this section:
1. "Orchestral performance" means a concert comprised of a group of not fewer than forty musicians playing various musical instruments.
 2. "Outdoor performing arts center" means an outdoor performing arts center that is located on not less than one hundred fifty acres of land and that is open for performances from the first day of April to the last day of October of each year.
- (4) A person may have in the person's possession an opened or unopened container of beer or intoxicating liquor at an outdoor location at which the person is attending an orchestral performance as defined in subsection (c)(3)B.1. hereof if the person with supervision and control over the performance grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of that outdoor location.
- (5) A person may have in the person's possession on an F-9 liquor permit premises an opened or unopened container of beer or intoxicating liquor that was not purchased from the holder of the F-9 permit if the person is attending either of the following:
- A. An orchestral performance and the F-9 permit holder grants permission for the possession and consumption of beer or intoxicating liquor in certain predesignated areas of the premises during the period for which the F-9 permit is issued;
 - B. An outdoor performing arts event or orchestral performance that is free of charge and the F-9 permit holder annually hosts not less than twenty-five other events or performances that are free of charge on the permit premises.
- As used in subsection (c)(5) hereof, "orchestral performance" has the same meaning as in subsection (c)(3)B. of this section.
- (6) A. A person may have in the person's possession on the property of an outdoor motorsports facility an opened or unopened container of beer or intoxicating liquor that was not purchased from the owner of the facility if both of the following apply:
1. The person is attending a racing event at the facility; and
 2. The owner of the facility grants permission for the possession and consumption of beer or intoxicating liquor on the property of the facility;
- B. As used in subsection (c)(6)A. of this section:
1. "Racing event" means a motor vehicle racing event sanctioned by one or more motor racing sanctioning organizations.
 2. "Outdoor motorsports facility" means an outdoor racetrack to which all of the following apply:
 - a. It is two and four-tenths miles or more in length.
 - b. It is located on two hundred acres or more of land.
 - c. The primary business of the owner of the facility is the hosting and promoting of racing events.
 - d. The holder of a D-1, D-2 or D-3 permit is located on the property of the facility.
- (7) A. A person may have in the person's possession an opened container of beer or intoxicating liquor at an outdoor location within an outdoor refreshment area created under Ohio R.C. 4301.82, if the opened container of beer or intoxicating liquor was purchased from an A-1, A-1-A, A-1c, A-2, A-2f, D class or F class permit holder to which both of the following apply:
1. The permit holder's premises is located within the outdoor refreshment area.
 2. The permit held by the permit holder has an outdoor refreshment area designation.
- B. Subsection (c)(7) of this section does not authorize a person to do either of the following:
1. Enter the premises of an establishment within an outdoor refreshment area while possessing an opened container of beer or intoxicating liquor acquired elsewhere;
 2. Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within an outdoor refreshment area, unless the possession is otherwise authorized under subsection (d) or (e) of this section.
- C. As used in subsection (c)(7) of this section, "D class permit holder" does not include a D-6 or D-8 permit holder.
- (8) A. A person may have in the person's possession on the property of a market, within a defined F-8 permit premises, an opened container of beer or intoxicating liquor that was purchased from a D permit premises that is located immediately adjacent to the market if both of the following apply:

1. The market grants permission for the possession and consumption of beer and intoxicating liquor within the defined F-8 permit premises;
 2. The market is hosting an event pursuant to an F-8 permit and the market has notified the Division of Liquor Control about the event in accordance with division (A)(3) of Ohio R.C. 4303.208.
- B. As used in subsection (c)(8) of this section, market means a market, for which an F-8 permit is held, that has been in operation since 1860.
- (d) This section does not apply to a person who pays all or a portion of the fee imposed for the use of a chauffeured limousine pursuant to a prearranged contract, or the guest of such a person, when all of the following apply:
 - (1) The person or guest is a passenger in the limousine;
 - (2) The person or guest is located in the limousine, but is not occupying a seat in the front compartment of the limousine where the operator of the limousine is located;
 - (3) The limousine is located on any street, highway, or other public or private property open to the public for purposes of vehicular travel or parking.
 - (e) An opened bottle of wine that was purchased from the holder of a permit that authorizes the sale of wine for consumption on the premises where sold is not an opened container for the purposes of this section if both of the following apply:
 - (1) The opened bottle of wine is securely resealed by the permit holder or an employee of the permit holder before the bottle is removed from the premises. The bottle shall be secured in such a manner that it is visibly apparent if the bottle has been subsequently opened or tampered with.
 - (2) The opened bottle of wine that is resealed in accordance with subsection (e)(1) of this section is stored in the trunk of a motor vehicle or, if the motor vehicle does not have a trunk, behind the last upright seat or in an area not normally occupied by the driver or passengers and not easily accessible by the driver.
 - (f) (1) Except if an ordinance or resolution is enacted or adopted under subsection (f)(2) of this section, this section does not apply to a person who, pursuant to a prearranged contract, is a passenger riding on a commercial quadricycle when all of the following apply:
 - A. The person is not occupying a seat in the front of the commercial quadricycle where the operator is steering or braking.
 - B. The commercial quadricycle is being operated on a street, highway or other public or private property open to the public for purposes of vehicular travel or parking.
 - C. The person has in their possession on the commercial quadricycle an opened container of beer or wine.
 - D. The person has in their possession on the commercial quadricycle not more than either thirty-six ounces of beer or eighteen ounces of wine.
 - (2) The legislative authority of a municipal corporation or township may enact an ordinance or adopt a resolution, as applicable, that prohibits a passenger riding on a commercial quadricycle from possessing an opened container or beer or wine.
 - (3) As used in this section, "commercial quadricycle" means a vehicle that has fully-operative pedals for propulsion entirely by human power and that meets all of the following requirements:
 - A. It has four wheels and is operated in a manner similar to a bicycle.
 - B. It has at least five seats for passengers.
 - C. It is designed to be powered by the pedaling of the operator and the passengers.
 - D. It is used for commercial purposes.
 - E. It is operated by the vehicle owner or an employee of the owner.
 - (g) This section does not apply to a person that has in the person's possession an opened container of beer or intoxicating liquor on the premises of a market if the beer or intoxicating liquor has been purchased from a D liquor permit holder that is located in the market.
- As used in subsection (g) of this section, "market" means an establishment that:
- (1) Leases space in the market to individual vendors, not less than fifty percent of which are retail food establishments or food service operations licensed under Ohio R.C. Chapter 3717;
 - (2) Has an indoor sales floor area of not less than twenty-two thousand square feet;
 - (3) Hosts a farmer's market on each Saturday from April through December.
- (ORC 4301.62)
- (h) (1) As used in this section, "alcoholic beverage" has the same meaning as in Ohio R.C. 4303.185.
 - (2) An alcoholic beverage in a closed container being transported under Ohio R.C. 4303.185 to its final destination is not an opened container for the purposes of this section if the closed container is securely sealed in such a manner that it is visibly apparent if the closed container has been subsequently opened or tampered with after sealing.
- (ORC 4301.62)
- (i) Whoever violates this section is guilty of a minor misdemeanor.
- (ORC 4301.99(A))

529.08 HOURS OF SALE OR CONSUMPTION.

- (a) This rule shall apply to the retail sale of beer, wine, mixed beverages, or spirituous liquor.
- (b) No beer, wine, mixed beverages, or spirituous liquor shall be sold or delivered by an A-1, A-1c, A-2, B-1, B-2, B-4, B-5, C-1, C-2, C-2X, D-1, D-2, D-2X, D-3 when issued without a D-3A, D-3X, D-4, D-5H, D-5K, D-8, F, F-1, F-2, F-3, F-4, F-5, F-6, F-7, F-8, F-9, G or I permit holder:
 - (1) From Monday to Saturday between the hours of one a.m. and five thirty a.m.
 - (2) On Sunday between the hours of one a.m. and Sunday midnight, unless statutorily authorized otherwise.
 - (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages, or spirituous liquor for on-premises consumption.
- (c) No beer, wine, mixed beverages, or spirituous liquid shall be sold or delivered by an A-1A, D-3 when issued with a D-3A, D-4A, D-5, D-5A, D-5B, D-5C, D-5D, D-5E, D-5F, D-5G, D-5I, D-5J, D-5L, D-5m, D-5n, D-5o, or D-7 permit holder:
 - (1) From Monday to Saturday between the hours of two thirty a.m. and five thirty a.m.
 - (2) On Sunday between the hours of two thirty a.m. and Sunday midnight, unless statutorily authorized otherwise.

- (3) Consumption of beer, wine, mixed beverages, or spirituous liquor is also prohibited during the above hours upon the premises of the above permit holders who are authorized by their permit to sell beer, wine, mixed beverages or spirituous liquor for on-premises consumption.
- (d) Permit holders authorized to sell beer, wine, mixed beverages, or spirituous liquor at retail who are not specifically identified in subsection (b) or (c) above shall be subject to the provisions of subsection (b), unless statutorily authorized otherwise.
- (e) The hours on Sunday during which sales, delivery, or consumption of alcoholic beverages may take place are established by statute, but in no event shall they begin prior to five thirty a.m. (OAC 4301:1-1-49)
- (f) Whoever violates this section is guilty of a minor misdemeanor.

529.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 531

Obscene Materials, Performances and Other Matters

531.01 Definitions.

531.02 Prohibited conduct.

531.04 Notice of obscene material or action.

531.04 Types of proceedings.

531.99 Penalty.

CROSS REFERENCES

State law provisions - see Ohio R.C. Ch. 2907

Obscenity and sex offenses - see GEN. OFF. Ch. 533

531.01 DEFINITIONS.

As used in this chapter:

- (a) When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates, or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if the following apply:
- (1) Its dominant appeal is to prurient interest;
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
 - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
- (5) When taken as a whole, it lacks serious literary, artistic, political or scientific value.
- (b) "Sexual excitement" means the condition of human male or female genitals when in a stage of sexual stimulation or arousal.
- (c) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (d) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record or tape or other tangible thing capable of arousing interest through sight, sound or touch.
- (e) "Obscene" means that to the average person applying contemporary community standards:
- (1) The predominant appeal of the matter taken as a whole is to prurient interest, i.e., a shameful or morbid interest in sexual conduct, nudity or excretion;
 - (2) The matter depicts or describes in a patently offensive manner sexual conduct;
 - (3) The work, taken as a whole, lacks serious literary, artistic, political or scientific value.
- (f) "Person" means any individual, partnership, firm, association, corporation or other legal entity.
- (g) "Disseminate" means to transfer possession of, with or without consideration.
- (h) "Knowingly" means being aware of the character and the content of the material.
- (i) "Performance" means any preview, play, show, skit, film, dance or other exhibition performed before an audience.
- (j) "Available to the public" means that the matter or performance may be purchased or attended on a subscription basis, on a membership fee arrangement or for a separate fee for each item or performance.
- (k) "Service to patrons" means the provision of services to paying guests in establishments providing food and beverages; including but not limited to, hostessing, hat checking, cooking, bartending, serving, table setting and clearing, waitressing and waitressing, and entertaining.
- (l) "Promote" means to cause, permit, procure, counsel or assist.
- (Ord. 24-82. Passed 5-24-82.)

531.02 PROHIBITED CONDUCT.

No person shall:

- (a) Knowingly disseminate, distribute or make available to the public any obscene material;
- (b) Knowingly engage or participate in any obscene performance made available to the public;
- (c) Knowingly engage in commerce for commercial gain with materials depicting and describing explicit sexual conduct, nudity or excretion utilizing displays, circulars, advertisements and other public sales efforts that promote such commerce primarily on the basis of their prurient appeal;
- (d) Provide service to patrons in such a manner as to expose to public view:
 - (1) His or her genitals, pubic hair, buttocks, perineum, anal region or pubic hair region;

- (2) Any device, costume or covering which gives the appearance of or simulates the genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
- (3) Any portion of the female breast at or below the areola thereof.
- (e) Knowingly promote the commission of any of the above listed unlawful acts.
(Ord. 24-82. Passed 5-24-82.)

531.03 NOTICE OF OBSCENE MATERIAL OR ACTION.

- (a) Actual notice of the obscene nature of such material, performance or activity may be given to a person involved in or responsible for such from the City Prosecutor on the basis of information lawfully gathered and supplied to him by the Police Department or citizens.
 - (1) Such notice shall be in writing and delivered by mail or in person to the alleged offender.
 - (2) Such notice shall state that:
 - A. In the opinion of the City Prosecutor the activity engaged in falls within the prohibitions of Section 531.02.
 - B. If such activity has not ceased within three judicial days, the City will take appropriate legal action.
 - C. A declaratory judgment proceeding as described in Section 531.04(b) is available if a person engaged in the challenged activity wishes to initiate the legal determination of whether the activity is in fact obscene.
 - (b) A person who promotes any obscene activity as prohibited in Section 531.02 in the course of his business is presumed to do so with knowledge of its contents and character.
(Ord. 24-82. Passed 5-24-82.)

531.04 TYPES OF PROCEEDINGS.

- (a) In Rem Proceedings.
 - (1) The Chief of Police may apply to the City Prosecutor to institute an attachment proceeding against any material which is alleged to be obscene in a sworn affidavit.
 - (2) Upon filing of an application for attachment authorized in subsection (a)(1) hereof, the Chief shall immediately cause notice thereof to be served either personally or by mail upon any person residing or doing business in the City who is known or believed by the Chief to have any of the following interests in material named in the complaint:
 - A. The publisher;
 - B. The wholesaler, distributor, circulator;
 - C. Every retailer or dealer who has, or may have possession of any material identical to material named in the complaint.
 - (3) Trial may be held no later than the fourth judicial day following the filing for attachment. No trial under this section shall be continued or otherwise postponed more than one judicial day, but may be conducted by a judge pro tempore in the event of unavailability of the trial judge.
- (b) Declaratory Judgment.
 - (1) Any person receiving notice in writing from the City Prosecutor under Section 531.03 that a specified activity is obscene may bring action against the City for a declaratory judgment to determine whether such activity is obscene.
 - (2) If it is adjudged and declared by the court that such activity is obscene, then the City Prosecutor may cause the publication of such judgment in a newspaper of general circulation in the City. Upon such publication all persons residing or doing business in the City will be presumed to have actual notice of the nature of the activity.
- (c) Criminal Prosecution.
 - (1) The City Prosecutor may cause criminal charges to be brought against any person presently engaging in or who has engaged in any prohibited activity in violation of Section 531.02(a), (c) and (e).
 - (2) If the City Prosecutor has given notice pursuant to Section 531.03, then such criminal, charges may be brought only after three judicial days after receipt of notice.
- (d) Injunction.
 - (1) The City Prosecutor may seek a temporary restraining order in the Lancaster Municipal Court in order to enjoin any obscene performance or the service of patrons in violation of Section 531.02
 - (2) If the City Prosecutor has given written notice pursuant to Section 531.03(a), he may after the passage of three judicial days seek such a temporary restraining order.
 - (3) A judicial hearing on a request for such order must be granted within three judicial days, and if the temporary restraining order is issued, a trial on the issue of the obscenity of the activity must be commenced within ten days of the issuance of the temporary restraining order. Such trial is not to be postponed, stayed or adjourned by the Municipal Court for more than two judicial days, but it may be conducted by a judge pro tempore if no trial judge is available.

(Ord. 24-82. Passed 5-24-82.)

531.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the first degree.

(Ord. 24-82. Passed 5-24-82.)

CHAPTER 533

Obscenity and Sex Offenses

- 533.01 Definitions.**
- 533.02 Presumption of knowledge; actual notice and defense.**
- 533.03 Unlawful sexual conduct with a minor.**
- 533.04 Sexual imposition.**
- 533.05 Importuning.**
- 533.06 Voyeurism.**
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- 533.08 Procuring; engagement in sexual activity for hire.**

- 533.09 Soliciting.**
- 533.091 Loitering to engage in solicitation.**
- 533.10 Prostitution.**
- 533.11 Disseminating matter harmful to juveniles.**
- 533.12 Deception to obtain matter harmful to juveniles.**
- 533.13 Displaying matter harmful to juveniles.**
- 533.14 Unlawful advertising of massage.**
- 533.15 Dissemination of private sexual images.**
- 533.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
 Complicity - see GEN. OFF. 501.10
 Offensive conduct - see GEN. OFF. 509.03
 Telephone harassment - see GEN. OFF. 537.10
 Criminal trespass - see GEN. OFF. 541.05

533.01 DEFINITIONS.

As used in this chapter:

- (a) "Sexual conduct" means vaginal intercourse between a male and female; anal intercourse, fellatio and cunnilingus between persons regardless of sex; and, without privilege to do so, the insertion, however slight, of any part of the body or any instrument, apparatus or other object into the vaginal or anal opening of another. Penetration, however slight, is sufficient to complete vaginal or anal intercourse.
- (b) "Sexual contact" means any touching of an erogenous zone of another, including without limitation the thigh, genitals, buttock, pubic region, or, if such person is a female, a breast, for the purpose of sexually arousing or gratifying either person.
- (c) "Sexual activity" means sexual conduct or sexual contact, or both.
- (d) "Prostitute" means a male or female who promiscuously engages in sexual activity for hire, regardless of whether the hire is paid to the prostitute or to another.
- (e) "Harmful to juveniles" means that quality of any material or performance describing or representing nudity, sexual conduct, sexual excitement, or sado- masochistic abuse in any form to which all of the following apply:
 - (1) The material or performance, when considered as a whole, appeals to the prurient interest of juveniles in sex.
 - (2) The material or performance is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable for juveniles.
 - (3) The material or performance, when considered as a whole, lacks serious literary, artistic, political and scientific value for juveniles.
- (f) When considered as a whole, and judged with reference to ordinary adults, or, if it is designed for sexual deviates or other specially susceptible group, judged with reference to such group, any material or performance is "obscene" if any of the following apply:
 - (1) Its dominant appeal is to prurient interest;
 - (2) Its dominant tendency is to arouse lust by displaying or depicting sexual activity, masturbation, sexual excitement or nudity in a way which tends to represent human beings as mere objects of sexual appetite;
 - (3) Its dominant tendency is to arouse lust by displaying or depicting bestiality or extreme or bizarre violence, cruelty or brutality;
 - (4) Its dominant tendency is to appeal to scatological interest by displaying or depicting human bodily functions of elimination in a way which inspires disgust or revulsion in persons with ordinary sensibilities, without serving any genuine scientific, educational, sociological, moral or artistic purpose;
 - (5) It contains a series of displays or descriptions of sexual activity, masturbation, sexual excitement, nudity, bestiality, extreme or bizarre violence, cruelty or brutality, or human bodily functions of elimination, the cumulative effect of which is a dominant tendency to appeal to prurient or scatological interest, when the appeal to such interest is primarily for its own sake or for commercial exploitation, rather than primarily for a genuine scientific, educational, sociological, moral or artistic purpose.
- (g) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (h) "Nudity" means the showing, representation or depiction of human male or female genitals, pubic area or buttocks with less than a full, opaque covering, or of a female breast with less than a full, opaque covering of any portion thereof below the top of the nipple, or of covered male genitals in a discernibly turgid state.
- (i) "Juvenile" means an unmarried person under the age of eighteen.
- (j) "Material" means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, phonographic record, or tape, or other tangible thing capable of arousing interest through sight, sound, or touch and includes an image or text appearing on a computer monitor, television screen, liquid crystal display, or similar display device or an image or text recorded on a computer hard disk, computer floppy disk, compact disk, magnetic tape or similar data storage device.
- (k) "Performance" means any motion picture, preview, trailer, play, show, skit, dance or other exhibition performed before an audience.
- (l) "Spouse" means a person married to an offender at the time of an alleged offense, except that such person shall not be considered the spouse when any of the following apply:
 - (1) When the parties have entered into a written separation agreement authorized by Ohio R.C. 3103.06;
 - (2) During the pendency of an action between the parties for annulment, divorce, dissolution of marriage or legal separation;
 - (3) In the case of an action for legal separation, after the effective date of the judgment for legal separation.
- (m) "Minor" means a person under the age of eighteen years.

- (n) "Mental health client or patient" has the same meaning as in Ohio R.C. 2305.51.
- (o) "Mental health professional" has the same meaning as in Ohio R.C. 2305.115.
- (p) "Sado-masochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained.
(ORC 2907.01)

533.02 PRESUMPTION OF KNOWLEDGE; ACTUAL NOTICE AND DEFENSE.

(a) An owner or manager, or agent or employee of an owner or manager, of a bookstore, newsstand, theater, or other commercial establishment engaged in selling materials or exhibiting performances, who, in the course of business does any of the acts prohibited by Section 533.11, is presumed to have knowledge of the character of the material or performance involved, if the owner, manager, or agent or employee of the owner or manager has actual notice of the nature of such material or performance, whether or not the owner, manager, or agent or employee of the owner or manager has precise knowledge of its contents.

(b) Without limitation on the manner in which such notice may be given, actual notice of the character of material or a performance may be given in writing by the chief legal officer of the jurisdiction in which the person to whom the notice is directed does business. Such notice, regardless of the manner in which it is given, shall identify the sender, identify the material or performance involved, state whether it is obscene or harmful to juveniles and bear the date of such notice.

(c) Section 533.11 does not apply to a motion picture operator or projectionist acting within the scope of employment as an employee of the owner or manager of a theater or other place for the showing of motion pictures to the general public, and having no managerial responsibility or financial interest in the operator's or projectionist's place of employment, other than wages.

(d) (1) Sections 533.11, 533.12(a) and 533.13 do not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection.

(2) Subsection (d)(1) of this section does not apply to a person who conspires with an entity actively involved in the creation or knowing distribution of material in violation of Section 533.11, 533.12 or 533.13, or who knowingly advertises the availability of material of that nature.

(3) Subsection (d)(1) of this section does not apply to a person who provides access or connection to an electronic method of remotely transferring information that is engaged in the violation of Section 533.11, 533.12 or 533.13, and that contains content that person has selected and introduced into the electronic method of remotely transferring information or content over which that person exercises editorial control.

(e) An employer is not guilty of a violation of Section 533.11, 533.12, or 533.13 based on the actions of an employee or agent of the employer unless the employee's or agent's conduct is within the scope of employee's or agent's employment or agency, and the employer does either of the following:

- (1) With knowledge of the employee's or agent's conduct, the employer authorizes or ratifies the conduct.
- (2) The employer recklessly disregards the employee's or agent's conduct.

(f) It is an affirmative defense to a charge under Section 533.11 or 533.13 as the section applies to an image transmitted through the internet or another electronic method of remotely transmitting information that the person charged with violating the section has taken, in good faith, reasonable, effective, and appropriate actions under the circumstances to restrict or prevent access by juveniles to material that is harmful to juveniles, including any method that is feasible under available technology.

(g) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.

(ORC 2907.35)

533.03 UNLAWFUL SEXUAL CONDUCT WITH A MINOR.

(a) No person, who is eighteen years of age or older, shall engage in sexual conduct with another, who is not the spouse of the offender, when the offender knows the other person is thirteen years of age or older but less than sixteen years of age, or the offender is reckless in that regard.

(b) Whoever violates this section is guilty of unlawful sexual conduct with a minor, a misdemeanor of the first degree. If the offender is four years older or more than the other person, or if the offender has previously been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03 or 2907.04, or former Ohio R.C. 2907.12, unlawful sexual conduct with a minor is a felony and shall be prosecuted under appropriate State law.

(ORC 2907.04)

533.04 SEXUAL IMPOSITION.

(a) No person shall have sexual contact with another, not the spouse of the offender; cause another, not the spouse of the offender, to have sexual contact with the offender; or cause two or more persons to have sexual contact when any of the following applies:

- (1) The offender knows that the sexual contact is offensive to the other person, or one of the other persons, or is reckless in that regard.
- (2) The offender knows that the other person's or one of the other person's ability to appraise the nature of or control the offender's or touching person's conduct is substantially impaired.
- (3) The offender knows that the other person or one of the other persons submits because of being unaware of the sexual contact.
- (4) The other person or one of the other persons is thirteen years of age or older but less than sixteen years of age, whether or not the offender knows the age of such person, and the offender is at least eighteen years of age and four or more years older than such other person.
- (5) The offender is a mental health professional, the other person or one of the other persons is a mental health client or patient of the offender, and the offender induces the other person who is the client or patient to submit by falsely representing to the other person who is the client or patient that the sexual contact is necessary for mental health treatment purposes.

(b) No person shall be convicted of a violation of this section solely upon the victim's testimony unsupported by other evidence.

(c) Whoever violates this section is guilty of sexual imposition, a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to a violation of Ohio R.C. 2907.02, 2907.03, 2907.04, 2907.05, 2907.06 or former Section 2907.12, or a substantially similar municipal ordinance, a violation of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of Ohio R.C. 2907.02, 2907.03, 2907.04 or 2907.05, 2907.06 or former Section 2907.12 or of any combination of those sections, a violation of this section is a misdemeanor of the first degree and, notwithstanding the range of jail terms prescribed in Ohio R.C. 2929.24, the court may impose on the offender a definite jail term of not more than one year.
(ORC 2907.06)

533.05 IMPORTUNING.

(EDITOR'S NOTE: Former Section 533.05 has been deleted from the Codified Ordinances. Section 533.05 was identical to Ohio R.C. 2907.07(B) which the Ohio Supreme Court held to be unconstitutional in State v. Thompson, 95 Ohio St. 3rd 264 (2002).)

533.06 VOYEURISM.

(a) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another, to spy or eavesdrop upon another.

(b) No person, for the purpose of sexually arousing or gratifying the person's self, shall commit trespass or otherwise surreptitiously invade the privacy of another to videotape, film, photograph, or otherwise record the other person in a state of nudity.

(c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person under or through the clothing being worn by that other person for the purpose of viewing the body of, or the undergarments worn by, that other person.

(d) (1) Whoever violates this section is guilty of voyeurism.

(2) A violation of subsection (a) hereof is a misdemeanor of the third degree.

(3) A violation of subsection (b) hereof is a misdemeanor of the second degree.

(4) A violation of subsection (c) hereof is a misdemeanor of the first degree. (ORC 2907.08)

533.07 PUBLIC INDECENCY.

(a) No person shall recklessly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront others, who are in the person's physical proximity and who are not members of the person's household:

(1) Expose the person's private parts;

(2) Engage in sexual conduct or masturbation;

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation.

(b) No person shall knowingly do any of the following, under circumstances in which the person's conduct is likely to be viewed by and affront another person who is in the person's physical proximity, who is a minor, and who is not the spouse of the offender:

(1) Engage in masturbation;

(2) Engage in sexual conduct;

(3) Engage in conduct that to an ordinary observer would appear to be sexual conduct or masturbation;

(4) Expose the person's private parts with the purpose of personal sexual arousal or gratification or to lure the minor into sexual activity.

(c) (1) Whoever violates this section is guilty of public indecency and shall be punished as provided in subsections (c)(2), (3), (4) and (5) of this section.

(2) Except as otherwise provided in subsection (c)(2) of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the third degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to three or more violations of this section, a violation of subsection (a)(1) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

(3) Except as otherwise provided in subsection (c)(3) of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the second degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (a)(2) or (3) of this section is a misdemeanor of the first degree or, if any person who was likely to view and be affronted by the offender's conduct was a minor, a felony which shall be prosecuted under appropriate state law.

(4) Except as otherwise provided in subsection (c)(4) of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to one violation of this section, a violation of subsection (b)(1), (2) or (3) of this section is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, a violation of subsection (b)(1), (2) or (3) of this section is a felony and shall be prosecuted under appropriate state law.

(5) A violation of subsection (b)(4) of this section is a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to any violation of this section in which case the violation is a felony and shall be prosecuted under appropriate state law.

(d) (1) If either of the following applies, the court may determine at the time of sentencing whether to classify the offender as a tier I

sex offender/child-victim offender for a violation of subsection (b)(4) of this section:

- A. The offender is less than ten years older than the other person.
 - B. The offender is ten or more years older than the other person and the offender has not previously been convicted of or pleaded guilty to any violation of this section.
- (2) If the offender is convicted of or pleads guilty to a violation of subsection (b)(4) of this section, is ten or more years older than the other person, and previously has been convicted of or pleaded guilty to any violation of this section, the court shall issue an order at the time of sentencing that classifies the offender as a tier I sex offender/child-victim offender subject to registration under Ohio R.C. 2950.04, 2950.041, 2950.05 and 2950.06.

(ORC 2907.09)

533.08 PROCURING; ENGAGEMENT IN SEXUAL ACTIVITY FOR HIRE.

(a) No person, knowingly and for gain, shall do either of the following:

- (1) Entice or solicit another to patronize a prostitute or brothel;
- (2) Procure a prostitute for another to patronize, or take or direct another at his or her request to any place for the purpose of patronizing a prostitute.

(b) No person, having authority or responsibility over the use of premises, shall knowingly permit such premises to be used for the purpose of engaging in sexual activity for hire.

(c) Whoever violates subsection (a) or (b) of this section is guilty of procuring. Except as otherwise provided in this subsection (c), procuring is a misdemeanor of the first degree. If the prostitute who is procured, patronized or otherwise involved in a violation of subsection (a)(2) of this section is under eighteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(2) of this section knows the prostitute's age, or if a prostitute who engages in sexual activity for hire in premises used in violation of subsection (b) of this section is under eighteen years of age at the time of the violation, regardless of whether the offender who violates subsection (b) of this section knows the prostitute's age, procuring is a felony and shall be prosecuted under appropriate state law.

(d) No person shall recklessly induce, entice, or procure another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person.

(e) As used in subsection (d) of this section, "Sexual Activity for Hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any

person associated with either such person.

(f) Whoever violates subsection (d) of this section is guilty of engaging in prostitution, a misdemeanor of the first degree. In sentencing the offender under this subsection, the court shall require the offender to attend an education or treatment program aimed at preventing persons from

inducing, enticing, or procuring another to engage in sexual activity for hire in exchange for the person giving anything of value to the other person and, notwithstanding the fine specified in Ohio R.C. 2929.28(A)(2)(a) for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than one thousand five hundred dollars (\$1,500).

(ORC 2907.231)

533.09 SOLICITING.

(a) No person shall knowingly solicit another to engage in sexual activity for hire in exchange for the person receiving anything of value from the other person.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

(c) As used in subsection (a) of this section, "Sexual Activity for Hire" means an implicit or explicit agreement to provide sexual activity in exchange for anything of value paid to the person engaging in such sexual activity, to any person trafficking that person, or to any

person associated with either such person.

(d) (1) Whoever violates subsection (a) of this section is guilty of soliciting. Soliciting is a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of engaging in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law. (ORC 2907.24)

533.091 LOITERING TO ENGAGE IN SOLICITATION.

(a) No person, with purpose to solicit another to engage in sexual activity for hire and while in or near a public place, shall do any of the following:

- (1) Beckon to, stop or attempt to stop another;
- (2) Engage or attempt to engage another in conversation;
- (3) Stop or attempt to stop the operator of a vehicle or approach a stationary vehicle;

(4) If the offender is the operator of or a passenger in a vehicle, stop, attempt to stop, beckon to, attempt to beckon to, or entice another to approach or enter the vehicle of which the offender is the operator or in which the offender is the passenger;

(5) Interfere with the free passage of another.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in conduct in violation of subsection (a) of this section.

(c) As used in subsection (a) of this section:

(1) "Public Place". Means any of the following:

A. A street, road, highway, thoroughfare, bikeway, walkway, sidewalk, bridge, alley, alleyway, plaza, park, driveway, parking lot or transportation facility.

B. A doorway or entrance way to a building that fronts on a place described in subsection (c)(1)A. of this definition.

C. A place not described in subsection (c)(1)A. or B. of this definition that is open to the public.

(2) "Vehicle". Has the same meaning as in Ohio R.C. 4501.01.

(d) (1) Whoever violates subsection (a) of this section is guilty of loitering to engage in solicitation, a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of loitering to engage in solicitation after a positive HIV test, a felony to be prosecuted under appropriate state law.

(ORC 2907.24, 2907.241)

533.10 PROSTITUTION.

(a) No person shall engage in sexual activity for hire.

(b) No person, with knowledge that the person has tested positive as a carrier of a virus that causes acquired immunodeficiency syndrome, shall engage in sexual activity for hire.

(c) (1) Whoever violates subsection (a) of this section is guilty of prostitution, a misdemeanor of the third degree.

(2) Whoever violates subsection (b) of this section is guilty of engaging in prostitution after a positive HIV test, a felony to be

prosecuted under appropriate state law.
(ORC 2907.25)

533.11 DISSEMINATING MATTER HARMFUL TO JUVENILES.

- (a) No person, with knowledge of its character or content, shall recklessly do any of the following:
- (1) Directly sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
 - (2) Directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent or present to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles any material or performance that is obscene or harmful to juveniles;
 - (3) While in the physical proximity of the juvenile or law enforcement officer posing as a juvenile, allow any juvenile or law enforcement officer posing as a juvenile to review or peruse any material or view any live performance that is harmful to juveniles.
- (b) The following are affirmative defenses to a charge under this section, that involves material or a performance that is harmful to juveniles but not obscene:
- (1) The defendant is the parent, guardian or spouse of the juvenile involved.
 - (2) The juvenile involved, at the time of the conduct in question, was accompanied by the juvenile's parent or guardian who, with knowledge of its character, consented to the material or performance being furnished or presented to the juvenile.
 - (3) The juvenile exhibited to the defendant or the defendant's agent or employee a draft card, driver's license, birth certificate, marriage license, or other official or apparently official document purporting to show that the juvenile was eighteen years of age or over or married, and the person to whom that document was exhibited did not otherwise have reasonable cause to believe that the juvenile was under the age of eighteen and unmarried.
- (c) (1) It is an affirmative defense to a charge under this section, involving material or a performance that is obscene or harmful to juveniles, that the material or performance was furnished or presented for a bona fide medical, scientific, educational, governmental, judicial or other proper purpose, by a physician, psychologist, sociologist, scientist, teacher, librarian, clergyman, prosecutor, judge or other proper person.
- (2) Except as provided in subsection (b)(3) hereof, mistake of age is not a defense to a charge under this section.
- (d) (1) A person directly sells, delivers, furnishes, disseminates, provides, exhibits, rents, or presents or directly offers or agrees to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present material or a performance to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section by means of an electronic method of remotely transmitting information if the person knows or has reason to believe that the person receiving the information is a juvenile or the group of persons receiving the information are juveniles.
- (2) A person remotely transmitting information by means of a method of mass distribution does not directly sell, deliver, furnish, disseminate, provide, exhibit, rent, or present or directly offer or agree to sell, deliver, furnish, disseminate, provide, exhibit, rent, or present the material or performance in question to a juvenile, a group of juveniles, a law enforcement officer posing as a juvenile, or a group of law enforcement officers posing as juveniles in violation of this section if either of the following applies:
- A. The person has inadequate information to know or have reason to believe that a particular recipient of the information or offer is a juvenile.
 - B. The method of mass distribution does not provide the person the ability to prevent a particular recipient from receiving the information.
- (e) If any provision of this section, or the application of any provision of this section to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of this section or related sections that can be given effect without the invalid provision or application. To this end, the provisions are severable.
- (f) Whoever violates this section is guilty of disseminating matter harmful to juveniles. If the material or performance involved is harmful to juveniles, except as otherwise provided in this subsection, a violation of this section is a misdemeanor of the first degree. If the material or performance involved is obscene, a violation of this section is a felony and shall be prosecuted under appropriate State law.

(ORC 2907.31)

533.12 DECEPTION TO OBTAIN MATTER HARMFUL TO JUVENILES.

- (a) No person, for the purpose of enabling a juvenile to obtain any material or gain admission to any performance which is harmful to juveniles shall do either of the following:
- (1) Falsely represent that he is the parent, guardian or spouse of such juvenile;
 - (2) Furnish such juvenile with any identification or document purporting to show that such juvenile is eighteen years of age or over or married.
- (b) No juvenile, for the purpose of obtaining any material or gaining admission to any performance which is harmful to juveniles, shall do either of the following:
- (1) Falsely represent that he is eighteen years of age or over or married;
 - (2) Exhibit any identification or document purporting to show that he is eighteen years of age or over or married.
- (c) Whoever violates this section is guilty of deception to obtain matter harmful to juveniles, a misdemeanor of the second degree. A juvenile who violates subsection (b) hereof shall be adjudged an unruly child, with such disposition of the case as may be appropriate under Ohio R.C. Chapter 2151.

(ORC 2907.33)

533.13 DISPLAYING MATTER HARMFUL TO JUVENILES.

(a) No person who has custody, control or supervision of a commercial establishment, with knowledge of the character or content of the material involved, shall display at the establishment any material that is harmful to juveniles and that is open to view by juveniles as part of the invited general public.

(b) It is not a violation of subsection (a) hereof if the material in question is displayed by placing it behind "blinder racks" or similar devices that cover at least the lower two-thirds of the material, if the material in question is wrapped or placed behind the counter, or if the material in question otherwise is covered or located so that the portion that is harmful to juveniles is not open to the view of juveniles.

(c) Whoever violates this section is guilty of displaying matter harmful to juveniles, a misdemeanor of the first degree. Each day during which the offender is in violation of this section constitutes a separate offense.

(ORC 2907.311)

533.14 UNLAWFUL ADVERTISING OF MASSAGE.

(a) No person, by means of a statement, solicitation, or offer in a print or electronic publication, sign, placard, storefront display, or other medium, shall advertise massage, relaxation massage, any other massage technique or method, or any related service, with the suggestion or promise of sexual activity.

(b) Whoever violates this section is guilty of unlawful advertising of massage, a misdemeanor of the first degree.

(c) Nothing in this section prevents the legislative authority of a municipal corporation or township from enacting any regulation of the advertising of massage further than and in addition to the provisions of subsections (a) and (b) of this section.

(ORC 2927.17)

533.15 DISSEMINATION OF PRIVATE SEXUAL IMAGES.

(a) As used in this section:

- (1) "Disseminate" means to post, distribute, or publish on a computer device, computer network, web site, or other electronic device or medium of communication.
- (2) "Image" means a photograph, film, videotape, digital recording or other depiction or portrayal of a person.
- (3) "Interactive computer service" has the meaning defined in the "Telecommunications Act of 1996", 47 U.S.C. 230, as amended.
- (4) "Internet provider" means a provider of internet service, including all of the following:
 - A. Broadband service, however defined or classified by the federal communications commission;
 - B. Information service or telecommunication service, both as defined in the "Telecommunications Act of 1996" 47 U.S.C. 153, as amended.
 - C. Internet protocol-enabled services, as defined in Ohio R.C. 4927.01.
- (5) "Mobile service" and "telecommunications carrier" have the meanings defined in 47 U.S.C. 153, as amended.
- (6) "Cable service provider" has the same meaning as in Ohio R.C. 1332.01.
- (7) "Direct-to-home satellite service" has the meaning defined in 47 U.S.C. 303, as amended.
- (8) "Video service provider" has the same meaning as in Ohio R.C. 1332.21.
- (9) "Sexual act" means any of the following:
 - A. Sexual activity;
 - B. Masturbation;
 - C. An act involving a bodily substance that is performed for the purpose of sexual arousal or gratification;
 - D. Sado-masochistic abuse.

(b) No person shall knowingly disseminate an image of another person if all of the following apply:

- (1) The person in the image is eighteen years of age or older;
- (2) The person in the image can be identified from the image itself or from information displayed in connection with the image and the offender supplied the identifying information.
- (3) The person in the image is in a state of nudity or is engaged in a sexual act;
- (4) The image is disseminated without consent from the person in the image;
- (5) The image is disseminated with intent to harm the person in the image.

(c) This section does not prohibit the dissemination of an image if any of the following apply:

- (1) The image is disseminated for the purpose of a criminal investigation that is otherwise lawful.
- (2) The image is disseminated for the purpose of, or in connection with, the reporting of unlawful conduct.
- (3) The image is part of a news report or commentary or an artistic or expressive work, such as a performance, work of art, literary work, theatrical work, musical work, motion picture, film, or audiovisual work.
- (4) The image is disseminated by a law enforcement officer, or a corrections officer or guard in a detention facility, acting within the scope of the person's official duties.
- (5) The image is disseminated for another lawful public purpose;
- (6) The person in the image is knowingly and willingly in a state of nudity or engaged in a sexual act and is knowingly and willingly in a location in which the person does not have a reasonable expectation of privacy.
- (7) The image is disseminated for the purpose of medical treatment or examination.

(d) The following entities are not liable for a violation of this section solely as a result of an image or other information provided by another person:

- (1) A provider of interactive computer service;
- (2) A mobile service;
- (3) A telecommunications carrier;
- (4) An internet provider;
- (5) A cable service provider;
- (6) A direct-to-home satellite service;
- (7) A video service provider.

(e) Any conduct that is a violation of this section and any other section of the General Offenses Code, or the Revised Code may be prosecuted under this section, the other section, or both sections.

- (f) (1) A. Except as otherwise provided in subsection (f)(1)B., C., or D. of this section, whoever violates this section is guilty of nonconsensual dissemination of private sexual images, a misdemeanor of the third degree.
 - B. If the offender previously has been convicted of or pleaded guilty to a violation of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the second degree.
 - C. If the offender previously has been convicted of or pleaded guilty to two or more violations of this section, nonconsensual dissemination of private sexual images is a misdemeanor of the first degree.
 - D. If the offender is under eighteen years of age and the person in the image is not more than five years older than the offender, the offender shall not be prosecuted under this section.
- (2) In addition to any other penalty or disposition authorized or required by law, the court may order any person who is convicted of

a violation of this section or who is adjudicated delinquent by reason of a violation of this section to criminally forfeit all of the following property to the state under Ohio R.C. Chapter 2981.

- A. Any profits or proceeds and any property the person has acquired or maintained in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation;
- B. Any interest in, securities of, claim against, or property or contractual right of any kind affording a source of influence over any enterprise that the person has established, operated, controlled or conducted in violation of this section that the sentencing court determines to have been acquired or maintained as a result of the violation.

(g) A victim of a violation of this section may commence a civil cause of action against the offender, as described in Ohio R.C. 2307.66.

(ORC 2917.211)

533.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 537

Offenses Against Persons

537.01 Negligent homicide.

537.02 Vehicular homicide and manslaughter.

537.021 Vehicular assault in a construction zone.

537.03 Assault.

537.04 Negligent assault.

537.05 Aggravated menacing.

537.051 Menacing by stalking.

537.06 Menacing.

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537.13 Adulterating of or furnishing adulterated food or confection.

537.14 Domestic violence.

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537.18 Contributing to unruliness or delinquency of a child.

537.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Physical harm to persons defined - see GEN. OFF. 501.01 (c), (e)

Fighting; provoking violent response - see GEN. OFF. 509.03

537.01 NEGLIGENT HOMICIDE.

(a) No person shall negligently cause the death of another or the unlawful termination of another's pregnancy by means of a deadly weapon or dangerous ordinance as defined in Section 549.01.

(b) Whoever violates this section is guilty of negligent homicide, a misdemeanor of the first degree.

(ORC 2903.05)

537.02 VEHICULAR HOMICIDE AND MANSLAUGHTER.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause the death of another or the unlawful termination of another's pregnancy in any of the following ways:

(1) A. Negligently;

B. As the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense, provided that this subsection applies only if the person whose death is caused or whose pregnancy is unlawfully terminated is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) of this section.

(2) As the proximate result of committing a violation of any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor or of a municipal ordinance that, regardless of the penalty set by ordinance for the violation, is substantially equivalent to any provision of any section contained in Title XLV of the Ohio Revised Code that is a minor misdemeanor.

(b) (1) Whoever violates subsection (a)(1) of this section is guilty of vehicular homicide. Except as otherwise provided in this subsection, vehicular homicide is a misdemeanor of the first degree. Vehicular homicide is a felony and shall be prosecuted under appropriate State law if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any

traffic-related homicide, manslaughter or assault offense. The court shall impose a mandatory jail term on the offender when required by Ohio R.C. 2903.06(E).

- (2) Whoever violates subsection (a)(2) of this section is guilty of vehicular manslaughter. Except as otherwise provided in this subsection, vehicular manslaughter is a misdemeanor of the second degree. Vehicular manslaughter is a misdemeanor of the first degree if, at the time of the offense, the offender was driving under a suspension or cancellation imposed under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10 or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense.

(c) The court shall impose a mandatory jail term of at least fifteen days on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)B. of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99. The court shall impose a mandatory prison term on an offender who is convicted of or pleads guilty to a violation of subsection (a)(1)A. hereof if either of the following applies:

- (1) The offender previously has been convicted of or pleaded guilty to a violation of this section or Ohio R.C. 2903.06 or 2903.08.
- (2) At the time of the offense, the offender was driving under suspension or cancellation under Ohio R.C. Chapter 4510 or any other provision of the Ohio Revised Code or was operating a motor vehicle or motorcycle, did not have a valid driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege, and was not eligible for renewal of the offender's driver's license or commercial driver's license without examination under Ohio R.C. 4507.10.

(d) Subsection (a)(1)B. does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27. The failure to erect signs of the type described in Ohio R.C. 2903.081 in a particular construction zone in accordance with those guidelines and design specifications does not limit or affect the application of subsections (a)(1)A. or (a)(2) of this section in that construction zone or the prosecution of any person who violates any of those subsections in that construction zone.

(e) As used in this section:

- (1) "Mandatory prison term" and "mandatory jail term" have the same meanings as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" means a violation of Ohio R.C. 2903.04 in circumstances in which division (D) of that section applies, a violation of Ohio R.C. 2903.06 or 2903.08, or a violation of Ohio R.C. 2903.06, 2903.07 or 2903.08 as they existed prior to March 23, 2000.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" means a violation of Ohio R.C. 4511.21 or a municipal ordinance pertaining to speed.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States.

(ORC 2903.06)

(g) The court imposing a sentence upon an offender for any violation of this section also shall impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (B) of Ohio R.C. 4510.02 that is equivalent in length to the suspension required for a violation of Ohio R.C. 2903.06 or division (A) or (B) of Ohio R.C. 4511.19 under similar circumstances. (ORC 4510.07)

537.021 VEHICULAR ASSAULT IN A CONSTRUCTION ZONE.

(a) No person, while operating or participating in the operation of a motor vehicle, motorcycle, snowmobile, locomotive, watercraft, or aircraft, shall cause serious physical harm to another person or another's unborn as the proximate result of committing, while operating or participating in the operation of a motor vehicle or motorcycle in a construction zone, a speeding offense. This subsection applies only if the person to whom the serious physical harm is caused or to whose unborn the serious physical harm is caused is in the construction zone at the time of the offender's commission of the speeding offense in the construction zone and does not apply as described in subsection (d) hereof.

(b) Whoever violates this section is guilty of vehicular assault. Except as provided in this subsection, vehicular assault is a misdemeanor of the first degree. Vehicular assault is a felony if, at the time of the offense, the offender was driving under a suspension imposed under Ohio R.C. Chapter 4510, or any other provision of the Ohio Revised Code or if the offender previously has been convicted of or pleaded guilty to a violation of this section or any traffic-related homicide, manslaughter, or assault offense, and shall be prosecuted under appropriate state law.

In addition to any other sanctions imposed, the court shall impose upon the offender a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Ohio R.C. 4510.02.

(c) The court shall impose a mandatory jail term of at least seven days on an offender who is convicted of or pleads guilty to a violation of this section and may impose upon the offender a longer jail term as authorized pursuant to Section 501.99.

(d) This section does not apply in a particular construction zone unless signs of the type described in Ohio R.C. 2903.081 are erected in that construction zone in accordance with the guidelines and design specifications established by the Director of Transportation under Ohio R.C. 5501.27.

(e) As used in this section:

- (1) "Mandatory jail term" has the same meaning as in Ohio R.C. 2929.01.
- (2) "Traffic-related homicide, manslaughter or assault offense" has the same meaning as in Ohio R.C. 2903.06.
- (3) "Construction zone" has the same meaning as in Ohio R.C. 5501.27.
- (4) "Speeding offense" has the same meaning as in Ohio R.C. 2903.06.

(f) For the purposes of this section, when a penalty or suspension is enhanced because of a prior or current violation of a specified law

or a prior or current specified offense, the reference to the violation of the specified law or the specified offense includes any violation of any substantially equivalent municipal ordinance, former law of this State, or current or former law of another state or the United States.

(ORC 2903.08)

537.03 ASSAULT.

- (a) No person shall knowingly cause or attempt to cause physical harm to another or to another's unborn.
- (b) No person shall recklessly cause serious physical harm to another or to another's unborn.
- (c) (1) Whoever violates this section is guilty of assault, a misdemeanor of the first degree, and the court shall sentence the offender as provided in subsection (c) hereof. If the assault was committed under the circumstances provided in subsection (c)(2), (3), (4), (5), (6), (7), (8) or (9) hereof, assault is a felony and shall be prosecuted under appropriate State law.
 - (2) Except as otherwise provided in this subsection, if the offense is committed by a caretaker against a functionally impaired person under the caretaker's care.
 - (3) If the offense occurs in or on the grounds of a State correctional institution or an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction or the Department of Youth Services, and the offense is committed by a person incarcerated in the State correctional institution or by a person institutionalized in the Department of Youth Services Institution pursuant to a commitment to the Department of Youth Services.
 - (4) If the offense is committed in any of the following circumstances:
 - A. The offense occurs in or on the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department or is on the premises of the facility for business purposes or as a visitor, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person's being charged with or convicted of any crime, or subsequent to the person's being alleged to be or adjudicated a delinquent child.
 - B. The offense occurs off the grounds of a State correctional institution and off the grounds of an institution of the Department of Youth Services, the victim of the offense is an employee of the Department of Rehabilitation and Correction, the Department of Youth Services, or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person incarcerated in a State correctional institution or institutionalized in the Department of Youth Services who temporarily is outside of the institution for any purpose, by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - C. The offense occurs off the grounds of a local correctional facility, the victim of the offense is an employee of the local correctional facility or a probation department, the offense occurs during the employee's official work hours and while the employee is engaged in official work responsibilities, and the offense is committed by a person who is under custody in the facility subsequent to the person's arrest for any crime or delinquent act, subsequent to the person being charged with or convicted of any crime, or subsequent to the person being alleged to be or adjudicated a delinquent child and who temporarily is outside of the facility for any purpose or by a parolee, by an offender under transitional control, under a community control sanction, or on an escorted visit, by a person under post-release control, or by an offender under any other type of supervision by a government agency.
 - D. The victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus or while the victim is outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or field trips, athletic events, or other school extracurricular activities or functions outside of school premises.
 - (5) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation, a firefighter, or a person performing emergency medical service, while in the performance of their official duties.
 - (6) If the victim of the offense is a peace officer or an investigator of the Bureau of Criminal Identification and Investigation and if the victim suffered serious physical harm as a result of the commission of the offense.
 - (7) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties.
 - (8) If the victim of the offense is a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital whom the offender knows or has reasonable cause to know is a health care professional of a hospital; a health care worker of a hospital, or a security officer of a hospital, if the victim is engaged in the performance of the victim's duties, and if the hospital offers de-escalation or crisis intervention training for such professionals, workers or officers, assault is one of the following:
 - A. Except as otherwise provided in subsection (c)(8)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. Notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, in sentencing the offender under this subsection and if the court decides to impose a fine, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against hospital personnel, assault committed in the specified circumstances is a felony.
 - (9) If the victim of the offense is a judge, magistrate, prosecutor or court official or employee whom the offender knows or has

reasonable cause to know is a judge, magistrate, prosecutor or court official or employee, and if the victim is engaged in the performance of the victim's duties, assault is one of the following:

- A. Except as otherwise provided in subsection (c)(9)B. of this section, assault committed in the specified circumstances is a misdemeanor of the first degree. In sentencing the offender under this subsection, if the court decides to impose a fine, notwithstanding the fine specified in division (A)(2)(b) of Ohio R.C. 2929.28 for a misdemeanor of the first degree, the court may impose upon the offender a fine of not more than five thousand dollars (\$5,000).
 - B. If the offender previously has been convicted of or pleaded guilty to one or more assault or homicide offenses committed against justice system personnel, assault committed in the specified circumstances is a felony.
- (10) If an offender who is convicted of or pleads guilty to assault when it is a misdemeanor also is convicted of or pleads guilty to a specification as described in Ohio R.C. 2941.1423 that was included in the indictment, count in the indictment or information charging the offense, the court shall sentence the offender to a mandatory jail term as provided in division (G) of Ohio R.C. 2929.24.
- (d) As used in this section:
- (1) "Peace officer" has the same meaning as in Ohio R.C. 2935.01.
 - (2) "Firefighter" has the same meaning as in Ohio R.C. 3937.41.
 - (3) "Emergency medical service" has the same meaning as in Ohio R.C. 4765.01.
 - (4) "Local correctional facility" means a county, multicounty, municipal, municipal-county or multicounty-municipal jail or workhouse. A minimum security jail established under Ohio R.C. 341.23 or 753.21, or another county, multicounty, municipal, municipal-county, or multicounty- municipal facility used for the custody of persons arrested for any crime or delinquent act, persons charged with or convicted of any crime, or persons alleged to be or adjudicated a delinquent child.
 - (5) "Employee of a local correctional facility" means a person who is an employee of the political subdivision or of one or more of the affiliated political subdivisions that operates the local correctional facility and who operates or assists in the operation of the facility.
 - (6) "School teacher or administrator" means either of the following:
 - A. A person who is employed in the public schools of the State under a contract described in Ohio R.C. 3311.77 or 3319.08 in a position in which the person is required to have a certificate issued pursuant to Ohio R.C. 3319.22 to 3319.311.
 - B. A person who is employed by a nonpublic school for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07 and who is certified in accordance with Ohio R.C. 3301.071.
 - (7) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.
 - (8) "Escorted visit" means an escorted visit granted under Ohio R.C. 2967.27.
 - (9) "Post-release control" and "transitional control" have the same meanings as in Ohio R.C. 2967.01.
 - (10) "Investigator of the Bureau of Criminal Identification and Investigation" has the same meaning as in Ohio R.C. 2903.11.
 - (11) "Health care professional" and "health care worker" have the same meanings as in Ohio R.C. 2305.234.
 - (12) "Assault or homicide offense committed against hospital personnel" means a violation of this section or Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which all of the following apply:
 - A. The victim of the offense was a health care professional of a hospital, a health care worker of a hospital or a security officer of a hospital.
 - B. The offender knew or had reasonable cause to know that the victim was a health care professional of a hospital, a health care worker of a hospital, or a security officer of a hospital;
 - C. The victim was engaged in the performance of the victim's duties.
 - D. The hospital offered de-escalation or crisis intervention training for such professionals, workers or officers.
 - (13) "De-escalation or crisis intervention training" means de-escalation or crisis intervention training for health care professionals of a hospital, health care workers of a hospital, and security officers of a hospital to facilitate interaction with patients, members of a patient's family, and visitors, including those with mental impairments.
 - (14) "Assault or homicide offense committed against justice system personnel" means a violation of this section or of Ohio R.C. 2903.01, 2903.02, 2903.03, 2903.04, 2903.041, 2903.11, 2903.12, 2903.13 or 2903.14 committed in circumstances in which the victim of the offense was a judge, magistrate, prosecutor, or court official or employee whom the offender knew or had reasonable cause to know was a judge, magistrate, prosecutor, or court official or employee, and the victim was engaged in the performance of the victim's duties.
 - (15) "Court official or employee" means any official or employee of a court created under the constitution or statutes of this State or of a United States court located in this State.
 - (16) "Judge" means a judge of a court created under the constitution or statutes of this State or of a United States court located in this State.
 - (17) "Magistrate" means an individual who is appointed by a court of record of this State and who has the powers and may perform the functions specified in Civil Rule 53, Criminal Rule 19, or Juvenile Rule 40, or an individual who is appointed by a United States court located in this State who has similar powers and functions.
 - (18) "Prosecutor" has the same meaning as in Ohio R.C. 2935.01.
 - (19) A. "Hospital" means, subject to subsection (d)(19)B. of this section, an institution classified as a hospital under Ohio R.C. 3701.01 in which are provided to patients diagnostic, medical, surgical, obstetrical, psychiatric, or rehabilitation care or a hospital operated by a health maintenance organization.
 - B. "Hospital" does not include any of the following:
 1. A facility licensed under Ohio R.C. Chapter 3721, a health care facility operated by the Department of Mental Health or the Department of Developmental Disabilities, a health maintenance organization that does not operate a hospital, or the office of any private, licensed health care professional, whether

organized for individual or group practice;

2. An institution for the sick that is operated exclusively for patients who use spiritual means for healing and for whom the acceptance of medical care is inconsistent with their religious beliefs, accredited by a national accrediting organization, exempt from federal income taxation under Section 501 of the "Internal Revenue Code of 1986", 100 Stat. 2085, 26 U.S.C. 1, as amended, and providing twenty-four-hour nursing care pursuant to the exemption in division (E) of Ohio R.C. 4723.32 from the licensing requirements of Ohio R.C. Chapter 4723.

(20) "Health maintenance organization" has the same meaning as in Ohio R.C. 3727.01. (ORC 2903.13)

537.04 NEGLIGENT ASSAULT.

(a) No person shall negligently, by means of a deadly weapon or dangerous ordnance as defined in Section 549.01 cause physical harm to another or to another's unborn.

(b) Whoever violates this section is guilty of negligent assault, a misdemeanor of the third degree.

(ORC 2903.14)

537.05 AGGRAVATED MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause serious physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of aggravated menacing. Except as otherwise provided in this subsection (b), aggravated menacing is a misdemeanor of the first degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, aggravated menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.21)

537.051 MENACING BY STALKING.

(a) (1) No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or a family or household member of the other person or cause mental distress to the other person or a family or household member of the other person. In addition to any other basis for the other person's belief that the offender will cause physical harm to the other person or the other person's family or household member or mental distress to the other person or the other person's family or household member, the other person's belief or mental distress may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(2) No person, through the use of any form of written communication or any electronic method of remotely transferring information, including, but not limited to, any computer, computer network, computer program, computer system or telecommunication device shall post a message or use any intentionally written or verbal graphic gesture with purpose to do either of the following:

A. Violate subsection (a)(1) of this section;

B. Urge or incite another to commit a violation of subsection (a)(1) of this section.

(3) No person, with sexual motivation, shall violate subsection (a)(1) or (2) of this section.

(b) Whoever violates this section is guilty of menacing by stalking.

(1) Except as otherwise provided in subsections (b)(2) and (3) of this section, menacing by stalking is a misdemeanor of the first degree.

(2) Menacing by stalking is a felony and shall be prosecuted under appropriate State law if any of the following applies:

A. The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.

B. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender made a threat of physical harm to or against the victim, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message made a threat of physical harm to or against the victim.

C. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender trespassed on the land or premises where the victim lives, is employed, or attends school, or as a result of an offense committed under subsection (a)(2) or (3) of this section, a third person induced by the offender's posted message trespassed on the land or premises where the victim lives, is employed, or attends school.

D. The victim of the offense is a minor.

E. The offender has a history of violence toward the victim or any other person or a history of other violent acts toward the victim or any other person.

F. While committing the offense under subsection (a)(1) of this section or a violation of subsection (a)(3) of this section is based on conduct in violation of subsection (a)(1) of this section, the offender had a deadly weapon on or about the offender's person or under the offender's control. Subsection (b)(2)F. of this section does not apply in

determining the penalty for a violation of subsection (a)(2) of this section or a violation of subsection (a) (3) of this section based on conduct in violation of subsection (a)(1) of this section.

- G. At the time of the commission of the offense, the offender was the subject of a protection order issued under Ohio R.C. 2903.213 or 2903.214, regardless of whether the person to be protected under the order is the victim of the offense or another person.
- H. In committing the offense under subsection (a)(1), (2), or (3) of this section, the offender caused serious physical harm to the premises at which the victim resides, to the real property on which that premises is located, or to any personal property located on that premises, or as a result of an offense committed under subsection (a)(2) of this section, or an offense committed under subsection (a)(3) of this section based on a violation of subsection (a)(2) of this section, a third person induced by the offender's posted message caused serious physical harm to that premises, that real property, or any personal property on that premises.
- I. Prior to committing the offense, the offender had been determined to represent a substantial risk of physical harm to others as manifested by evidence of then-recent homicidal or other violent behavior, evidence of then-recent threats that placed another in reasonable fear of violent behavior and serious physical harm, or other evidence of then-present dangerousness.
- (3) If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities, or duties, menacing by stalking is a felony and shall be prosecuted under appropriate State law.
- (c) Ohio R.C. 2919.271 applies in relation to a defendant charged with a violation of this section.
- (d) As used in this section:
- (1) "Pattern of conduct" means two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, or two or more actions or incidents closely related in time, whether or not there has been a prior conviction based on any of those actions or incidents, directed at one or more persons employed by or belonging to the same corporation, association, or other organization. Actions or incidents that prevent, obstruct, or delay the performance by a public official, firefighter, rescuer, emergency medical services person, or emergency facility person of any authorized act within the public official's, firefighter's, rescuer's, emergency medical services person's, or emergency facility person's official capacity, or the posting of messages, use of intentionally written or verbal graphic gestures, or receipt of information or data through the use of any form of written communication or an electronic method of remotely transferring information, including, but not limited to, a computer, computer network, computer program, computer system, or telecommunications device, may constitute a "pattern of conduct".
 - (2) "Mental distress" means any of the following:
 - A. Any mental illness or condition that involves some temporary substantial incapacity;
 - B. Any mental illness or condition that would normally require psychiatric treatment, psychological treatment, or other mental health services, whether or not any person requested or received psychiatric treatment, psychological treatment, or other mental health services.
 - (3) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.
 - (4) "Emergency facility person" is the singular of "emergency facility personnel" as defined in Ohio R.C. 2909.04.
 - (5) "Public official" has the same meaning as in Ohio R.C. 2921.01.
 - (6) "Computer", "computer network", "computer program", "computer system" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
 - (7) "Post a message" means transferring, sending, posting, publishing, disseminating or otherwise communicating, or attempting to transfer, send, post, publish, disseminate or otherwise communication, any message or information, whether truthful or untruthful, about an individual, and whether done under one's own name, under the name of another, or while impersonating another.
 - (8) "Third person" means, in relation to conduct as described in subsection (a)(2) of this section, an individual who is neither the offender nor the victim of the conduct.
 - (9) "Sexual motivation" has the same meaning as in Ohio R.C. 2971.01.
 - (10) "Organization" includes an entity that is a governmental employer.
 - (11) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the person against whom the act prohibited in subsection (a)(1) of this section is committed:
 1. A spouse, a person living as a spouse, or a former spouse of the person;
 2. A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;
 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the person, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the person.
 - B. The natural parent of any child of whom the person against whom the act prohibited in subsection (a)(1) of this section is committed is the other natural parent or is the putative other natural parent.
 - (12) "Person living as a spouse" means a person who is living or has lived with the person against whom the act prohibited in subsection (a)(1) of this section is committed in a common law marital relationship, who otherwise is cohabiting with that person, or who otherwise has cohabited with the person within five years prior to the date of the alleged commission of the act in question.
- (e) The Municipality does not need to prove in a prosecution under this section that a person requested or received psychiatric

treatment, psychological treatment, or other mental health services in order to show that the person was caused mental distress as described in subsection (d)(2)B. of this section.

- (f) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section.
- (2) Subsection (f)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
- (3) Subsection (f)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.

(ORC 2903.211)

537.06 MENACING.

(a) No person shall knowingly cause another to believe that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediate family. In addition to any other basis for the other person's belief that the offender will cause physical harm to the person or property of the other person, the other person's unborn, or a member of the other person's immediately family, the other person's belief may be based on words or conduct of the offender that are directed at or identify a corporation, association or other organization that employs the other person or to which the other person belongs.

(b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this subsection (b), menacing is a misdemeanor of the fourth degree. If the victim of the offense is an officer or employee of a public children services agency or a private child placing agency and the offense relates to the officer's or employee's performance or anticipated performance of official responsibilities or duties, or, if the offender previously has been convicted of or pleaded guilty to an offense of violence, the victim of that prior offense was an officer or employee of a public children services agency or private child placing agency, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties, menacing is a felony and shall be prosecuted under appropriate State law.

(c) As used in this section, "organization" includes an entity that is a governmental employer. (ORC 2903.22)

537.07 ENDANGERING CHILDREN.

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this subsection when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall abuse a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age.

(c) (1) No person shall operate a vehicle in violation of Section 333.01(a) of the Traffic Code when one or more children under eighteen years of age are in the vehicle. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of subsection (c) hereof and a violation of Section 333.01(a) of the Traffic Code that constitutes the basis of the charge of the violation of subsection (c) hereof. For purposes of Ohio R.C. 4511.191 to 4511.197 and all related provisions of law, a person arrested for a violation of subsection (c) hereof shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

(2) As used in subsection (c) hereof:

A. "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.

B. "Vehicle" has the same meaning as in Ohio R.C. 4511.01.

(d) Whoever violates this section is guilty of endangering children.

(1) Whoever violates subsection (a) or (b) hereof is guilty of a misdemeanor of the first degree. If the violation results in serious physical harm to the child involved, or if the offender previously has been convicted of an offense under this section, Ohio R.C. 2919.22 or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child, endangering children is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (c) hereof is guilty of a misdemeanor of the first degree. Endangering children is a felony and shall be prosecuted under appropriate State law if either of the following applies:

A. The violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under Ohio R.C. 2919.22 or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child.

B. The violation results in serious physical harm to the child involved and the offender previously has been convicted of a violation of Ohio R.C. 2919.22(C) or subsection (c) hereof, Ohio R.C. 2903.06, or 2903.08, Section 2903.07 as it existed prior to March 23, 2000, or Ohio R.C. 2903.04 in a case in which the offender was

subject to the sanctions described in division (D) of that section.

- (3) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (d)(2) hereof, or pursuant to any other provision of law, the court also may impose upon the offender any of the sanctions provided under Ohio R.C. 2919.22(E)(5)(d).
- (e) (1) If a person violates subsection (c) hereof and if, at the time of the violation, there were two or more children under eighteen years of age in the motor vehicle involved in the violation, the offender may be convicted of a violation of subsection (c) hereof for each of the children, but the court may sentence the offender for only one of the violations.
- (2) A. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof but the person is not also convicted of and does not also plead guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, both of the following apply:
1. For purposes of the provisions of the Traffic Code penalty that set forth the penalties and sanctions for a violation of Section 333.01(a) of the Traffic Code, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute a violation of Section 333.01(a) of the Traffic Code.
 2. For purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code and that is not described in subsection (e)(2)A.1. hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall constitute a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.
- B. If a person is convicted of or pleads guilty to a violation of subsection (c) hereof and the person also is convicted of or pleads guilty to a separate charge charging the violation of Section 333.01(a) of the Traffic Code that was the basis of the charge of the violation of subsection (c) hereof, the conviction of or plea of guilty to the violation of subsection (c) hereof shall not constitute, for purposes of any provision of law that refers to a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code, a conviction of or plea of guilty to a violation of Section 333.01(a) of the Traffic Code.

(ORC 2919.22)

537.08 UNLAWFUL RESTRAINT.

- (a) No person, without privilege to do so, shall knowingly restrain another of the other person's liberty.
- (b) No person, without privilege to do so and with a sexual motivation, shall knowingly restrain another of the other person's liberty.
- (c) Whoever violates this section is guilty of unlawful restraint, a misdemeanor of the third degree.
- (d) As used in this section, "sexual motivation" has the same meaning as in Ohio R.C. 2971.01.

(ORC 2905.03)

537.09 COERCION.

- (a) No person, with purpose to coerce another into taking or refraining from action concerning which the other person has a legal freedom of choice, shall do any of the following:
- (1) Threaten to commit any offense;
 - (2) Utter or threaten any calumny against any person;
 - (3) Expose or threaten to expose any matter tending to subject any person to hatred, contempt or ridicule, to damage any person's personal or business repute, or to impair any person's credit;
 - (4) Institute or threaten criminal proceedings against any person;
 - (5) Take or withhold, or threaten to take or withhold official action, or cause or threaten to cause official action to be taken or withheld.
- (b) Subsections (a)(4) and (5) hereof shall not be construed to prohibit a prosecutor or court from doing any of the following in good faith and in the interest of justice:
- (1) Offering or agreeing to grant, or granting immunity from prosecution pursuant to Ohio R.C. 2945.44;
 - (2) In return for a plea of guilty to one or more offenses charged or to one or more other or lesser offenses, or in return for the testimony of the accused in a case to which the accused is not a party, offering or agreeing to dismiss, or dismissing one or more charges pending against an accused, or offering or agreeing to impose, or imposing a certain sentence or modification of sentence;
 - (3) Imposing community control sanction on certain conditions, including without limitation requiring the offender to make restitution or redress to the victim of the offense.
- (c) It is an affirmative defense to a charge under subsection (a)(3), (4) or (5) hereof that the actor's conduct was a reasonable response to the circumstances that occasioned it, and that the actor's purpose was limited to any of the following:
- (1) Compelling another to refrain from misconduct or to desist from further misconduct;
 - (2) Preventing or redressing a wrong or injustice;
 - (3) Preventing another from taking action for which the actor reasonably believed the other person to be disqualified;
 - (4) Compelling another to take action that the actor reasonably believed the other person to be under a duty to take.
- (d) Whoever violates this section is guilty of coercion, a misdemeanor of the second degree.
- (e) As used in this section:
- (1) "Threat" includes a direct threat and a threat by innuendo.
 - (2) "Community control sanction" has the same meaning as in Ohio R.C. 2929.01.

(ORC 2905.12)

537.10 TELECOMMUNICATION HARASSMENT.

- (a) No person shall knowingly make or cause to be made a telecommunication, or knowingly permit telecommunication to be made from a telecommunications device under the person's control, to another, if the caller does any of the following:
- (1) Makes the telecommunication with purpose to harass, intimidate, or abuse, any person at the premises to which the

telecommunication is made, whether or not actual communication takes place between the caller and a recipient;

- (2) Describes, suggests, requests, or proposes that the caller, the recipient of the telecommunication, or any other person engage in sexual activity, and the recipient or another person at the premises to which the telecommunication is made has requested, in a previous telecommunication or in the immediate telecommunication, that the caller not make a telecommunication to the recipient or to the premises to which the telecommunication is made;
 - (3) During the telecommunication, violates Ohio R.C. 2903.21;
 - (4) Knowingly states to the recipient of the telecommunication that the caller intends to cause damage to or destroy public or private property, and the recipient, any member of the recipient's family, or any other person who resides at the premises to which the telecommunication is made owns, leases, resides, or works in, will at the time of the destruction or damaging be near or in, has the responsibility of protecting, or insures the property that will be destroyed or damaged;
 - (5) Knowingly makes the telecommunication to the recipient of the telecommunication, to another person at the premises to which the telecommunication is made, or to those premises, and the recipient or another person at those premises previously has told the caller not to make a telecommunication to those premises or to any person at those premises.
 - (6) Knowingly makes any comment, request, suggestion, or proposal to the recipient of the telecommunication that is threatening, intimidating, menacing, coercive, or obscene with the intent to abuse, threaten or harass the recipient;
 - (7) Without a lawful business purpose, knowingly interrupts the telecommunication service of any person;
 - (8) Without a lawful business purpose, knowingly transmits to any person, regardless of whether the telecommunication is heard in its entirety, any file, document or other communication that prevents that person from using the person's telephone service or electronic communication device;
 - (9) Knowingly makes any false statement concerning the death, injury, illness, disfigurement, reputation, indecent conduct, or criminal conduct of the recipient of the telecommunication or family or household member of the recipient with purpose to abuse, threaten, intimidate, or harass the recipient;
 - (10) Knowingly incites another person through a telecommunication or other means to harass or participate in the harassment of a person;
 - (11) Knowingly alarms the recipient by making a telecommunication without a lawful purpose at an hour or hours known to be inconvenient to the recipient and in an offensive or repetitive manner.
- (b) (1) No person shall make or cause to be made a telecommunication, or permit a telecommunication to be made from a telecommunications device under the person's control, with purpose to abuse, threaten, or harass another person.
 - (2) No person shall knowingly post a text or audio statement or an image on an internet web site or web page for the purpose of abusing, threatening, or harassing another person.
- (c) (1) Whoever violates this section is guilty of telecommunication harassment.
 - (2) A violation of subsections (a)(1), (2), (3), (5), (6), (7), (8), (9), (10), or (11) or (b) hereof is a misdemeanor of the first degree on a first offense. Each subsequent offense is a felony and shall be prosecuted under appropriate State law.
 - (3) Whoever violates subsection (a)(4) hereof is guilty of a misdemeanor of the first degree for a first offense. For each subsequent offense or if a violation of subsection (a)(4) hereof results in economic harm of one thousand dollars (\$1,000) or more, a violation of subsection (a)(4) hereof is a felony and shall be prosecuted under appropriate State law.
- (d) No cause of action may be asserted in any court of this State against any provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or against any officer, employee, or agent of a telecommunication service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, for any injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section. A provider of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, or information service, or an officer, employee, or agent of a telecommunications service, interactive computer service as defined in Section 230 of Title 47 of the United States Code, of information service, is immune from any civil or criminal liability for injury, death, or loss to person or property that allegedly arises out of the provider's, officer's, employee's, or agent's provision of information, facilities, or assistance in accordance with the terms of a court order that is issued in relation to the investigation or prosecution of an alleged violation of this section.
- (e) (1) This section does not apply to a person solely because the person provided access or connection to or from an electronic method of remotely transferring information not under that person's control, including having provided capabilities that are incidental to providing access or connection to or from the electronic method of remotely transferring the information, and that do not include the creation of the content of the material that is the subject of the access or connection. In addition, any person providing access or connection to or from an electric method of remotely transferring information not under that person's control shall not be liable for any action voluntarily taken in good faith to block the receipt or transmission through its service of any information that the person believes is, or will be sent, in violation of this section.
 - (2) Subsection (e)(1) of this section does not create an affirmative duty for any person providing access or connection to or from an electronic method of remotely transferring information not under that person's control to block the receipt or transmission through its service of any information that it believes is, or will be sent, in violation of this section except as otherwise provided by law.
 - (3) Subsection (e)(1) of this section does not apply to a person who conspires with a person actively involved in the creation or knowing distribution of material in violation of this section or who knowingly advertises the availability of material of that nature.
 - (4) A provider or user of an interactive computer service, as defined in Section 230 of Title 47 of the United States Code, shall neither be treated as the publisher or speaker of any information provided by another information content provider, as defined in Section 230 of Title 47 of the United States Code, nor held civilly or criminally liable for the creation or development of information provided by another information content provider, as defined in Section 230 of

Title 47 of the United States Code. Nothing in this subsection shall be construed to protect a person from liability to the extent that the person developed or created any content in violation of this section.

(f) Subsections (a)(5) to (11) and (b)(2) of this section do not apply to a person who, while employed or contracted by a newspaper, magazine, press association, news agency, news wire service, cable channel or cable operator, or radio or television station, is gathering, processing, transmitting, compiling, editing or disseminating information for the general public, within the scope of the person's employment in that capacity or the person's contractual authority in that capacity.

(g) As used in this section:

- (1) "Economic harm" means all direct, incidental, and consequential pecuniary harm suffered by a victim as a result of criminal conduct. "Economic harm" includes, but is not limited to, all of the following:
 - A. All wages, salaries, or other compensation lost as a result of the criminal conduct;
 - B. The cost of all wages, salaries or other compensation paid to employees for time those employees are prevented from working as a result of the criminal conduct;
 - C. The overhead costs incurred for the time that a business is shut down as a result of the criminal conduct;
 - D. The loss of value to tangible or intangible property that was damaged as a result of the criminal conduct.
- (2) "Caller" means the person described in subsection (a) hereof who makes or causes to be made a telecommunication or who permits a telecommunication to be made from a telecommunications device under that person's control.
- (3) "Telecommunication" and "telecommunications device" have the same meanings as in Ohio R.C. 2913.01.
- (4) "Sexual activity" has the same meaning as in Ohio R.C. 2907.01.
- (5) "Family or household member" means any of the following:
 - A. Any of the following who is residing or has resided with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed:
 1. A spouse, a person living as a spouse, or a former spouse of the recipient;
 2. A parent, a foster parent, or a child of the recipient, or another person related by consanguinity or affinity to the recipient;
 3. A parent or a child of a spouse, person living as a spouse, or former spouse of the recipient, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of the recipient.
 - B. The natural parent of any child of whom the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed is the other natural parent or is the putative other natural parent.
- (6) "Person living as a spouse" means a person who is living or has lived with the recipient of the telecommunication against whom the act prohibited in subsection (a)(9) of this section is committed in a common law marital relationship, who otherwise is cohabiting with the recipient, or who otherwise has cohabited with the recipient within five years prior to the date of the alleged commission of the act in question.
- (7) "Cable operator" has the same meaning as in Ohio R.C. 1332.21.

(h) Nothing in this section prohibits a person from making a telecommunication call to a debtor that is in compliance with the "Fair Debt Collection Practices Act", 91 Stat. 874 (1977), 15 U.S.C. 1692, as amended, or the "Telephone Consumer Protection Act", 105 Stat. 2395 (1991), 47 U.S.C. 227, as amended. (ORC 2917.21)

537.11 THREATENING OR HARASSING TELEPHONE CALLS.

(EDITOR'S NOTE: Former Ohio R.C. 4931.31 from which Section 537.11 was derived was repealed by Senate Bill 162, effective September 13, 2010. See now Section 537.10 "Telecommunication Harassment".)

537.12 MISUSE OF 9-1-1 SYSTEM.

(a) "9-1-1 system" means a system through which individuals can request emergency service using the telephone number 9-1-1.

(ORC 128.01)

(b) No person shall knowingly use the telephone number of the 9-1-1 system established under Ohio R.C. Chapter 128 to report an emergency if he knows that no emergency exists.

(c) No person shall knowingly use a 9-1-1 system for a purpose other than obtaining emergency service.

(d) No person shall disclose or use any information concerning telephone numbers, addresses, or names obtained from the data base that serves the public safety answering point of a 9-1-1 system established under Ohio R.C. Chapter 128, except for any of the following purposes or under any of the following circumstances:

- (1) For the purpose of the 9-1-1 system;
- (2) For the purpose of responding to an emergency call to an emergency service provider;
- (3) In the circumstance of the inadvertent disclosure of such information due solely to technology of the wireline telephone network portion of the 9-1-1 system not allowing access to the data base to be restricted to 9-1-1 specific answering lines at a public safety answering point;
- (4) In the circumstance of access to a data base being given by a telephone company that is a wireline service provider to a public utility or municipal utility in handling customer calls in times of public emergency or service outages. The charge, terms, and conditions for the disclosure or use of such information for the purpose of such access to a data base shall be subject to the jurisdiction of the steering committee.
- (5) In the circumstance of access to a data base given by a telephone company that is a wireline service provider to a state and local government in warning of a public emergency, as determined by the steering committee. The charge, terms, and conditions for the disclosure or use of that information for the purpose of access to a data base is subject to the jurisdiction of the steering committee.

(ORC 128.32)

- (e) (1) Whoever violates subsection (b) hereof is guilty of a misdemeanor of the fourth degree.
- (2) Whoever violates subsection (c) or (d) hereof is guilty of a misdemeanor of the fourth degree on a first offense. For each subsequent offense such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 128.99)

537.13 ADULTERATING OF OR FURNISHING ADULTERATED FOOD OR CONFECTION.

(a) No person shall do either of the following, knowingly or having reasonable cause to believe that any person may suffer physical harm or be seriously inconvenienced or annoyed thereby:

- (1) Place a pin, needle, razor blade, glass, laxative, drug of abuse, or other harmful or hazardous object or substance in any food or confection;
- (2) Furnish to any person any food or confection which has been adulterated in violation of subsection (a)(1) hereof.

(ORC 3716.11)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 3716.99(C))

537.14 DOMESTIC VIOLENCE.

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(d) (1) Whoever violates this section is guilty of domestic violence.

(2) Except as otherwise provided in subsection (d)(3) to (5) of this section, a violation of subsection (c) of this section is a misdemeanor of the fourth degree, and a violation of subsection (a) or (b) of this section is a misdemeanor of the first degree.

(3) Except as otherwise provided in subsection (d)(4) of this section, if the offender previously has pleaded guilty to or been convicted of domestic violence, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to domestic violence, a violation of Ohio R.C. 2903.14, 2909.06, 2909.07, 2911.12, 2911.211, or 2919.22 if the victim of the violation was a family or household member at the time of the violation, a violation of an existing or former municipal ordinance or law of this or any other state or the United States that is substantially similar to any of those sections if the victim of the violation was a family or household member at the time of the commission of the violation, or any offense of violence if the victim of the offense was a family or household member at the time of the commission of the offense, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the second degree.

(4) If the offender previously has pleaded guilty to or been convicted of two or more offenses of domestic violence or two or more violations or offenses of the type described in subsection (d)(3) of this section involving a person who was a family or household member at the time of the violations or offenses, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate state law, and a violation of subsection (c) of this section is a misdemeanor of the first degree.

(5) Except as otherwise provided in subsection (d)(3) or (4) of this section, if the offender knew that the victim of the violation was pregnant at the time of the violation, a violation of subsection (a) or (b) of this section is a felony and shall be prosecuted under appropriate State law, and a violation of subsection (c) of this section is a misdemeanor of the third degree.

(e) Notwithstanding any provision of law to the contrary, no court or unit of local government shall charge any fee, cost, deposit, or money in connection with the filing of charges against a person alleging that the person violated this section or in connection with the prosecution of any charges so filed.

(f) As used in this section:

(1) "Family or household member" means any of the following:

A. Any of the following who is residing or has resided with the offender:

1. A spouse, a person living as a spouse or a former spouse of the offender;
2. A parent, a foster parent or a child of the offender, or another person related by consanguinity or affinity to the offender;
3. A parent, or a child of a spouse, person living as a spouse, or former spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question. (ORC 2919.25)

(g) The same relief available under the Ohio Revised Code for filing a complaint for violation of Ohio R.C. 2919.25 shall be available for filing a complaint for violation of this section.

537.15 TEMPORARY PROTECTION ORDER.

(a) No person shall recklessly violate the terms of any of the following:

- (1) A protection order issued or consent agreement approved pursuant to Ohio R.C. 2919.26 or 3113.31;
- (2) A protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214;
- (3) A protection order issued by a court of another state.

(b) (1) Whoever violates this section is guilty of violating a protection order.

(2) Except as otherwise provided in subsection (b)(3) of this section, violating a protection order is a misdemeanor of the first degree.

(3) Violating a protection order is a felony and shall be prosecuted under State law if the offender previously has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for any of the following:

- A. A violation of a protection order issued or consent agreement approved pursuant to Ohio R.C. 2151.34, 2903.213, 2903.214, 2919.26, or 3113.31;
- B. Two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.211 or any combination of those offenses that involved the same person who is the subject of the protection order or consent agreement;

C. One or more violations of this section.

(4) If the offender violates a protection order or consent agreement while committing a felony offense, violating a protection order is a felony and shall be prosecuted under appropriate state law.

(5) If the protection order violated by the offender was an order issued pursuant to Ohio R.C. 2151.34 or 2903.214 that required electronic monitoring of the offender pursuant to that section, the court may require in addition to any other sentence imposed upon the offender that the offender be electronically monitored for a period not exceeding five years by a law enforcement agency designated by the court. If the court requires under this subsection that the offender be electronically monitored, unless the court determines that the offender is indigent, the court shall order that the offender pay the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device. If the court determines that the offender is indigent and subject to the maximum amount allowable and the rules promulgated by the Attorney General under Ohio R.C. 2903.214, the costs of the installation of the electronic monitoring device and the cost of monitoring the electronic monitoring device may be paid out of funds from the reparations fund created pursuant to Ohio R.C. 2743.191. The total amount paid from the reparations fund created pursuant to Ohio R.C. 2743.191 for electronic monitoring under this section and Ohio R.C. 2151.34 and 2903.214 shall not exceed three hundred thousand dollars per year.

(c) It is an affirmative defense to a charge under subsection (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this State or that it is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) In a prosecution for a violation of this section, it is not necessary for the prosecution to prove that the protection order or consent agreement was served on the defendant if the prosecution proves that the defendant was shown the protection order or consent agreement or a copy of either or a judge, magistrate, or law enforcement officer informed the defendant that a protection order or consent agreement had been issued, and proves that the defendant recklessly violated the terms of the order or agreement.

(e) As used in this section, "protection order issued by a court of another state" means an injunction or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child. (ORC 2919.27)

537.16 ILLEGAL DISTRIBUTION OF CIGARETTES, OTHER TOBACCO PRODUCTS, OR ALTERNATE NICOTINE PRODUCTS; TRANSACTION SCANS.

(a) Illegal Distribution of Cigarettes, Other Tobacco Products, or Alternative Nicotine Products.

(1) As used in this section:

A. "Age verification." A service provided by an independent third party (other than a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes) that compares information available from a commercially available database, or aggregate of databases, that regularly are used by government and businesses for the purpose of age and identity verification to personal information provided during an internet sale or other remote method of sale to establish that the purchaser is twenty-one years of age or older.

B. "Alternative nicotine product."

1. Subject to subsection (a)(1)B.2. of this section, an electronic smoking device, vapor product, or any other product or device that consists of or contains nicotine that can be ingested into the body by any means, including, but not limited to, chewing, smoking, absorbing, dissolving, or inhaling.

2. The phrase does not include any of the following:

- a. Any cigarette or other tobacco product;
- b. Any product that is a "drug" as that term is defined in 21 U.S.C. 321(g)(1);
- c. Any product that is a "device" as that term is defined in 21 U.S.C. 321(h);
- d. Any product that is a "combination product" as described in 21 U.S.C. 353(g).

C. "Cigarette." Includes clove cigarettes and hand-rolled cigarettes.

D. "Distribute." Means to furnish, give, or provide cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to the ultimate consumer of the cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes.

E. "Electronic smoking device." Means any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including an electronic cigarette, electronic cigar, electronic hookah, vaping pen, or electronic pipe. The phrase includes any component, part, or accessory of such a device, whether or not sold separately, and includes any substance intended to be aerosolized or vaporized during the use of the device. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

F. "Proof of age." Means a driver's license, a commercial driver's license, a military identification card, a passport, or an identification card issued under Ohio R.C. 4507.50 to 4507.52 that shows that a person is eighteen years of age or older.

G. "Tobacco product." Means any product that is made or derived from tobacco or that contains any form of nicotine, if it is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved, inhaled, or ingested by any other means, including, but not limited to, a cigarette, an electronic smoking device, a cigar, pipe tobacco, chewing tobacco, snuff, or snus. The phrase also means any component or accessory used in the consumption of a tobacco product, such as filters, rolling papers, pipes, blunt or hemp wraps, and liquids used in electronic smoking devices, whether or not they contain nicotine. The phrase does not include any product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g).

H. "Vapor product." Means a product, other than a cigarette or other tobacco product as defined in Ohio R.C. Chapter 5743, that contains or is made or derived from nicotine and that is intended and marketed for human consumption, including by smoking, inhaling, snorting, or sniffing. The phrase includes any component, part, or additive that is intended for use in an electronic smoking device, a mechanical heating element, battery, or electronic circuit and is used to deliver the product. The phrase does not include any

product that is a drug, device, or combination product, as those terms are defined or described in 21 U.S.C. 321 and 353(g). The phrase includes any product containing nicotine, regardless of concentration.

I. "Vending machine." Has the same meaning as "coin machine" in Ohio R.C. 2913.01.

- (2) No manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, no agent, employee, or representative of a manufacturer, producer, distributor, wholesaler, or retailer of cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes, and no other person shall do any of the following:
 - A. Give, sell, or otherwise distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to any person under twenty-one years of age;
 - B. Give away, sell, or distribute cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes in any place that does not have posted in a conspicuous place a legibly printed sign in letters at least one-half inch high stating that giving, selling, or otherwise distributing cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age is prohibited by law;
 - C. Knowingly furnish any false information regarding the name, age, or other identification of any person under twenty-one years of age with purpose to obtain cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes for that person;
 - D. Manufacture, sell, or distribute in this state any pack or other container of cigarettes containing fewer than twenty cigarettes or any package of roll-your-own tobacco containing less than six-tenths of one ounce of tobacco;
 - E. Sell cigarettes or alternative nicotine products in a smaller quantity than that placed in the pack or other container by the manufacturer;
 - F. Give, sell, or otherwise distribute alternative nicotine products, papers used to roll cigarettes, or tobacco products other than cigarettes over the internet or through another remote method without age verification.
- (3) No person shall sell or offer to sell cigarettes, other tobacco products, or alternative nicotine products by or from a vending machine, except in the following locations:
 - A. An area within a factory, business, office, or other place not open to the general public;
 - B. An area to which persons under twenty-one years of age are not generally permitted access;
 - C. Any other place not identified in subsection (a)(3)A. or B. of this section, upon all of the following conditions:
 1. The vending machine is located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person, so that all cigarettes, other tobacco product, and alternative nicotine product purchases from the vending machine will be readily observed by the person who owns or operates the place or an employee of that person. For the purpose of this section, a vending machine located in any unmonitored area, including an unmonitored coatroom, restroom, hallway, or outer waiting area, shall not be considered located within the immediate vicinity, plain view, and control of the person who owns or operates the place, or an employee of that person.
 2. The vending machine is inaccessible to the public when the place is closed.
 3. A clearly visible notice is posted in the area where the vending machine is located that states the following in letters that are legibly printed and at least one-half inch high: "It is illegal for any person under the age of twenty-one to purchase tobacco or alternative nicotine products."
- (4) The following are affirmative defenses to a charge under subsection (a)(2)A. of this section:
 - A. The person under twenty-one years of age was accompanied by a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
 - B. The person who gave, sold, or distributed cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes to a person under twenty-one years of age under subsection (a)(2)A. of this section is a parent, spouse who is twenty-one years of age or older, or legal guardian of the person under twenty-one years of age.
- (5) It is not a violation of subsection (a)(2)A. or B. of this section for a person to give or otherwise distribute to a person under twenty-one years of age cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes while the person under twenty-one years of age is participating in a research protocol if all of the following apply:
 - A. The parent, guardian, or legal custodian of the person under twenty-one years of age has consented in writing to the person under twenty-one years of age participating in the research protocol.
 - B. An institutional human subjects protection review board, or an equivalent entity, has approved the research protocol.
 - C. The person under twenty-one years of age is participating in the research protocol at the facility or location specified in the research protocol.
- (6) A. Whoever violates subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section is guilty of illegal distribution of cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)A., B., D., E., or F. or (a)(3) of this section or a substantially equivalent state law or municipal ordinance, illegal distribution of cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
 - B. Whoever violates subsection (a)(2)C. of this section is guilty of permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products. Except as otherwise provided in this division, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the fourth degree. If the offender previously has been convicted of a violation of subsection (a)(2)C. of this section or a substantially equivalent state law or municipal ordinance, permitting a person under twenty-one years of age to use cigarettes, other tobacco products, or alternative nicotine products is a misdemeanor of the third degree.
- (7) Any cigarettes, other tobacco products, alternative nicotine products, or papers used to roll cigarettes that are given, sold, or otherwise distributed to a person under twenty-one years of age in violation of this section and that are used, possessed, purchased, or received by a person under twenty-one years of age in violation of Ohio R.C. 2151.87 are subject to seizure and forfeiture as contraband under Ohio R.C. Chapter 2981.

(ORC 2927.02)

(b) Transaction Scan.

- (1) For the purpose of this subsection (b) and subsection (c) of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.
 - A. "Card holder." Any person who presents a driver's or commercial driver's license or an identification card to a seller, or an agent or employee of a seller, to purchase or receive cigarettes, other tobacco products, or alternative nicotine products from a seller, agent or employee.
 - B. "Identification card." An identification card issued under Ohio R.C. 4507.50 to 4507.52.

- C. "Seller." A seller of cigarettes, other tobacco products, or alternative nicotine products and includes any person whose gift of or other distribution of cigarettes, other tobacco products, or alternative nicotine products is subject to the prohibitions of subsection (a) of this section.
 - D. "Transaction scan." The process by which a seller or an agent or employee of a seller checks, by means of a transaction scan device, the validity of a driver's or commercial driver's license or an identification card that is presented as a condition for purchasing or receiving cigarettes, other tobacco products, or alternative nicotine products.
 - E. "Transaction scan device." Any commercial device or combination of devices used at a point of sale that is capable of deciphering in an electronically readable format the information encoded on the magnetic strip or bar code of a driver's or commercial driver's license or an identification card.
- (2) A. A seller or an agent or employee of a seller may perform a transaction scan by means of a transaction scan device to check the validity of a driver's or commercial driver's license or identification card presented by a card holder as a condition for selling, giving away or otherwise distributing to the card holder cigarettes, other tobacco products, or alternative nicotine products.
 - B. If the information deciphered by the transaction scan performed under subsection (b)(2)A. of this section fails to match the information printed on the driver's or commercial driver's license or identification card presented by the card holder, or if the transaction scan indicates that the information so printed is false or fraudulent, neither the seller nor any agent or employee of the seller shall sell, give away or otherwise distribute any cigarettes, other tobacco products, or alternative nicotine products to the card holder.
 - C. Subsection (b)(2)A. of this section does not preclude a seller or an agent or employee of a seller from using a transaction scan device to check the validity of a document other than a driver's or commercial driver's license or identification card, if the document includes a bar code or magnetic strip that may be scanned by the device, as a condition for selling, giving away or otherwise distributing cigarettes, other tobacco products, or alternative nicotine products to the person presenting the document.
- (3) Rules adopted by the Registrar of Motor Vehicles under Ohio R.C. 4301.61(C) apply to the use of transaction scan devices for purposes of this subsection (b) and subsection (c) of this section.
 - (4) A. No seller or agent or employee of a seller shall electronically or mechanically record or maintain any information derived from a transaction scan, except for the following:
 - 1. The name and date of birth of the person listed on the driver's or commercial driver's license or identification card presented by the card holder;
 - 2. The expiration date and identification number of the driver's or commercial driver's license or identification card presented by the card holder.
 - B. No seller or agent or employee of a seller shall use the information that is derived from a transaction scan or that is permitted to be recorded and maintained under subsection (b)(4)A. of this section, except for purposes of subsection (c) of this section.
 - C. No seller or agent or employee of a seller shall use a transaction scan device for a purpose other than the purpose specified in subsection (c)(2)A. of this section.
 - D. No seller or agent or employee of a seller shall sell or otherwise disseminate the information derived from a transaction scan to any third party, including but not limited to selling or otherwise disseminating that information for any marketing, advertising or promotional activities, but a seller or agent or employee of a seller may release that information pursuant to a court order or as specifically authorized by subsection (c) of this section or another section of these Codified Ordinances or the Ohio Revised Code.
 - (5) Nothing in this subsection (b) or subsection (c) of this section relieves a seller or an agent or employee of a seller of any responsibility to comply with any other applicable local, state or federal laws or rules governing the sale, giving away or other distribution of cigarettes, other tobacco products, or alternative nicotine products.
 - (6) Whoever violates subsection (b)(2)B. or (b)(4) of this section is guilty of engaging in an illegal tobacco product or alternative nicotine product transaction scan, and the court may impose upon the offender a civil penalty of up to one thousand dollars (\$1,000) for each violation. The Clerk of the Court shall pay each collected civil penalty to the County Treasurer for deposit into the County Treasury.

(ORC 2927.021)

(c) Affirmative Defenses.

- (1) A seller or an agent or employee of a seller may not be found guilty of a charge of a violation of subsection (a) of this section in which the age of the purchaser or other recipient of cigarettes, other tobacco products, or alternative nicotine products is an element of the alleged violation, if the seller, agent or employee raises and proves as an affirmative defense that all of the following occurred:
 - A. A card holder attempting to purchase or receive cigarettes, other tobacco products, or alternative nicotine products presented a driver's or commercial driver's license or an identification card.
 - B. A transaction scan of the driver's or commercial driver's license or identification card that the card holder presented indicated that the license or card was valid.
 - C. The cigarettes, other tobacco products, or alternative nicotine products were sold, given away or otherwise distributed to the card holder in reasonable reliance upon the identification presented and the completed transaction scan.
- (2) In determining whether a seller or an agent or employee of a seller has proven the affirmative defense provided by subsection (c) (1) of this section, the trier of fact in the action for the alleged violation of subsection (a) of this section shall consider any written policy that the seller has adopted and implemented and that is intended to prevent violations of subsection (a) of this section. For purposes of subsection (c)(1)C. of this section, the trier of fact shall consider that reasonable reliance upon the identification presented and the completed transaction scan may require a seller or an agent or employee of a seller to exercise reasonable diligence to determine, and that the use of a transaction scan device does not excuse a seller or an agent or employee of a seller from exercising reasonable diligence to determine, the following:
 - A. Whether a person to whom the seller or agent or employee of a seller sells, gives away or otherwise distributes cigarettes, other tobacco products, or alternative nicotine products is twenty-one years of age or older;
 - B. Whether the description and picture appearing on the driver's or commercial driver's license or identification card presented by a card holder is that of the card holder.
- (3) In any criminal action in which the affirmative defense provided by subsection (c)(1) of this section is raised, the Registrar of Motor Vehicles or a Deputy Registrar who issued an identification card under Ohio R.C. 4507.50 to 4507.52 shall be permitted to submit certified copies of the records of that issuance in lieu of the testimony of the personnel of or contractors with the Bureau of Motor Vehicles in the action.

(ORC 2927.022)

(d) Shipment of Tobacco Products.

- (1) As used in this subsection (d):
 - A. "Authorized recipient of tobacco products" means a person who is:

1. Licensed as a cigarette wholesale dealer under Ohio R.C. 5743.15;
2. Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
3. An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
4. An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
5. An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
6. A department, agency, instrumentality, or political subdivision of the federal government or of this state;
7. A person having a consent for consumer shipment issued by the Tax Commissioner under Ohio R.C. 5743.71.

B. "Motor carrier." Has the same meaning as in Ohio R.C. 4923.01.

- (2) The purpose of this division (d) is to prevent the sale of cigarettes to minors and to ensure compliance with the Master Settlement Agreement, as defined in Ohio R.C. 1346.01.
- (3) A. No person shall cause to be shipped any cigarettes to any person in this municipality other than an authorized recipient of tobacco products.
B. No motor carrier or other person shall knowingly transport cigarettes to any person in this municipality that the carrier or other person reasonably believes is not an authorized recipient of tobacco products. If cigarettes are transported to a home or residence, it shall be presumed that the motor carrier or other person knew that the person to whom the cigarettes were delivered was not an authorized recipient of tobacco products.
- (4) No person engaged in the business of selling cigarettes who ships or causes to be shipped cigarettes to any person in this municipality in any container or wrapping other than the original container or wrapping of the cigarettes shall fail to plainly and visibly mark the exterior of the container or wrapping in which the cigarettes are shipped with the words "cigarettes."
- (5) A court shall impose a fine of up to one thousand dollars (\$1,000) for each violation of subsection (d)(3)A., (d)(3)B. or (d)(4) of this section.

(ORC 2927.023)

(e) Furnishing False Information to Obtain Tobacco Products.

- (1) No person who is eighteen years of age or older but younger than twenty-one years of age shall knowingly furnish false information concerning that person's name, age, or other identification for the purpose of obtaining tobacco products.
- (2) Whoever violates subsection (e)(1) of this section is guilty of furnishing false information to obtain tobacco products. Except as otherwise provided in this division, furnishing false information to obtain tobacco products is a misdemeanor of the fourth degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (e) (1) of this section or a substantially equivalent state law or municipal ordinance, furnishing false information to obtain tobacco products is a misdemeanor of the third degree.

(ORC 2927.024)

537.17 RESERVED.

(Editor's note: This section was formerly 537.17 Criminal Child Enticement, based on Ohio R.C. 2905.05, Criminal Child Enticement. The Ohio Supreme Court held that Ohio R.C. 2905.05(A) was unconstitutionally overbroad in violation of the First Amendment. See *State v. Romage*, 138 Ohio St. 3d. 390 (2014).)

537.18 CONTRIBUTING TO UNRULINESS OR DELINQUENCY OF A CHILD.

(a) As used in this section:

- (1) "Delinquent child" has the same meaning as in Ohio R.C. 2152.02.
- (2) "Unruly child" has the same meaning as in Ohio R.C. 2151.022.

(b) No person, including a parent, guardian or other custodian of a child, shall do any of the following:

- (1) Aid, abet, induce, cause, encourage, or contribute to a child or a ward of the juvenile court becoming an unruly child or a delinquent child;
- (2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child or a delinquent child;
- (3) Act in a way that contributes to an adjudication of the child as a delinquent child based on the child's violation of a court order adjudicating the child an unruly child for being an habitual truant;
- (4) If the person is the parent, guardian, or custodian of a child who has the duties under Ohio R.C. Chapters 2152 and 2950 to register, register a new residence address, and periodically verify a residence address and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Ohio R.C. 2919.121, fail to ensure that the child complies with those duties under Ohio R.C. Chapters 2152 and 2950.

(c) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (ORC 2919.24)

537.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 541

Property Offenses

- 541.01 Determining property value in arson.**
- 541.02 Arson.**
- 541.03 Criminal damaging or endangering.**
- 541.04 Criminal mischief.**
- 541.05 Criminal trespass.**
- 541.051 Aggravated trespass.**
- 541.06 Destruction of shrubs, trees or crops.**
- 541.07 Desecration.**
- 541.08 Ethnic intimidation.**
- 541.09 Advertising on public property.**
- 541.10 Vehicular vandalism.**
- 541.11 Trespass on a place of public amusement.**
- 541.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
Parents' liability for destructive acts of their children - see Ohio R.C. 3109.09
Physical harm to property defined - see GEN. OFF. 501.01(d), (f)
Reimbursement for investigation or prosecution costs - see GEN. OFF. 501.99(a)
Damage to sidewalks - see GEN. OFF. 521.04
Vehicle trespass - see GEN. OFF. 545.06

541.01 DETERMINING PROPERTY VALUE IN ARSON.

(a) The following criteria shall be used in determining the value of property or amount of physical harm involved in a violation of Section 541.02.

- (1) If the property is an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, the value of the property or the amount of physical harm involved is the amount that would compensate the owner for its loss.
- (2) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property can be restored substantially to its former condition, the amount of physical harm involved is the reasonable cost of restoring the property.
- (3) If the property is not covered under subsection (a)(1) hereof, and the physical harm is such that the property cannot be restored substantially to its former condition, the value of the property, in the case of personal property, is the cost of replacing the property with new property of like kind and quality, and in the case of real property or real property fixtures, is the difference in the fair market value of the property immediately before and immediately after the offense.

(b) As used in this section, "fair market value" has the same meaning as in Section 545.02(c)(3).

(c) Prima-facie evidence of the value of property, as provided in Section 545.02(d) may be used to establish the value of property pursuant to this section.

(ORC 2909.11)

541.02 ARSON.

(a) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any property of another without the other person's consent.

(b) (1) No person, by means of fire or explosion, shall knowingly cause or create a substantial risk of physical harm to any structure of another that is not an occupied structure;

(2) It is an affirmative defense to a charge under subsection (b)(1) of this section that the defendant acted with the consent of the other person.

(c) Whoever violates this section is guilty of arson, a misdemeanor of the first degree. If the value of the property or the amount of physical harm involved is one thousand dollars (\$1,000) or more, arson is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.03)

541.03 CRIMINAL DAMAGING OR ENDANGERING.

(a) No person shall cause, or create a substantial risk of physical harm to any property of another without the other person's consent:

(1) Knowingly, by any means;

(2) Recklessly, by means of fire, explosion, flood, poison gas, poison, radioactive material, caustic or corrosive material, or other inherently dangerous agency or substance.

(b) Whoever violates this section is guilty of criminal damaging or endangering, a misdemeanor of the second degree. If violation of this section creates a risk of physical harm to any person, criminal damaging or endangering is a misdemeanor of the first degree. If the property involved in a violation is an aircraft, an aircraft engine, propeller, appliance, spare part, or any other equipment or implement used or intended to be used in the operation of an aircraft and if the violation creates a risk of physical harm to any person or if the property involved in a violation is an occupied aircraft, criminal damaging or endangering is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.06)

541.04 CRIMINAL MISCHIEF.

(a) No person shall:

(1) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with either of the following:

A. The property of another;

B. One's own residential real property with the purpose to decrease the value of or enjoyment of the residential real property, if both of the following apply:

1. The residential real property is subject to a mortgage.

2. The person has been served with a summons and complaint in a pending residential mortgage loan foreclosure action relating to that real property. As used in this subsection, "pending" includes the time between judgment entry and confirmation of sale.

(2) With purpose to interfere with the use or enjoyment of property of another employ a tear gas device, stink bomb, smoke generator or other device releasing a substance that is harmful or offensive to persons exposed, or that tends to cause public alarm;

(3) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with a bench mark, triangulation station, boundary marker or other survey station, monument or marker.

(4) Without privilege to do so, knowingly move, deface, damage, destroy or otherwise improperly tamper with any safety device, the property of another or the property of the offender when required or placed for the safety of others, so as to

- destroy or diminish its effectiveness or availability for its intended purpose;
- (5) With purpose to interfere with the use or enjoyment of the property of another, set a fire on the land of another or place personal property that has been set on fire on the land of another, which fire or personal property is outside and apart from any building, other structure or personal property that is on that land.
 - (6) Without privilege to do so, and with intent to impair the functioning of any computer, computer system, computer network, computer software, or computer program, all as defined in Ohio R.C. 2909.01, knowingly do any of the following:
 - A. In any manner or by any means, including, but not limited to, computer hacking, alter, damage, destroy, or modify a computer, computer system, computer network, computer software, or computer program or data contained in a computer, computer system, computer network, computer software, or computer program;
 - B. Introduce a computer contaminant into a computer, computer system, computer network, computer software or computer program.
 - (7) Without privilege to do so, knowingly destroy or improperly tamper with a critical infrastructure facility.
- (b) As used in this section:
- (1) "Critical Infrastructure Facility". Has the same meaning as in Ohio R.C. 2911.21.
 - (2) "Improperly Tamper". Means to change the physical location or the physical condition of the property.
 - (3) "Safety Device". Means any fire extinguisher, fire hose, or fire axe, or any fire escape, emergency exit, or emergency escape equipment, or any life line, life-saving ring, life preserver, or life boat or raft, or any alarm, light, flare, signal, sign, or notice intended to warn of danger or emergency, or intended for other safety purposes, or any guard railing or safety barricade, or any traffic sign or signal, or any railroad grade crossing sign, signal, or gate, or any first aid or survival equipment, or any other device, apparatus, or equipment intended for protecting or preserving the safety of persons or property.
- (c) (1) Whoever violates this section is guilty of criminal mischief, and shall be punished as provided in subsection (c)(2), (c)(3), or (c)(4) of this section.
- (2) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the third degree. Except as otherwise provided in this division, if the violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section creates a risk of physical harm to any person, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a misdemeanor of the first degree. If the property involved in the violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is an aircraft, an aircraft engine, propeller, appliance, spare part, fuel, lubricant, hydraulic fluid, any other equipment, implement, or material used or intended to be used in the operation of an aircraft, or any cargo carried or intended to be carried in an aircraft and if the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of subsection (a)(1), (a)(2), (a)(3), (a)(4), or (a)(5) of this section is a felony to be prosecuted under appropriate state law.
 - (3) Except as otherwise provided in this subsection, criminal mischief committed in violation of subsection (a)(6) of this section is a misdemeanor of the first degree. If the value of the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) of this section or the loss to the victim resulting from the violation is one thousand dollars (\$1,000) or more, or if the computer, computer system, computer network, computer software, computer program, or data involved in the violation of subsection (a)(6) is used or intended to be used in the operation of an aircraft and the violation creates any risk of physical harm to any person, or if the aircraft in question is an occupied aircraft, criminal mischief committed in violation of subsection (a)(6) of this section is a felony to be prosecuted under appropriate state law.
 - (4) Criminal mischief committed in violation of subsection (a)(7) of this section is a felony to be prosecuted under appropriate state law.
- (ORC 2909.07)

541.05 CRIMINAL TRESPASS.

- (a) No person, without privilege to do so, shall do any of the following:
 - (1) Knowingly enter or remain on the land or premises of another;
 - (2) Knowingly enter or remain on the land or premises of another, the use of which is lawfully restricted to certain persons, purposes, modes or hours, when the offender knows the offender is in violation of any such restriction or is reckless in that regard;
 - (3) Recklessly enter or remain on the land or premises of another, as to which notice against unauthorized access or presence is given by actual communication to the offender, or in a manner prescribed by law, or by posting in a manner reasonably calculated to come to the attention of potential intruders, or by fencing or other enclosure manifestly designed to restrict access;
 - (4) Being on the land or premises of another, negligently fail or refuse to leave upon being notified by signage posted in a conspicuous place or otherwise being notified to do so by the owner or occupant, or the agent or servant of either.
 - (5) Knowingly enter or remain on a critical infrastructure facility.
 - (b) It is no defense to a charge under this section that the land or premises involved was owned, controlled or in custody of a public agency.
 - (c) It is no defense to a charge under this section that the offender was authorized to enter or remain on the land or premises involved when such authorization was secured by deception.
 - (d) (1) Whoever violates this section is guilty of criminal trespass. Criminal trespass in violation of subsection (a)(1), (a)(2), (a)(3), or (a)(4) of this section is a misdemeanor of the fourth degree. Criminal trespass in violation of subsection (a)(5) of this section is a misdemeanor of the first degree.
 - (2) Notwithstanding Section 501.99, if the person, in committing the violation of this section, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court shall impose a fine of two times the usual amount imposed for the violation.
 - (3) If an offender previously has been convicted of or pleaded guilty to two or more violations of this section or a substantially equivalent municipal ordinance, or state law, and the offender, in committing each violation, used a snowmobile, off-highway motorcycle, or all-purpose vehicle, the court, in addition to or independent of all other penalties imposed for the violation, may impound the certificate of registration of that snowmobile or off-highway motorcycle or the certificate of registration and license plate of that all-purpose vehicle for not less than sixty days. In such a case, Ohio R.C. 4519.47 applies.
- (e) As used in subsections (a) through (e) of this section:
- (1) "All-Purpose Vehicle, Off-Highway Motorcycle" and "Snowmobile". Have the same meanings as in Ohio R.C. 4519.01.
 - (2) "Critical Infrastructure Facility". Means:

- A. One of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with signs that are reasonably likely to come to the attention of potential intruders and that indicate entry is forbidden without site authorization:
 1. A petroleum or alumina refinery;
 2. An electric generating facility, substation, switching station, electrical control center, or electric transmission and distribution lines and associated equipment;
 3. A chemical, polymer, or rubber manufacturing facility;
 4. A water intake structure, water treatment facility, waste water facility, drainage facility, water management facility, or any similar water or sewage treatment system and its water and sewage piping;
 5. A natural gas company facility or interstate natural gas pipeline, including a pipeline interconnection, a natural gas compressor station and associated facilities, city gate or town border station, metering station, above-ground piping, regulator station, valve site, delivery station, fabricated assembly, or any other part of a natural gas storage facility involved in the gathering, storage, transmission, or distribution of gas;
 6. A telecommunications central switching office or remote switching facility or an equivalent network facility that serves a similar purpose;
 7. Wireline or wireless telecommunications infrastructure, including telecommunications towers and telephone poles and lines, including fiber optic lines;
 8. A port, trucking terminal, or other freight transportation facility;
 9. A gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas or natural gas liquids;
 10. A transmission facility used by a federally licensed radio or television station;
 11. A steel-making facility that uses an electric arc furnace to make steel;
 12. A facility identified and regulated by the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards Program under 6 C.F.R. part 27;
 13. A dam that is regulated by the state or federal government;
 14. A crude oil or refined products storage and distribution facility, including valve sites, pipeline interconnections, pump station, metering station, below- or above-ground pipeline, or piping and truck loading or off-loading facility;
 15. A video service network and broadband infrastructure, including associated buildings and facilities, video service headends, towers, utility poles, and utility lines such as fiber optic lines. As used in this division, "video service network" has the same meaning as in Ohio R.C. 1332.21.
 16. Any above-ground portion of an oil, gas, hazardous liquid or chemical pipeline, tank, or other storage facility;
 17. Any above-ground portion of a well, well pad, or production operation;
 18. A laydown area or construction site for pipe and other equipment intended for use on an interstate or intrastate natural gas or crude oil pipeline;
 19. Any mining operation, including any processing equipment, batching operation, or support facility for that mining operation.
 - B. With respect to a video service network or broadband or wireless telecommunications infrastructure, the above-ground portion of a facility installed in a public right-of-way on a utility pole or in a conduit;
 - C. Any railroad property;
 - D. An electronic asset of any of the following:
 1. An electric light company that is a public utility under Ohio R.C. 4905.02;
 2. An electric cooperative, as defined in Ohio R.C. 4928.01;
 3. A municipal electric utility, as defined in Ohio R.C. 4928.01;
 4. A natural gas company that is a public utility under Ohio R.C. 4905.02;
 5. A telephone company that is a public utility under Ohio R.C. 4905.02;
 6. A video service provider, including a cable operator, as those terms are defined in Ohio R.C. 1332.21.
- (3) "Electronic Asset". Includes, but is not limited to, the hardware, software, and data of a programmable electronic device; all communications, operations, and customer data networks; and the contents of those data networks.
- (4) "Land" or "Premises". Includes any land, building, structure, or place belonging to, controlled by, or in custody of another, and any separate enclosure or room, or portion thereof.
- (5) "Production Operation, Well, and Well Pad". Have the same meanings as in Ohio R.C. 1509.01.

(ORC 2911.21)

541.051 AGGRAVATED TRESPASS.

- (a) (1) No person shall enter or remain on the land or premises of another with purpose to commit on that land or those premises a misdemeanor, the elements of which involve causing physical harm to another person or causing another person to believe that the offender will cause physical harm to that person.
- (2) No person shall enter or remain on a critical infrastructure facility with purpose to destroy or tamper with the facility.
- (b) Whoever violates this section is guilty of aggravated trespass. Aggravated trespass in violation of subsection (a)(1) of this section is a misdemeanor of the first degree. Aggravated trespass in violation of subsection (a)(2) of this section is a felony to be prosecuted under appropriate state law.
- (c) As used in this section, "Critical infrastructure facility" has the same meaning as in Ohio R.C. 2911.21.

(ORC 2911.211)

541.06 DESTRUCTION OF SHRUBS, TREES OR CROPS.

- (a) No person, without privilege to do so, shall recklessly cut down, destroy, girdle or otherwise injure a vine, bush, shrub, sapling, tree or crop standing or growing on the land of another or upon public land.
- (b) In addition to any penalty provided, whoever violates this section is liable in treble damages for the injury caused.

(ORC 901.51)

- (c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

(ORC 901.99(A))

541.07 DESECRATION.

- (a) No person, without privilege to do so, shall purposely deface, damage, pollute or otherwise physically mistreat any of the following:

- (1) The flag of the United States or of this State;
 - (2) Any public monument;
 - (3) Any historical or commemorative marker, or any structure, Indian mound or earthwork, cemetery, thing or site of great historical or archeological interest;
 - (4) A work of art or museum piece;
 - (5) Any other object of reverence or sacred devotion.
- (b) Whoever violates this section is guilty of desecration, a misdemeanor of the second degree.
- (c) As used in this section, "cemetery" means any place of burial and includes burial sites that contain American Indian burial objects placed with or containing American Indian human remains.

(ORC 2927.11)

541.08 ETHNIC INTIMIDATION.

(a) No person shall violate Ohio R.C. 2903.21, 2903.22, 2909.06, 2909.07 or 2917.21(A)(3) to (5) or Sections 537.05, 537.06, 537.10(a)(3) to (5), 541.03 or 541.04 of the General Offenses Code by reason of the race, color, religion or national origin of another person or group of persons.

(b) Whoever violates this section is guilty of ethnic intimidation. Ethnic intimidation is an offense of the next higher degree than the offense the commission of which is a necessary element of ethnic intimidation.

(ORC 2927.12)

541.09 ADVERTISING ON PUBLIC PROPERTY.

(a) No person shall stick, post or attach any advertisement, poster, sign, handbill or placard of any kind or description upon any telegraph, electric pole, communication box, telephone, railway, electric light pole, or fire hydrant within the corporate limits or upon any public building, vehicle, voting booth, flagging, curb, tree lawn, walk, step, stone or sidewalk, or write, print or impress or in any manner attach any notice or advertisement of any kind upon any public building, voting booth, flagging, curb, tree lawn, step, stone or sidewalk, the property of the Municipality or within the street lines of the Municipality or over which the Municipality or Council thereof has the care, custody or control, except such as may be required by laws of the State, or the ordinances of the Municipality.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 12-97. Passed 2-24-97.)

541.10 VEHICULAR VANDALISM.

(a) As used in this section:

- (1) "Highway" means any highway as defined in Section 301.42 of the Traffic Code or any lane, road, street, alley, bridge, or overpass.
- (2) "Alley", "street", and "vehicle" have the same meanings as in Chapter 301 of the Traffic Code.
- (3) "Vessel" and "waters in this State" have the same meanings as in Ohio R.C. 1546.01.

(b) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of any of the following:

- (1) Any vehicle on a highway;
- (2) Any boat or vessel on any of the waters in this State that are located in the Municipality.

(c) Whoever violates this section is guilty of vehicular vandalism. Except as otherwise provided in this subsection, vehicular vandalism is a misdemeanor of the first degree. If the violation of this section creates a substantial risk of physical harm to any person, serious physical harm to property, physical harm to any person or serious physical harm to any person, vehicular vandalism is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.09)

541.11 TRESPASS ON A PLACE OF PUBLIC AMUSEMENT.

(a) As used in this section, "place of public amusement" means a stadium, theater or other facility, whether licensed or not, at which a live performance, sporting event, or other activity takes place for entertainment of the public and to which access is made available to the public, regardless of whether admission is charged.

(b) No person, without privilege to do so, shall knowingly enter or remain on any restricted portion of a place of public amusement and, as a result of that conduct, interrupt or cause the delay of the live performance, sporting event, or other activity taking place at the place of public amusement after a printed written notice has been given as provided in subsection (d)(1) of this section that the general public is restricted from access to that restricted portion of the place of public amusement. A restricted portion of a place of public amusement may include, but is not limited to, a playing field, an athletic surface, or a stage located at the place of public amusement.

(c) An owner or lessee of a place of public amusement, an agent of the owner or lessee, or a performer or participant at a place of public amusement may use reasonable force to restrain and remove a person from a restricted portion of the place of public amusement if the person enters or remains on the restricted portion of the place of public amusement and, as a result of that conduct, interrupts or causes the delay of the live performance, sporting event, or other activity taking place at the place of public amusement. This subsection does not provide immunity from criminal liability for any use of force beyond reasonable force by an owner or lessee of a place of public amusement, an agent of either the owner or lessee, or a performer or participant at a place of public amusement.

(d) (1) Notice has been given that the general public is restricted from access to a portion of a place of public amusement if a printed written notice of the restricted access has been conspicuously posted or exhibited at the entrance to that portion of the place of public amusement. If a printed written notice is posted or exhibited as described in this subsection, regarding a portion of a place of public amusement, in addition to that posting or exhibition, notice that the general public is restricted from access to that portion of the place of public amusement also may be given, but is not required to be given, by either of the following means:

- A. By notifying the person personally, either orally or in writing, that access to that portion of the place of public amusement is restricted;
- B. By broadcasting over the public address system of the place of public amusement an oral warning that access to that portion of the public place of amusement is restricted.

(2) If notice that the general public is restricted from access to a portion of a place of public amusement is provided by the posting

or exhibition of a printed written notice as described in subsection (d)(1) of this section, the Municipality, in a criminal prosecution for a violation of subsection (b) of this section, is not required to prove that the defendant received actual notice that the general public is restricted from access to a portion of a place of public amusement.

- (e) (1) Whoever violates subsection (b) of this section is guilty of criminal trespass on a place of public amusement, a misdemeanor of the first degree.
- (2) In addition to any jail term, fine or other sentence, penalty, or sanction it imposes upon the offender pursuant to subsection (e)(1) of this section, a court may require an offender who violates this section to perform not less than thirty and not more than one hundred twenty hours of supervised community service work.

(ORC 2911.23)

541.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 545

Theft and Fraud

- 545.01 Definitions.**
- 545.02 Determining property value in theft offense.**
- 545.03 Property exceptions as felony offense.**
- 545.04 Detention of shoplifters; rights of museums and libraries.**
- 545.05 Petty theft.**
- 545.06 Unauthorized use of a vehicle; vehicle trespass.**
- 545.07 Insurance fraud.**
- 545.08 Unauthorized use of property.**
- 545.09 Passing bad checks.**
- 545.10 Misuse of credit cards.**
- 545.11 Making or using slugs.**
- 545.12 Tampering with coin machines.**
- 545.13 Criminal simulation.**
- 545.14 Tampering with records.**
- 545.15 Securing writings by deception.**
- 545.16 Personating an officer.**
- 545.17 Defrauding creditors.**
- 545.18 Receiving stolen property.**
- 545.19 Possession of criminal tools.**
- 545.20 Forgery of identification cards.**
- 545.21 Misrepresenting eyeglasses; advertising price.**
- 545.99 Penalty.**

CROSS REFERENCES

See sectional histories for similar State law
Property defined - see GEN. OFF. 501.01(j)
Cheating - see GEN. OFF. 517.05
Falsification - see GEN. OFF. 525.02
Impersonating a public servant - see GEN. OFF. 525.03

545.01 DEFINITIONS.

As used in this chapter, unless the context requires that a term be given a different meaning:

- (a) "Deception" means knowingly deceiving another or causing another to be deceived, by any false or misleading representation, by withholding information, by preventing another from acquiring information, or by any other conduct, act or omission that creates, confirms or perpetuates a false impression in another, including a false impression as to law, value, state of mind, or other objective or subjective fact.
- (b) "Defraud" means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.
- (c) "Deprive" means to do any of the following:
- (1) Withhold property of another permanently, or for such period that appropriates a substantial portion of its value or use, or with purpose to restore it only upon payment of a reward or other consideration;
 - (2) Dispose of property so as to make it unlikely that the owner will recover it;
 - (3) Accept, use or appropriate money, property or services, with purpose not to give proper consideration in return for the money, property or services, and without reasonable justification or excuse for not giving proper consideration.
- (d) "Owner" means, unless the context requires a different meaning, any person, other than the actor, who is the owner of, who has possession or control of, or who has any license or interest in property or services, even though the ownership, possession, control, license or interest is unlawful.
- (e) "Services" include labor, personal services, professional services, rental services, public utility services, including wireless service as defined in Ohio R.C. 5507.01(F)(1), common carrier services, and food, drink, transportation, entertainment and cable television services.
- (f) "Writing" means any computer software, document, letter, memorandum, note, paper, plate, data, film or other thing having in or upon it any written, typewritten or printed matter, and any token, stamp, seal, credit card, badge, trademark, label or other symbol of value, right, privilege, license or identification.

- (g) "Forge" means to fabricate or create, in whole or in part and by any means any spurious writing, or to make, execute, alter, complete, reproduce or otherwise purport to authenticate any writing, when the writing in fact is not authenticated by that conduct.
- (h) "Utter" means to issue, publish, transfer, use, put or send into circulation, deliver or display.
- (i) "Coin machine" means any mechanical or electronic device designed to do both of the following:
 - (1) Receive a coin, bill, or token made for that purpose;
 - (2) In return for the insertion or deposit of a coin, bill or token, automatically dispense property, provide a service or grant a license.
- (j) "Slug" means an object that, by virtue of its size, shape, composition or other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token made for that purpose.
- (k) "Theft offense" means any of the following:
 - (1) A violation of Ohio R.C. 2911.01, 2911.02, 2911.11, 2911.12, 2911.13, 2911.31, 2911.32, 2913.02, 2913.03, 2913.04, 2913.041, 2913.11, 2913.21, 2913.31, 2913.32, 2913.33, 2913.34, 2913.40, 2913.42 to 2913.45, 2913.47, 2913.48, 2913.51, 2915.05, 2915.06, or 2921.41.
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in subsection (k)(1) hereof or a violation of Ohio R.C. 2913.41, 2913.81 or 2915.06 as it existed prior to July 1, 1996;
 - (3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States involving robbery, burglary, breaking and entering, theft, embezzlement, wrongful conversion, forgery, counterfeiting, deceit or fraud;
 - (4) A conspiracy or attempt to commit, or complicity in committing any offense under subsection (k)(1), (2) or (3) hereof.
- (l) "Computer services" includes, but is not limited to, the use of a computer system, computer network, computer program, data that is prepared for computer use or data that is contained within a computer system or computer network.
- (m) "Computer" means an electronic device that performs logical, arithmetic and memory functions by the manipulation of electronic or magnetic impulses. "Computer" includes, but is not limited to, all input, output, processing, storage, computer program or communication facilities that are connected or related, in a computer system or network to an electronic device of that nature.
- (n) "Computer system" means a computer and related devices, whether connected or unconnected, including, but not limited to, data input, output and storage devices, data communications links, and computer programs and data that make the system capable of performing specified special purpose data processing tasks.
- (o) "Computer network" means a set of related and remotely connected computers and communication facilities that includes more than one computer system that has the capability to transmit among the connected computers and communication facilities through the use of computer facilities.
- (p) "Computer program" means an ordered set of data representing coded instructions or statements that when executed by a computer cause the computer to process data.
- (q) "Computer software" means computer programs, procedures and other documentation associated with the operation of a computer system.
- (r) "Data" means a representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner and that are intended for use in a computer, computer system or computer network. For purposes of Section 545.07, "data" has the additional meaning set forth in subsection (a) of that section.
- (s) "Cable television service" means any services provided by or through the facilities of any cable television system or other similar closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.
- (t) "Gain access" means to approach, instruct, communicate with, store data in, retrieve data from or otherwise make use of any resources of a computer, computer system or computer network.
- (u) "Credit card" includes, but is not limited to, a card, code, device or other means of access to a customer's account for the purpose of obtaining money, property, labor or services on credit, or for initiating an electronic fund transfer at a point-of-sale terminal, an automated teller machine or a cash dispensing machine.
- (v) "Electronic fund transfer" has the same meaning as in 92 Stat. 3728, 15 U.S.C.A. 1693a, as amended.
- (w) "Rented property" means personal property in which the right of possession and use of the property is for a short and possibly indeterminate term in return for consideration; the rentee generally controls the duration of possession of the property, within any applicable minimum or maximum term; and the amount of consideration generally is determined by the duration of possession of the property.
- (x) "Telecommunication" means the origination, emission, dissemination, transmission, or reception of data, images, signals, sounds, or other intelligence or equivalence of intelligence or any nature over any communications system by any method, including, but not limited to, a fiber optic, electronic, magnetic, optical, digital, or analog method.
- (y) "Telecommunications device" means any instrument, equipment, machine, or other device that facilitates telecommunication, including, but not limited to, a computer, computer network, computer chip, computer circuit, scanner, telephone, cellular telephone, pager, personal communications device, transponder, receiver, radio, modem, or device that enables the use of a modem.
- (z) "Telecommunications service" means the providing, allowing, facilitating, or generating of any form of telecommunication through the use of a telecommunications device over a telecommunications system.
- (aa) "Counterfeit telecommunications device" means a telecommunications device that, alone or with another telecommunications device, has been altered, constructed, manufactured, or programmed to acquire, intercept, receive, or otherwise facilitate the use of a telecommunications service or information service without the authority or consent of the provider of the telecommunications service or information service. "Counterfeit telecommunications device" includes, but is not limited to, a clone telephone, clone microchip, tumbler telephone, or tumbler microchip; a wireless scanning device capable of acquiring, intercepting, receiving, or otherwise facilitating the use of telecommunications service or information service without immediate detection; or a device, equipment, hardware, or software designed for, or capable of, altering or

changing the electronic serial number in a wireless telephone.

- (bb) (1) "Information service" means, subject to subsection (bb)(2) hereof, the offering of a capability for generating, acquiring, storing, transforming, processing, retrieving, utilizing, or making available information via telecommunications, including, but not limited to, electronic publishing.
- (2) "Information service" does not include any use of a capability of a type described in subsection (bb)(1) hereof for the management, control, or operation of a telecommunications system or the management of a telecommunications service.
- (cc) "Elderly person" means a person who is sixty-five years of age or older.
- (dd) "Disabled adult" means a person who is eighteen years of age or older and has some impairment of body or mind that makes the person unfit to work at any substantially remunerative employment that the person otherwise would be able to perform and that will, with reasonable probability, continue for a period of at least twelve months without any present indication of recovery from the impairment, or who is eighteen years of age or older and has been certified as permanently and totally disabled by an agency of this State or the United States that has the function of so classifying persons.
- (ee) "Firearm" and "dangerous ordnance" have the same meanings as in Ohio R.C. 2923.11.
- (ff) "Motor vehicle" has the same meaning as in Ohio R.C. 4501.01.
- (gg) "Dangerous drug" has the same meaning as in Ohio R.C. 4729.01.
- (hh) "Drug abuse offense" has the same meaning as in Ohio R.C. 2925.01.
 - (ii) "Police dog or horse" has the same meaning as in Ohio R.C. 2921.321.
 - (jj) "Anhydrous ammonia" is a compound formed by the combination of two gaseous elements, nitrogen and hydrogen, in the manner described in this subsection. Anhydrous ammonia is one part nitrogen to three parts hydrogen (NH₃). Anhydrous ammonia by weight is fourteen parts nitrogen to three parts hydrogen, which is approximately eighty-two percent nitrogen to eighteen percent hydrogen.
 - (kk) "Assistance dog" has the same meaning as in Ohio R.C. 955.011.
- (ll) "Active duty service member" means any member of the armed forces of the United States performing active duty under Title 10 of the United States Code.
(ORC 2913.01)

545.02 DETERMINING PROPERTY VALUE IN THEFT OFFENSE.

- (a) If more than one item of property or service is involved in a theft offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property or services involved in the offense.
- (b) (1) When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06, or 545.08, 545.10(b)(1) or (2), or Section 545.15 or 545.20 involving a victim who is an elderly person or disabled adult, is committed by the offender in the offender's same employment, capacity, or relationship to another, all of those offenses shall be tried as a single offense. When a series of offenses under Section 545.05, or a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Sections 545.05 or 545.15 involving a victim who is an active duty service member or spouse of an active duty service member is committed by the offender in the offender's same employment, capacity or relationship to another, all of those offenses shall be tried as a single offense. The value of the property or services involved in the series of offenses for the purpose of determining the value is the aggregate value of all property and services involved in all offenses in the series.
- (2) If an offender commits a series of offenses under Section 545.05 that involves a common course of conduct to defraud multiple victims, all of the offenses may be tried as a single offense. If an offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05, 545.06 or 545.08, Section 545.10(b)(1) or (2), or Section 545.15 or 545.20, whether committed against one victim or more than one victim, involving a victim who is an elderly person or disabled adult, pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offender is being tried for the commission of a series of violations of, attempts to commit a violation of, conspiracies to violate, or complicity in violations of Section 545.05 or 545.15, whether committed against one victim or more than one victim, involving a victim who is an active duty service member or spouse of an active duty service member pursuant to a scheme or course of conduct, all of those offenses may be tried as a single offense. If the offenses are tried as a single offense, the value of the property or services involved for the purpose of determining the value is the aggregate value of all property and services involved in all of the offenses in the course of conduct.
- (3) In prosecuting a single offense under subsection (b)(1) or (2), it is not necessary to separately allege and prove each offense in the series. Rather, it is sufficient to allege and prove that the offender, within a given span of time, committed one or more theft offenses in the offender's same employment, capacity, or relationship to another as described in subsection (b)(1) of this section or that involve a common course of conduct to defraud multiple victims or a scheme or course of conduct as described in subsection (b)(2) of this section. While it is not necessary to separately allege and prove each offense in the series in order to prosecute a single offense under subsection (b)(1) or (2) hereof, it remains necessary in prosecuting them as a single offense to prove the aggregate value of the property or services in order to meet the requisite statutory offense level sought by the prosecution.
- (c) The following criteria shall be used in determining the value of property or services involved in a theft offense:
 - (1) The value of an heirloom, memento, collector's item, antique, museum piece, manuscript, document, record or other thing that has intrinsic worth to its owner and that is either irreplaceable or is replaceable only on the expenditure of substantial time, effort or money, is the amount that would compensate the owner for its loss.
 - (2) The value of personal effects and household goods, and of materials, supplies, equipment and fixtures used in the profession, business, trade, occupation or avocation of its owner, which property is not covered under subsection (c)(1) hereof, and which retains substantial utility for its purpose regardless of its age or condition, is the cost of replacing the property with new property of like kind and quality.
 - (3) The value of any real or personal property that is not covered under subsections (c)(1) or (2) hereof, and the value of services, is

the fair market value of the property or services. As used in this section, "fair market value" is the money consideration that a buyer would give and a seller would accept for property or services, assuming that the buyer is willing to buy and the seller is willing to sell, that both are fully informed as to all facts material to the transaction, and that neither is under any compulsion to act.

- (d) Without limitation on the evidence that may be used to establish the value of property or services involved in a theft offense:
- (1) When the property involved is personal property held for sale at wholesale or retail, the price at which the property was held for sale is prima-facie evidence of its value.
 - (2) When the property involved is a security or commodity traded on an exchange, the closing price or, if there is no closing price, the asked price, given in the latest market quotation prior to the offense, is prima-facie evidence of the value of the security or commodity.
 - (3) When the property involved is livestock, poultry or raw agricultural products for which a local market price is available, the latest local market price prior to the offense is prima-facie evidence of the value of the livestock, poultry or products.
 - (4) When the property involved is a negotiable instrument, the face value is prima-facie evidence of the value of the instrument.
 - (5) When the property involved is a warehouse receipt, bill of lading, pawn ticket, claim check or other instrument entitling the holder or bearer to receive property, the face value or, if there is no face value, the value of the property covered by the instrument less any payment necessary to receive the property, is prima-facie evidence of the value of the instrument.
 - (6) When the property involved is a ticket of admission, ticket for transportation, coupon, token or other instrument entitling the holder or bearer to receive property or services, the face value or, if there is no face value, the value of the property or services that may be received by the instrument, is prima-facie evidence of the value of the instrument.
 - (7) When the services involved are gas, electricity, water, telephone, transportation, shipping or other services for which the rate is established by law, the duly established rate is prima-facie evidence of the value of the services.
 - (8) When the services involved are services for which the rate is not established by law, and the offender has been notified prior to the offense of the rate for the services, either in writing or orally, or by posting in a manner reasonably calculated to come to the attention of potential offenders, the rate contained in the notice is prima-facie evidence of the value of the services. (ORC 2913.61)

545.03 PROPERTY EXCEPTIONS AS FELONY OFFENSE.

Regardless of the value of the property involved, and regardless of whether the offender has previously been convicted of a theft offense, the provisions of Section 545.05 or 545.18 do not apply if the property involved is any of the following:

- (a) A credit card;
- (b) A printed form for a check or other negotiable instrument, that on its face identifies the drawer or maker for whose use it is designed or identifies the account on which it is to be drawn, and that has not been executed by the drawer or maker or on which the amount is blank;
- (c) A motor vehicle identification license plate as prescribed by Ohio R.C. 4503.22, a temporary motor vehicle license registration as prescribed by Ohio R.C. 4503.182, or any comparable temporary motor vehicle license registration as prescribed by the applicable law of another state or the United States;
- (d) A blank form for a certificate of title or a manufacturer's or importer's certificate to a motor vehicle, as prescribed by Ohio R.C. 4505.07;
- (e) A blank form for any license listed in Ohio R.C. 4507.01(A).
(ORC 2913.71)

545.04 DETENTION OF SHOPLIFTERS; RIGHTS OF MUSEUMS AND LIBRARIES.

(a) A merchant, or his employee or agent, who has probable cause to believe that items offered for sale by a mercantile establishment have been unlawfully taken by a person, may, for the purposes set forth in subsection (c) hereof, detain the person in a reasonable manner for a reasonable length of time within the mercantile establishment or its immediate vicinity.

(b) Any officer, employee or agent of a library, museum or archival institution may, for the purposes set forth in subsection (c) hereof or for the purpose of conducting a reasonable investigation of a belief that the person has acted in a manner described in subsections (b) (1) and (2) hereof, detain a person in a reasonable manner for a reasonable length of time within, or in the immediate vicinity of the library, museum or archival institution, if the officer, employee or agent has probable cause to believe that the person has either:

- (1) Without privilege to do so, knowingly moved, defaced, damaged, destroyed or otherwise improperly tampered with property owned by or in the custody of the library, museum or archival institution; or
- (2) With purpose to deprive the library, museum or archival institution of property owned by it or in its custody, knowingly obtained or exerted control over the property without the consent of the owner or person authorized to give consent, beyond the scope of the express or implied consent of the owner or person authorized to give consent, by deception, or by threat.

(c) An officer, agent or employee of a library, museum or archival institution pursuant to subsection (b) hereof or a merchant or his employee or agent pursuant to subsection (a) hereof may detain another person for any of the following purposes:

- (1) To recover the property that is the subject of the unlawful taking, criminal mischief or theft;
- (2) To cause an arrest to be made by a peace officer;
- (3) To obtain a warrant of arrest.
- (4) To offer the person, if the person is suspected of the unlawful taking, criminal mischief, or theft and notwithstanding any other provision of this General Offenses or the Ohio Revised Code, an opportunity to complete a pretrial diversion program and to inform the person of the other legal remedies available to the library, museum, archival institution or merchant.

(d) The officer, agent or employee of the library, museum or archival institution, or the merchant or his employee or agent acting under subsection (a) or (b) hereof shall not search the person, search or seize any property belonging to the person detained without the person's consent, or use undue restraint upon the person detained.

(e) Any peace officer may arrest without a warrant any person that he has probable cause to believe has committed any act described

in subsection (b)(1) or (2) hereof or that he has probable cause to believe has committed an unlawful taking in a mercantile establishment. An arrest under this subsection shall be made within a reasonable time after the commission of the act or unlawful taking.

(f) As used in this section:

- (1) "Archival institution" means any public or private building, structure or shelter in which are stored historical documents, devices, records, manuscripts or items of public interest, which historical materials are stored to preserve the materials or the information in the materials, to disseminate the information contained in the materials, or to make the materials available for public inspection or for inspection by certain persons who have a particular interest in, use for or knowledge concerning the materials.
- (2) "Museum" means any public or private nonprofit institution that is permanently organized for primarily educational or aesthetic purposes, owns or borrows objects or items of public interest, and cares for and exhibits to the public the objects or items.
- (3) "Pretrial diversion program" means a rehabilitative, educational program designed to reduce recidivism and promote personal responsibility that is at least four hours in length and that has been approved by any court in this State. (ORC 2935.041)

545.05 PETTY THEFT.

(a) No person, with purpose to deprive the owner of property or services, shall knowingly obtain or exert control over either the property or services in any of the following ways:

- (1) Without the consent of the owner or person authorized to give consent;
- (2) Beyond the scope of the express or implied consent of the owner or person authorized to give consent;
- (3) By deception;
- (4) By threat;
- (5) By intimidation.

(b) Whoever violates this section is guilty of petty theft, a misdemeanor of the first degree. Petty theft is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
- (3) The property stolen is a firearm or dangerous ordnance, or
- (4) The property stolen is a motor vehicle, or
- (5) The property stolen is any dangerous drug, or
- (6) The property stolen is a police dog or horse or an assistance dog and the offender knows or should know that the property stolen is a police dog or horse or an assistance dog, or
- (7) The property stolen is anhydrous ammonia, or
- (8) The property stolen is a special purpose article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.

(c) In addition to the penalties described in subsection (b) of this section, if the offender committed the violation by causing a motor vehicle to leave the premises of an establishment at which gasoline is offered for retail sale without the offender making full payment for gasoline that was dispensed into the fuel tank of the motor vehicle or into another container, the court may do one of the following:

- (1) Unless subsection (c)(2) of this section applies, suspend for not more than six months the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege;
- (2) If the offender's driver's license, probationary driver's license, commercial driver's license, temporary instruction permit, or nonresident operating privilege has previously been suspended pursuant to subsection (c)(1) of this section, impose a class seven suspension of the offender's license, permit, or privilege from the range specified in Ohio R.C. 4510.02(A)(7), provided that the suspension shall be for at least six months.
- (3) The court, in lieu of suspending the offender's driver's or commercial driver's license, probationary driver's license, temporary instruction permit, or nonresident operating privilege pursuant to subsections (c)(1) or (2) of this section, instead may require the offender to perform community service for a number of hours determined by the court.

(d) In addition to the penalties described in subsection (b) hereof, if the offender committed the violation by stealing rented property or rental services, the court may order that the offender make restitution pursuant to Ohio R.C. 2929.18 or 2929.28. Restitution may include, but is not limited to, the cost of repairing or replacing the stolen property, or the cost of repairing the stolen property and any loss of revenue resulting from deprivation of the property due to theft of rental services that is less than or equal to the actual value of the property at the time it was rented. Evidence of intent to commit theft of rented property or rental services shall be determined pursuant to the provisions of Ohio R.C. 2913.72.

(e) The sentencing court that suspends an offender's license, permit, or nonresident operating privilege under subsection (c) of this section may grant the offender limited driving privileges during the period of the suspension in accordance with Ohio R.C. Chapter 4510. (ORC 2913.02)

545.06 UNAUTHORIZED USE OF A VEHICLE; VEHICLE TRESPASS.

(a) No person shall knowingly use or operate an aircraft, motor vehicle, motorcycle, motorboat or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(b) This section does not apply to property removed from the State or if possession is kept for more than forty-eight hours.

(c) The following are affirmative defenses to a charge under this section:

- (1) At the time of the alleged offense, the actor, though mistaken, reasonably believed that the actor was authorized to use or operate the property.
- (2) At the time of the alleged offense, the actor reasonably believed that the owner or person empowered to give consent would authorize the actor to use or operate the property.

(d) No person shall knowingly enter into or upon a motor vehicle, motorcycle or other motor-propelled vehicle without the consent of the owner or person authorized to give consent.

(e) Whoever violates subsection (a) hereof is guilty of unauthorized use of a vehicle, a misdemeanor of the first degree. If the victim of the offense is an elderly person or disabled adult and if the victim incurs a loss as a result of the violation, a violation of subsection (a) hereof is a felony and shall be prosecuted under appropriate State law. (ORC 2913.03)

(f) Whoever violates subsection (d) hereof is guilty of vehicle trespass, a misdemeanor of the fourth degree.

545.07 INSURANCE FRAUD.

(a) As used in this section:

- (1) "Data" has the same meaning as in Section 545.01 and additionally includes any other representation of information, knowledge, facts, concepts or instructions that are being or have been prepared in a formalized manner.
- (2) "Deceptive" means that a statement, in whole or in part, would cause another to be deceived because it contains a misleading representation, withholds information, prevents the acquisition of information or by any other conduct, act or omission creates, confirms or perpetuates a false impression, including, but not limited to, a false impression as to law, value, state of mind or other objective or subjective fact.
- (3) "Insurer" means any person that is authorized to engage in the business of insurance in this State under Title XXXIX of the Ohio Revised Code; The Ohio Fair Plan Underwriting Association created under Ohio R.C. 3929.43; any health insuring corporation; and any legal entity that is self-insured and provides benefits to its employees or members.
- (4) "Policy" means a policy, certificate, contract or plan that is issued by an insurer.
- (5) "Statement" includes, but is not limited to, any notice, letter or memorandum; proof of loss; bill of lading; receipt for payment; invoice, account or other financial statement; estimate of property damage; bill for services; diagnosis or prognosis; prescription; hospital, medical or dental chart or other record; X-Ray, photograph, videotape or movie film; test result; other evidence of loss, injury or expense; computer-generated document; and data in any form.

(b) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall do either of the following:

- (1) Present to, or cause to be presented to, an insurer any written or oral statement that is part of, or in support of, an application for insurance, a claim for payment pursuant to a policy or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive;
- (2) Assist, aid, abet, solicit, procure or conspire with another to prepare or make any written or oral statement that is intended to be presented to an insurer as part of, or in support of, an application for insurance, a claim for payment pursuant to a policy, or a claim for any other benefit pursuant to a policy, knowing that the statement, or any part of the statement, is false or deceptive.

(c) Whoever violates this section is guilty of insurance fraud a misdemeanor of the first degree. If the amount of the claim that is false or deceptive is one thousand dollars (\$1,000) or more, insurance fraud is a felony and shall be prosecuted under appropriate State law.

(d) This section shall not be construed to abrogate, waive or modify Ohio R.C. 2317.02(A). (ORC 2913.47)

545.08 UNAUTHORIZED USE OF PROPERTY.

(a) No person shall knowingly use or operate the property of another without the consent of the owner or person authorized to give consent.

(b) The affirmative defenses contained in Section 545.06(c) are affirmative defenses to a charge under this section.

(c) Whoever violates this section is guilty of unauthorized use of property. Except as provided in subsection (d) hereof, unauthorized use of property is a misdemeanor of the fourth degree.

(d) If unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, unauthorized use of property is a misdemeanor of the first degree. Unauthorized use of property is a felony and shall be prosecuted under appropriate State law if:

- (1) Unauthorized use of property is committed for the purpose of devising or executing a scheme to defraud or to obtain property or services, and if the value of the property is one thousand dollars (\$1,000) or more; or
- (2) If the victim of the offense is an elderly person or disabled adult.

(ORC 2913.04)

545.09 PASSING BAD CHECKS.

(a) As used in this section:

- (1) "Check" includes any form of debit from a demand deposit account, including, but not limited to any of the following:
 - A. A check, bill of exchange, draft, order of withdrawal, or similar negotiable or nonnegotiable instrument;
 - B. An electronic check, electronic transaction, debit card transaction, check card transaction, substitute check, web check, or any form of automated clearing house transaction.
- (2) "Issue a check" means causing any form of debit from a demand deposit account.

(b) No person, with purpose to defraud, shall issue or transfer or cause to be issued or transferred a check or other negotiable instrument, knowing that it will be dishonored or knowing that a person has ordered or will order stop payment on the check or other negotiable instrument.

(c) For purposes of this section, a person who issues or transfers a check or other negotiable instrument is presumed to know that it will be dishonored, if either of the following occurs:

- (1) The drawer had no account with the drawee at the time of issue or the stated date, whichever is later.
- (2) The check or other negotiable instrument was properly refused payment for insufficient funds upon presentment within thirty days after issue or the stated date, whichever is later, and the liability of the drawer, indorser or any party who may be liable thereon is not discharged by payment or satisfaction within ten days after receiving notice of dishonor.

(d) In determining the value of the payment for purposes of subsection (e) of this section, the court may aggregate all checks and other negotiable instruments that the offender issued or transferred or caused to be issued or transferred in violation of subsection (a) of this section within a period of one hundred eighty consecutive days.

(e) Whoever violates this section is guilty of passing bad checks. Except as otherwise provided in this subsection, passing bad checks is a misdemeanor of the first degree. If the check or checks or other negotiable instrument or instruments are issued or transferred to a single vendor or single other person for the payment of one thousand dollars (\$1,000) or more or if the check or checks or other negotiable instrument or instruments are issued or transferred to multiple vendors or persons for the payment of one thousand five

hundred dollars (\$1,500) or more, passing bad checks is a felony and shall be prosecuted under appropriate State law. (ORC 2913.11)

545.10 MISUSE OF CREDIT CARDS.

- (a) No person shall do any of the following:
- (1) Practice deception for the purpose of procuring the issuance of a credit card, when a credit card is issued in actual reliance thereon;
 - (2) Knowingly buy or sell a credit card from or to a person other than the issuer.
 - (3) As an officer, employee, or appointee of a political subdivision or as a public servant as defined under Section 525.01, knowingly misuse a credit card account held by a political subdivision.
- (b) No person, with purpose to defraud, shall do any of the following:
- (1) Obtain control over a credit card as security for a debt;
 - (2) Obtain property or services by the use of a credit card, in one or more transactions, knowing or having reasonable cause to believe that the card has expired or been revoked, or was obtained, is retained or is being used in violation of law;
 - (3) Furnish property or services upon presentation of a credit card, knowing that the card is being used in violation of law;
 - (4) Represent or cause to be represented to the issuer of a credit card that property or services have been furnished, knowing that the representation is false.
- (c) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (d) Whoever violates this section is guilty of misuse of credit cards, a misdemeanor of the first degree. Misuse of credit cards is a felony and shall be prosecuted under appropriate State law if:
- (1) The cumulative retail value of the property and services involved in one or more violations of subsection (b)(2), (3) or (4) hereof, which violations involve one or more credit card accounts and occur within a period of ninety consecutive days commencing on the date of the first violation, is one thousand dollars (\$1,000) or more; or
 - (2) The victim of the offense is an elderly person or disabled adult and the offense involves a violation of subsection (b)(1) or (2) hereof.
- (ORC 2913.21)

545.11 MAKING OR USING SLUGS.

- (a) No person shall do any of the following:
- (1) Insert or deposit a slug in a coin machine, with purpose to defraud;
 - (2) Make, possess or dispose of a slug, with purpose of enabling another to defraud by inserting or depositing it in a coin machine.
- (b) Whoever violates this section is guilty of making or using slugs, a misdemeanor of the second degree. (ORC 2913.33)

545.12 TAMPERING WITH COIN MACHINES.

- (a) No person, with purpose to commit theft or to defraud, shall knowingly enter, force an entrance into, tamper with or insert any part of an instrument into any coin machine.
- (b) Whoever violates this section is guilty of tampering with coin machines, a misdemeanor of the first degree. If the offender has previously been convicted of a violation of Ohio R.C. 2911.32 or of any theft offense, tampering with coin machines is a felony and shall be prosecuted under appropriate State law. (ORC 2911.32)

545.13 CRIMINAL SIMULATION.

- (a) No person, with purpose to defraud, or knowing that the person is facilitating a fraud, shall do any of the following:
- (1) Make or alter any object so that it appears to have value because of antiquity, rarity, curiosity, source, or authorship, which it does not in fact possess;
 - (2) Practice deception in making, retouching, editing, or reproducing any photograph, movie film, video tape, phonograph record, or recording tape;
 - (3) Falsely or fraudulently make, simulate, forge, alter, or counterfeit any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, falsely or fraudulently cause to be made, simulated, forged, altered, or counterfeited any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303, or use more than once any wrapper, label, stamp, cork, or cap prescribed by the Liquor Control Commission under Ohio R.C. Chapters 4301 and 4303.
 - (4) Utter, or possess with purpose to utter, any object that the person knows to have been simulated as provided in subsection (a)(1), (2) or (3) of this section.
- (b) Whoever violates this section is guilty of criminal simulation, a misdemeanor of the first degree. If the loss to the victim is one thousand dollars (\$1,000) or more, criminal simulation is a felony and shall be prosecuted under appropriate State law. (ORC 2913.32)

545.14 TAMPERING WITH RECORDS.

- (a) No person, knowing the person has no privilege to do so, and with purpose to defraud or knowing that the person is facilitating a fraud, shall do any of the following:
- (1) Falsify, destroy, remove, conceal, alter, deface or mutilate any writing, computer software, data, or record;
 - (2) Utter any writing or record, knowing it to have been tampered with as provided in subsection (a)(1) hereof.
- (b) Whoever violates this section is guilty of tampering with records, a misdemeanor of the first degree. If the violation involves data or computer software the value of which or loss to the victim is one thousand dollars (\$1,000) or more, or if the writing or record is a will unrevoked at the time of the offense, tampering with records is a felony and shall be prosecuted under appropriate State law. (ORC 2913.42)

545.15 SECURING WRITINGS BY DECEPTION.

- (a) No person, by deception, shall cause another to execute any writing that disposes of or encumbers property, or by which a pecuniary obligation is incurred.
- (b) Whoever violates this section is guilty of securing writings by deception, a misdemeanor of the first degree. Securing writings by deception is a felony and shall be prosecuted under appropriate State law if:

- (1) The value of the property or obligation involved is one thousand dollars (\$1,000) or more; or
- (2) The victim of the offense is an elderly person, disabled adult, active duty service member or spouse of an active duty service member.

(ORC 2913.43)

545.16 PERSONATING AN OFFICER.

- (a) No person, with purpose to defraud or knowing that he is facilitating a fraud, or with purpose to induce another to purchase property or services, shall personate a law enforcement officer, or an inspector, investigator or agent of any governmental agency.
- (b) Whoever violates this section is guilty of personating an officer, a misdemeanor of the first degree. (ORC 2913.44)

545.17 DEFRAUDING CREDITORS.

- (a) No person, with purpose to defraud one or more of the person's creditors, shall do any of the following:
 - (1) Remove, conceal, destroy, encumber, convey or otherwise deal with any of the person's property.
 - (2) Misrepresent or refuse to disclose to a fiduciary appointed to administer or manage the person's affairs or estate, the existence, amount or location of any of the person's property, or any other information regarding such property that the person is legally required to furnish to the fiduciary.
- (b) Whoever violates this section is guilty of defrauding creditors, a misdemeanor of the first degree. If the value of the property involved is one thousand dollars (\$1,000) or more, defrauding creditors is a felony and shall be prosecuted under appropriate State law. (ORC 2913.45)

545.18 RECEIVING STOLEN PROPERTY.

- (a) No person shall receive, retain or dispose of property of another, knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense.
- (b) It is not a defense to a charge of receiving stolen property in violation of this section that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.
- (c) Whoever violates this section is guilty of receiving stolen property, a misdemeanor of the first degree. Receiving stolen property is a felony and shall be prosecuted under appropriate State law if:
 - (1) The value of the property involved is one thousand dollars (\$1,000) or more; or
 - (2) The property involved is:
 - A. Listed in Section 545.03; or
 - B. A motor vehicle as defined in Ohio R.C. 4501.01; or
 - C. A dangerous drug as defined in Ohio R.C. 4729.01.
 - D. A special purchase article as defined in Ohio R.C. 4737.04 or a bulk merchandise container as defined in Ohio R.C. 4737.012.(ORC 2913.51)

545.19 POSSESSION OF CRIMINAL TOOLS.

- (a) No person shall possess or have under the person's control any substance, device, instrument, or article, with purpose to use it criminally.
- (b) Each of the following constitutes prima-facie evidence of criminal purpose:
 - (1) Possession or control of any dangerous ordnance, or the materials or parts for making dangerous ordnance, in the absence of circumstances indicating the dangerous ordnance, materials, or parts are intended for legitimate use;
 - (2) Possession or control of any substance, device, instrument, or article designed or specially adapted for criminal use;
 - (3) Possession or control of any substance, device, instrument, or article commonly used for criminal purposes, under circumstances indicating the item is intended for criminal use.
- (c) Whoever violates this section is guilty of possessing criminal tools, a misdemeanor of the first degree. If the circumstances indicate that the substance, device, instrument, or article involved in the offense was intended for use in the commission of a felony, possessing criminal tools is a felony and shall be prosecuted under appropriate State law.

(ORC 2923.24)

545.20 FORGERY OF IDENTIFICATION CARDS.

- (a) No person shall knowingly do either of the following:
 - (1) Forge an identification card;
 - (2) Sell or otherwise distribute a card that purports to be an identification card, knowing it to have been forged.
 - (3) As used in this section, "identification card" means a card that includes personal information or characteristics of an individual, a purpose of which is to establish the identity of the bearer described on the card, whether the words "identity," "identification," "identification card" or other similar words appear on the card.
- (b) Whoever violates subsection (a) hereof is guilty of forging identification cards or selling or distributing forged identification cards. Except as otherwise provided in this subsection, forging or selling or distributing forged identification cards is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of this section or Ohio R.C. 2913.31 (B), forging identification cards or selling or distributing forged identification cards is a misdemeanor of the first degree and, in addition, the court shall impose upon the offender a fine of not less than two hundred fifty dollars (\$250.00).

(ORC 2913.31)

545.21 MISREPRESENTING EYEGLASSES; ADVERTISING PRICE.

- (a) No person, or his agent or employee, engaged in or connected with the sale of eyeglasses, ophthalmic lenses, eyeglass frames or mountings, shall include in any advertisement by newspaper, radio, display or otherwise, any statement which in any manner misrepresents any such frames, mountings or other material, or prices for the same, or services or credit terms.
- (b) No person, or his agent or employee, engaged in or connected with the sale of eyeglasses, ophthalmic lenses, eyeglass frames or mountings, shall include in any advertisement by newspaper, radio, display or otherwise, any statement advertising the price of lenses or

of complete eyeglasses, including lenses, either with or without professional services or credit terms, installment payments or price plans, or the price of any frames or mountings, unless in conjunction therewith the words "without lenses" appear in such a manner as to be clearly discernible, or read in such a manner as to be clearly understood.

(Ord. 72-53. Passed 11-23-53.)

(c) Whoever violates any provision of this section is guilty of a minor misdemeanor. Each such advertisement as set forth herein for the sale of the items or materials specified shall constitute a separate offense.

545.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 549

Weapons and Explosives

549.01 Definitions.

549.02 Carrying concealed weapons.

549.03 Using weapons while intoxicated.

549.04 Improperly handling firearms in a motor vehicle.

549.05 Failure to secure dangerous ordnance.

549.06 Unlawful transactions in weapons.

549.07 Underage purchase of firearm.

549.08 Discharging firearms.

549.09 Throwing or shooting missiles.

549.10 Carrying certain weapons prohibited.

549.11 Possessing replica firearm in school.

549.12 Defacing identification marks of a firearm; possessing a defaced firearm.

549.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

License or permit to possess dangerous ordnance - see Ohio R.C. 2923.18

Hunting prohibited - see GEN. OFF. 505.11

Reporting gunshot and stab wounds - see GEN. OFF. 525.05(b)

Property destruction by tear gas device, etc. - see GEN. OFF. 541.04

549.01 DEFINITIONS.

As used in this chapter:

- (a) "Deadly weapon" means any instrument, device or thing capable of inflicting death, and designed or specially adapted for use as a weapon, or possessed, carried or used as a weapon.
- (b) (1) "Firearm" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.
 - (2) When determining whether a firearm is capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant, the trier of fact may rely upon circumstantial evidence, including, but not limited to, the representations and actions of the individual exercising control over the firearm.
- (c) "Handgun" means any of the following:
 - (1) Any firearm that has a short stock and is designed to be held and fired by the use of a single hand;
 - (2) Any combination of parts from which a firearm of a type described in subsection (c)(1) of this section can be assembled.
- (d) "Semi-automatic firearm" means any firearm designed or specially adapted to fire a single cartridge and automatically chamber a succeeding cartridge ready to fire, with a single function of the trigger.
- (e) "Automatic firearm" means any firearm designed or specially adapted to fire a succession of cartridges with a single function of the trigger.
- (f) "Sawed-off firearm" means a shotgun with a barrel less than eighteen inches long, or a rifle with a barrel less than sixteen inches long, or a shotgun or rifle less than twenty-six inches long overall. "Sawed-off firearm" does not include any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (g) "Zip-gun" means any of the following:
 - (1) Any firearm of crude and extemporized manufacture;
 - (2) Any device, including without limitation a starter's pistol, that is not designed as a firearm, but that is specially adapted for use as a firearm;
 - (3) Any industrial tool, signalling device or safety device, that is not designed as a firearm, but that as designed is capable of use as such, when possessed, carried or used as a firearm.
- (h) "Explosive device" means any device designed or specially adapted to cause physical harm to persons or property by means of an explosion, and consisting of an explosive substance or agency and a means to detonate it. "Explosive device" includes without limitation any bomb, any explosive demolition device, any blasting cap or detonator containing an explosive charge, and any pressure vessel that has been knowingly tampered with or arranged so as to explode.
- (i) "Incendiary device" means any firebomb, and any device designed or specially adapted to cause physical harm to persons or property by means of fire, and consisting of an incendiary substance or agency and a means to ignite it.
- (j) "Ballistic knife" means a knife with a detachable blade that is propelled by a spring-operated mechanism.
- (k) "Dangerous ordnance" means any of the following, except as provided in subsection (l) hereof:

- (1) Any automatic or sawed-off firearm, zip-gun or ballistic knife;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, pecretol, cyclotol and other high explosive compositions; plastic explosives; dynamite, blasting gelatin, gelatin dynamite, sensitized ammonium nitrate, liquid-oxygen blasting explosives, blasting powder and other blasting agents; and any other explosive substance having sufficient brisance or power to be particularly suitable for use as a military explosive, or for use in mining, quarrying, excavating or demolitions;
 - (4) Any firearm, rocket launcher, mortar, artillery piece, grenade, mine, bomb, torpedo or similar weapon, designed and manufactured for military purposes, and the ammunition for that weapon;
 - (5) Any firearm muffler or suppressor;
 - (6) Any combination of parts that is intended by the owner for use in converting any firearm or other device into a dangerous ordnance.
- (l) "Dangerous ordnance" does not include any of the following:
- (1) Any firearm, including a military weapon and the ammunition for that weapon, and regardless of its actual age, that employs a percussion cap or other obsolete ignition system, or that is designed and safe for use only with black powder;
 - (2) Any pistol, rifle or shotgun, designed or suitable for sporting purposes, including a military weapon as issued or as modified, and the ammunition for that weapon unless the firearm is an automatic or sawed-off firearm;
 - (3) Any cannon or other artillery piece that, regardless of its actual age, is of a type in accepted use prior to 1887, has no mechanical, hydraulic, pneumatic or other system for absorbing recoil and returning the tube into battery without displacing the carriage, and is designed and safe for use only with black powder;
 - (4) Black powder, priming quills and percussion caps possessed and lawfully used to fire a cannon of a type defined in subsection (l) (3) hereof during displays, celebrations, organized matches or shoots, and target practice, and smokeless and black powder, primers and percussion caps possessed and lawfully used as a propellant or ignition device in small-arms or small-arms ammunition;
 - (5) Dangerous ordnance that is inoperable or inert and cannot readily be rendered operable or activated, and that is kept as a trophy, souvenir, curio or museum piece.
 - (6) Any device that is expressly excepted from the definition of a destructive device pursuant to the "Gun Control Act of 1968," 82 Stat. 1213, 18 U.S.C.921(a)(4), as amended, and regulations issued under that Act.
 - (7) Any firearm with an overall length of at least twenty-six inches that is approved for sale by the Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives under the "Gun Control Act of 1968", 82 Stat. 1213, 18 U.S.C. 921(a)(3), but that is found by the Bureau not to be regulated under the "National Firearms Act", 68A Stat. 725 (1934), 26 U.S.C. 5845(a).
- (m) "Explosive" means any chemical compound, mixture, or device, the primary or common purpose of which is to function by explosion. "Explosive" includes all materials that have been classified as division 1.1, division 1.2, division 1.3, or division 1.4 explosives by the United States Department of Transportation in its regulations and includes, but is not limited to, dynamite, black powder, pellet powders, initiating explosives, blasting caps, electric blasting caps, safety fuses, fuse igniters, squibs, cordeau detonant fuses, instantaneous fuses, and igniter cords and igniters. "Explosive" does not include "fireworks", as defined in Ohio R.C. 3743.01, or any substance or material otherwise meeting the definition of explosive set forth in this section that is manufactured, sold, possessed, transported, stored or used in any activity described in Ohio R.C. 3743.80, provided the activity is conducted in accordance with all applicable laws, rules and regulations, including, but not limited to, the provisions of Ohio R.C. 3743.80, and the rules of the Fire Marshal adopted pursuant to Ohio R.C. 3737.82.
- (n) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (n)(2) of this section, a license or temporary emergency license to carry a concealed handgun issued under Ohio R.C. 2923.125 or 2923.1213 or a license to carry a concealed handgun issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (2) A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.125 or a license to carry a concealed handgun issued under Ohio R.C. 2923.125 means only a license of the type that is specified in that section. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued under Ohio R.C. 2923.1213, a licence to carry a concealed handgun issued under Ohio R.C. 2923.1213, or a license to carry a concealed handgun on a temporary emergency basis means only a license of the type that is specified in Ohio R.C. 2923.1213. A reference in any provision of the Ohio Revised Code to a concealed handgun license issued by another state or a license to carry a concealed handgun issued by another state means only a license issued by another state with which the Attorney General has entered into a reciprocity agreement under Ohio R.C. 109.69.
- (o) "Valid concealed handgun license" or "valid license to carry a concealed handgun" means a concealed handgun license that is currently valid, that is not under a suspension under division (A)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213, or under a suspension provision of the state other than this State in which the license was issued, and that has not been revoked under division (B)(1) of Ohio R.C. 2923.128, under Ohio R.C. 2923.1213 or under a revocation provision of the state other than this State in which the license was issued.
- (p) "Misdemeanor punishable by imprisonment for a term exceeding one year" does not include any of the following:
- (1) Any federal or state offense pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices;
 - (2) Any misdemeanor offense punishable by a term of imprisonment of two years or less.
- (q) "Alien registration number" means the number issued by the United States Citizenship and Immigration Services Agency that is located on the alien's permanent resident card and may also be commonly referred to as the "USCIS number" or the "alien number".
- (r) "Active duty" has the same meaning as defined in 10 U.S.C. 101.
(ORC 2923.11)

549.02 CARRYING CONCEALED WEAPONS.

- (a) No person shall knowingly carry or have, concealed on the person's person or concealed ready at hand, any of the following:
- (1) A deadly weapon other than a handgun;
 - (2) A handgun other than a dangerous ordnance;
 - (3) A dangerous ordnance.
- (b) No person who has been issued a concealed handgun license, shall do any of the following:
- (1) If the person is stopped for a law enforcement purpose, and is carrying a concealed handgun, fail to promptly inform any law enforcement officer who approaches the person after the person has been stopped that the person has been issued a concealed handgun license and that the person then is carrying a concealed handgun;
 - (2) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer;
 - (3) If the person is stopped for a law enforcement purpose and is carrying a concealed handgun, knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the person is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.
- (c) (1) This section does not apply to any of the following:
- A. An officer, agent or employee of this or any other state or the United States, or to a law enforcement officer, who is authorized to carry concealed weapons or dangerous ordnance, or is authorized to carry handguns and is acting within the scope of the officer's, agent's or employee's duties;
 - B. Any person who is employed in this State, who is authorized to carry concealed weapons or dangerous ordnance or is authorized to carry handguns, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801 unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. hereof does not apply to the person.
 - C. A person's transportation or storage of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in a motor vehicle for any lawful purpose if the firearm is not on the actor's person;
 - D. A person's storage or possession of a firearm, other than a firearm described in divisions (G) to (M) of Ohio R.C. 2923.11 in the actor's own home for any lawful purpose.
- (2) Subsection (a)(2) of this section does not apply to any person who, at the time of the alleged carrying or possession of a handgun, either is carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, unless the person knowingly is in a place described in division (B) of Ohio R.C. 2923.126.
- (d) It is an affirmative defense to a charge under subsection (a)(1) of this section of carrying or having control of a weapon other than a handgun and other than a dangerous ordnance, that the actor was not otherwise prohibited by law from having the weapon, and that any of the following applies:
- (1) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in or was going to or from the actor's lawful business or occupation, which business or occupation was of a character or was necessarily carried on in a manner or at a time or place as to render the actor particularly susceptible to criminal attack, such as would justify a prudent person in going armed.
 - (2) The weapon was carried or kept ready at hand by the actor for defensive purposes, while the actor was engaged in a lawful activity and had reasonable cause to fear a criminal attack upon the actor, a member of the actor's family, or the actor's home, such as would justify a prudent person in going armed.
 - (3) The weapon was carried or kept ready at hand by the actor for any lawful purpose and while in the actor's own home.
- (e) No person who is charged with a violation of this section shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.
- (f) (1) Whoever violates this section is guilty of carrying concealed weapons. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, carrying concealed weapons in violation of subsection (a) of this section is a misdemeanor of the first degree. Except as otherwise provided in this subsection or subsections (f)(2), (5) and (6) of this section, if the offender previously has been convicted of a violation of this section or of any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is dangerous ordnance, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law. Except as otherwise provided in subsections (f)(2), (5) and (6) of this section, if the weapon involved is a firearm and the violation of this section is committed at premises for which a D permit has been issued under Chapter 4303, of the Revised Code or if the offense is committed aboard an aircraft, or with purpose to carry a concealed weapon aboard an aircraft, regardless of the weapon involved, carrying concealed weapons in violation of subsection (a) of this section is a felony and shall be prosecuted under appropriate State law.
- (2) Except as provided in subsection (f)(5) of this section, if a person being arrested for a violation of subsection (a)(2) of this section promptly produces a valid concealed handgun license, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that subsection. If the person is not able to promptly produce any concealed handgun license and if the person is not in a place described in that section, the officer may arrest the person for a violation of that subsection, and the offender shall be punished as follows:
- A. The offender shall be guilty of a minor misdemeanor if both of the following apply:
 1. Within ten days after the arrest, the offender presents a concealed handgun license, which license was valid at the time of the

arrest to the law enforcement agency that employs the arresting officer.

2. At the time of the arrest, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- B. The offender shall be guilty of a misdemeanor and shall be fined five hundred dollars (\$500.00) if all of the following apply:
 1. The offender previously had been issued a concealed handgun license and that license expired within the two years immediately preceding the arrest.
 2. Within forty-five days after the arrest, the offender presents any type of concealed handgun license to the law enforcement agency that employed the arresting officer, and the offender waives in writing the offender's right to a speedy trial on the charge of the violation that is provided in Ohio R.C. 2945.71.
 3. At the time of the commission of the offense, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- C. If subsections (f)(2)A. and B. and (f)(5) of this section do not apply, the offender shall be punished under subsection (f)(1) or (6) of this section.
- (3) Except as otherwise provided in this subsection, carrying concealed weapons in violation of subsection (b)(1) hereof is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for a violation of subsection (b)(1) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

If, at the time of the stop of the offender for a law enforcement purpose that was the basis of the violation, any law enforcement officer involved with the stop had actual knowledge that the offender has been issued a concealed handgun license, carrying concealed weapons in violation of division (b)(1) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128.
- (4) Except as otherwise provided herein, carrying concealed weapons in violation of subsection (b)(2) or (b)(3) hereof is a misdemeanor of the first degree. If the offender has previously been convicted or pleaded guilty to a violation of Ohio R.C. 2923.12(B)(2) or (B)(4) or a substantially equivalent municipal ordinance, carrying concealed weapons is a felony and shall be prosecuted under appropriate state law. In addition to any other penalty or sanction imposed for a violation of subsection (b)(2) or (b)(3) hereof, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).
- (5) If a person being arrested for a violation of subsection (a)(2) of this section is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, and if at the time of the violation the person was not knowingly in a place described in division (B) of Ohio R.C. 2923.126, the officer shall not arrest the person for a violation of that division. If the person is not able to promptly produce a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125 and if the person is not in a place described in division (B) of Ohio R.C. 2923.126, the officer shall issue a citation and the offender shall be assessed a civil penalty of not more than five hundred dollars (\$500.00). The citation shall be automatically dismissed and the civil penalty shall not be assessed if both of the following apply:
 - A. Within ten days after the issuance of the citation, the offender presents a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, which were both valid at the time of the issuance of the citation to the law enforcement agency that employs the citing officer.
 - B. At the time of the citation, the offender was not knowingly in a place described in division (B) of Ohio R.C. 2923.126.
- (6) If a person being arrested for a violation of subsection (a)(2) of this section is knowingly in a place described in division (B)(5) of Ohio R.C. 2923.126, and is not authorized to carry a handgun or have a handgun concealed on the person's person or concealed ready at hand under that division, the penalty shall be as follows:
 - A. Except as otherwise provided in this subsection, if the person produces a valid concealed handgun license within ten days after the arrest and has not previously been convicted or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a minor misdemeanor;
 - B. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the fourth degree;
 - C. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to two violations of subsection (a)(2) of this section, the person is guilty of a misdemeanor of the third degree;
 - D. Except as otherwise provided in this subsection, if the person has previously been convicted of or pleaded guilty to three or more violations of subsection (a)(2) of this section, or convicted of or pleaded guilty to any offense of violence, if the weapon involved is a firearm that is either loaded or for which the offender has ammunition ready at hand, or if the weapon involved is a dangerous ordnance, the person is guilty of a misdemeanor of the second degree.
- (g) If a law enforcement officer stops a person to question the person regarding a possible violation of this section, for a traffic stop, or for any other law enforcement purpose, if the person surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.
- (h) For purposes of this section, "deadly weapon" or "weapon" does not include any knife, razor, or cutting instrument if the instrument was not used as a weapon.

(ORC 2923.12)

549.03 USING WEAPONS WHILE INTOXICATED.

- (a) No person, while under the influence of alcohol or any drug of abuse, shall carry or use any firearm or dangerous ordnance.

(b) Whoever violates this section is guilty of using weapons while intoxicated, a misdemeanor of the first degree.

(ORC 2923.15)

549.04 IMPROPERLY HANDLING FIREARMS IN A MOTOR VEHICLE.

(a) No person shall knowingly transport or have a firearm in a motor vehicle, unless the person may lawfully possess that firearm under applicable law of this state or the United States, the firearm is unloaded, and the firearm is carried in one of the following ways:

- (1) In a closed package, box or case;
- (2) In a compartment which can be reached only by leaving the vehicle;
- (3) In plain sight and secured in a rack or holder made for the purpose;
- (4) If the firearm is at least twenty-four inches in overall length as measured from the muzzle to the part of the stock furthest from the muzzle and if the barrel is at least eighteen inches in length, either in plain sight with the action open or the weapon stripped, or, if the firearm is of a type on which the action will not stay open or which cannot easily be stripped, in plain sight.

(b) No person who has been issued a concealed handgun license, or who is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125, who is the driver or an occupant of a motor vehicle that is stopped as a result of a traffic stop or a stop for another law enforcement purpose or is the driver or an occupant of a commercial motor vehicle that is stopped by an employee of the motor carrier enforcement unit for the purposes defined in Ohio R.C. 5503.34, and who is transporting or has a loaded handgun in the motor vehicle or commercial motor vehicle in any manner, shall do any of the following:

- (1) Fail to promptly inform any law enforcement officer who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the motor vehicle;
- (2) Fail to promptly inform the employee of the unit who approaches the vehicle while stopped that the person has been issued a concealed handgun license or is authorized to carry a concealed handgun as an active duty member of the armed forces of the United States and that the person then possesses or has a loaded handgun in the commercial motor vehicle.
- (3) Knowingly fail to remain in the motor vehicle while stopped, or knowingly fail to keep the person's hands in plain sight at any time after any law enforcement officer begins approaching the person while stopped and before the law enforcement officer leaves, unless the failure is pursuant to and in accordance with directions given by a law enforcement officer.
- (4) Knowingly disregard or fail to comply with any lawful order of any law enforcement officer given while the motor vehicle is stopped, including, but not limited to, a specific order to the person to keep the person's hands in plain sight.

(c) (1) This section does not apply to any of the following:

- A. An officer, agent or employee of this or any other state or the United States, or a law enforcement officer, when authorized to carry or have loaded or accessible firearms in motor vehicles and acting within the scope of the officer's, agent's or employee's duties;
- B. Any person who is employed in this State, who is authorized to carry or have loaded or accessible firearms in motor vehicles, and who is subject to and in compliance with the requirements of Ohio R.C. 109.801, unless the appointing authority of the person has expressly specified that the exemption provided in subsection (c)(1)B. does not apply to the person.

(2) Subsection (a) of this section does not apply to a person who transports or possesses a handgun in a motor vehicle if, at the time of that transportation or possession, both of the following apply:

- A. The person transporting or possessing the handgun is either carrying a valid concealed handgun license or is an active duty member of the armed forces of the United States and is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in division (G)(1) of Ohio R.C. 2923.125.
- B. The person transporting or possessing the handgun is not knowingly in a place described in division (B) of Ohio R.C. 2923.126.

(3) Subsection (a) of this section does not apply to a person if all of the following apply:

- A. The person possesses a valid all-purpose vehicle permit issued under Ohio R.C. 1533.103 by the Chief of the Division of Wildlife.
- B. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 on private or publicly owned lands or on or in a motor vehicle during the open hunting season for a wild quadruped or game bird.
- C. The person is on or in an all-purpose vehicle as defined in Ohio R.C. 1531.01 or a motor vehicle that is parked on a road that is owned or administered by the Division of Wildlife.

(d) (1) The affirmative defenses authorized in Section 549.02(d)(1) and (2) are affirmative defenses to a charge under subsection (a) that involves a firearm other than a handgun.

(2) It is an affirmative defense to a charge under subsection (a) of improperly handling firearms in a motor vehicle that the actor transported or had the firearm in the motor vehicle for any lawful purpose and while the motor vehicle was on the actor's own property, provided that the affirmative defense is not available unless the person, immediately prior to arriving at the actor's own property, did not transport or possess the firearm in a motor vehicle in a manner prohibited by subsection (a) while the motor vehicle was being operated on a street, highway, or other public or private property used by the public for vehicular traffic.

(e) (1) No person who is charged with a violation of subsection (a) shall be required to obtain a concealed handgun license as a condition for the dismissal of the charge.

(2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b) of this section as it existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be

a violation of subsection (b) of this section on or after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (a) of this section as the subsection existed prior to September 30, 2011, and if the conduct that was the basis of the violation no longer would be a violation of subsection (a) of this section on or after September 30, 2011, due to the application of subsection (b)(4) of this section as it exists on and after September 30, 2011, the person may file an application under Ohio R.C. 2953.37 requesting the expungement of the record of conviction.

(f) Whoever violates this section is guilty of improperly handling firearms in a motor vehicle. Violation of subsection (a) of this section is a misdemeanor of the fourth degree. Except as otherwise provided in this subsection, a violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the first degree, and, in addition to any other penalty or sanction imposed for the violation, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2). If at the time of the stop of the offender for a traffic stop, for another law enforcement purpose, or for a purpose defined in Ohio R.C. 5503.34 that was the basis of the violation any law enforcement officer involved with the stop or the employee of the motor carrier enforcement unit who made the stop had actual knowledge of the offender's status as a licensee, a violation of subsection (b)(1) or (b)(2) of this section is a minor misdemeanor, and the offender's concealed handgun license shall not be suspended pursuant to division (A)(2) of Ohio R.C. 2923.128. A violation of subsection (b)(3) or (4) of this section is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to a violation of subsection (b)(3) or (4) of this section, a felony and shall be prosecuted under appropriate State law. In addition to any other penalty or sanction imposed for a misdemeanor violation of subsection (b)(3) or (4) of this section, the offender's concealed handgun license shall be suspended pursuant to Ohio R.C. 2923.128(A)(2).

(g) If a law enforcement officer stops a motor vehicle for a traffic stop or any other purpose, if any person in the motor vehicle surrenders a firearm to the officer, either voluntarily or pursuant to a request or demand of the officer, and if the officer does not charge the person with a violation of this section or arrest the person for any offense, the person is not otherwise prohibited by law from possessing the firearm, and the firearm is not contraband, the officer shall return the firearm to the person at the termination of the stop. If a court orders a law enforcement officer to return a firearm to a person pursuant to the requirement set forth in this subsection, division (B) of Ohio R.C. 2923.163 applies.

(h) As used in this section:

(1) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.

(2) A. "Unloaded" means:

1. With respect to a firearm other than a firearm described in subsection (h)(2)B. of this section, that no ammunition is in the firearm in question, no magazine or speed loader containing ammunition is inserted into the firearm in question and one of the following applies:

a. There is no ammunition in a magazine or speed loader that is in the vehicle in question and that may be used with the firearm in question.

b. Any magazine or speed loader that contains ammunition and that may be used with the firearm in question is stored in a compartment within the vehicle in question that cannot be accessed without leaving the vehicle or is stored in a container that provides complete and separate enclosure.

2. For the purposes of subsection (h)(2)A.1.b. of this section, a "container that provides complete and separate enclosure" includes, but is not limited to, any of the following:

a. A package, box or case with multiple compartments, as long as the loaded magazine or speed loader and the firearm in question either are in separate compartments within the package, box, or case, or, if they are in the same compartment, the magazine or speed loader is contained within a separate enclosure in that compartment that does not contain the firearm and that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents or the firearm is contained within a separate enclosure of that nature in that compartment that does not contain the magazine or speed loader;

b. A pocket or other enclosure on the person of the person in question that closes using a snap, button, buckle, zipper, hook and loop closing mechanism, or other fastener that must be opened to access the contents.

3. For the purposes of subsection (h)(2)A. of this section, ammunition held in stripper-clips or in en-bloc clips is not considered ammunition that is loaded into a magazine or speed loader.

B. "Unloaded" means, with respect to a firearm employing a percussion cap, flintlock, or other obsolete ignition system, when the weapon is uncapped or when the priming charge is removed from the pan.

(3) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).

(4) "Motor carrier enforcement unit" means the motor carrier enforcement unit in the Department of Public Safety, Division of State Highway Patrol, that is created by Ohio R.C. 5503.34.

(i) Subsection (h)(2) of this section does not affect the authority of a person who is carrying a valid concealed handgun license to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in that subsection, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any other provision of this chapter or Ohio R.C. Chapter 2923. A person who is carrying a valid concealed handgun license may have one or more magazines or speed loaders containing ammunition anywhere in a vehicle without further restriction, as long as no ammunition is in a firearm, other than a handgun, in the vehicle other than as permitted under any provision of this chapter or Ohio R.C. Chapter 2923. (ORC 2923.16)

549.05 FAILURE TO SECURE DANGEROUS ORDNANCE.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance shall negligently fail to take proper precautions:

(1) To secure the dangerous ordnance against theft, or against its acquisition or use by any unauthorized or incompetent person;

(2) To insure the safety of persons and property.

(b) Whoever violates this section is guilty of failure to secure dangerous ordnance, a misdemeanor of the second degree.

(ORC 2923.19)

549.06 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall do any of the following:

- (1) When transferring any dangerous ordnance to another, negligently fail to require the transferee to exhibit such identification, license or permit showing the transferee to be authorized to acquire dangerous ordnance pursuant to Ohio R.C. 2923.17, or negligently fail to take a complete record of the transaction and forthwith forward a copy of such record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (2) Knowingly fail to report to law enforcement authorities forthwith the loss or theft of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Whoever violates this section is guilty of unlawful transactions in weapons. A violation of subsection (a)(1) hereof is a misdemeanor of the second degree. A violation of subsection (a)(2) hereof is a misdemeanor of the fourth degree. (ORC 2923.20)

549.07 UNDERAGE PURCHASE OF FIREARM.

(a) No person under eighteen years of age shall purchase or attempt to purchase a firearm.

(b) No person under twenty-one years of age shall purchase or attempt to purchase a handgun, provided that this subsection does not apply to the purchase or attempted purchase of a handgun by a person eighteen years of age or older and under twenty-one years of age if either of the following apply:

- (1) The person is a law enforcement officer who is properly appointed or employed as a law enforcement officer and has received firearms training approved by the Ohio Peace Officer Training Council or equivalent firearms training.
- (2) The person is an active or reserve member of the armed services of the United States or the Ohio national guard, or was honorably discharged from military service in the active or reserve armed services of the United States or the Ohio national guard, and the person has received firearms training from the armed services or the national guard or equivalent firearms training.

(c) Whoever violates subsection (a) hereof is guilty of underage purchase of a firearm, a delinquent act that would be a felony of the fourth degree if it could be committed by an adult. Whoever violates subsection (b) hereof is guilty of underage purchase of a handgun, a misdemeanor of the second degree. (ORC 2923.211)

549.08 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality.

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.09 THROWING OR SHOOTING MISSILES.

(a) No person shall throw, shoot or propel an arrow, missile, pellet, stone, metal or other similar substance capable of causing physical harm to persons or property, in or on any public place, in or on the property of another, or from any private property into or onto any public place or the property of another. This section does not apply to supervised archery ranges or instruction nor when otherwise lawfully authorized.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.10 CARRYING CONCEALED WEAPONS PROHIBITED.

(a) No person shall carry on or about his person any weapon known or designated as brass knuckles, billy, slingshot, sandbag, blackjack or other weapon of similar character, or any knife fitted with a mechanical device for automatic release of the blade, opening the knife and locking the knife in the open position, commonly known as a switch or automatic spring knife.

(b) This section does not apply to any such weapons designated for use by officers of the law.

(c) Whoever violates this section is guilty of a misdemeanor of the second degree.

549.11 POSSESSING REPLICIA FIREARM IN SCHOOL.

(a) No person shall knowingly possess an object in a school safety zone if both of the following apply:

- (1) The object is indistinguishable from a firearm, whether or not the object is capable of being fired.
- (2) The person indicates that the person possesses the object and that it is a firearm, or the person knowingly displays or brandishes the object and indicates that it is a firearm.

(b) Subsection (a) hereof does not apply to premises upon which home schooling is conducted. Subsection (a) hereof also does not apply to a school administrator, teacher, or employee who possesses an object that is indistinguishable from a firearm for legitimate school purposes during the course of employment, a student who uses an object that is indistinguishable from a firearm under the direction of a school administrator, teacher, or employee, or any other person who with the express prior approval of a school administrator possesses an object that is indistinguishable from a firearm for a legitimate purpose, including the use of the object in a ceremonial activity, a play, reenactment, or other dramatic presentation, or a ROTC activity or another similar use of the object.

(c) Whoever violates subsection (a) hereof is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this subsection, illegal possession of an object indistinguishable from a firearm in a school safety zone is a misdemeanor of the first degree. If the offender previously has been convicted of a violation of Ohio R.C. 2923.122, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony and shall be prosecuted under appropriate State law.

(d) (1) In addition to any other penalty imposed upon a person who is convicted of or pleads guilty to a violation of this section and subject to subsection (d)(2) of this section, if the offender has not attained nineteen years of age, regardless of whether the offender is attending or is enrolled in a school operated by a board of education or for which the State Board of Education prescribes minimum standards under Ohio R.C. 3301.07, the court shall impose upon the offender a class four suspension of the offender's probationary driver's license, restricted license, driver's license, commercial driver's license, temporary instruction permit, or probationary commercial driver's license that then is in effect from the range specified in division (A)(4) of Ohio R.C. 4510.02 and shall deny the offender the issuance

of any permit or license of that type during the period of the suspension.

If the offender is not a resident of this State, the court shall impose a class four suspension of the nonresident operating privilege of the offender from the range specified in division (A)(4) of Ohio R.C. 4510.02.

- (2) If the offender shows good cause why the court should not suspend one of the types of licenses, permits, or privileges specified in subsection (d)(1) of this section or deny the issuance of one of the temporary instruction permits specified in that subsection, the court in its discretion may choose not to impose the suspension, revocation, or denial required in that subsection, but the court, in its discretion, instead may require the offender to perform community service for a number of hours determined by the court.

(e) As used in this section, "object that is indistinguishable from a firearm" means an object made, constructed, or altered so that, to a reasonable person without specialized training in firearms, the object appears to be a firearm.

(ORC 2923.122)

549.12 DEFACING IDENTIFICATION MARKS OF A FIREARM; POSSESSING A DEFACED FIREARM.

(a) No person shall do either of the following:

- (1) Change, alter, remove, or obliterate the name of the manufacturer, model, manufacturer's serial number, or other mark or identification on a firearm.
- (2) Possess a firearm knowing or having reasonable cause to believe that the name of the manufacturer, model, manufacturer's serial number, or other mark of identification on the firearm has been changed, altered, removed, or obliterated.

(b) (1) Whoever violates subsection (a)(1) of this section is guilty of defacing identification marks of a firearm. Except as otherwise provided in this subsection, defacing identification marks of a firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(1) of this section, defacing identification marks of a firearm is a felony and shall be prosecuted under appropriate State law.

(2) Whoever violates subsection (a)(2) of this section is guilty of possessing a defaced firearm. Except as otherwise provided in this subsection, possessing a defaced firearm is a misdemeanor of the first degree. If the offender previously has been convicted of or pleaded guilty to a violation of subsection (a)(2) of this section, possessing a defaced firearm is a felony and shall be prosecuted under appropriate State law.

(ORC 2923.201)

549.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 553

Railroads

553.01 Obstructing streets by railroad companies.

553.011 Obstructing streets by abandoning the locomotive.

553.02 Climbing upon railroad cars.

553.03 Duties of locomotive engineer.

553.04 Railroad vandalism.

553.05 Grade crossing device vandalism.

553.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Lighting railroads - see Ohio R.C. 723.33 et seq.

Power to regulate train speed - see Ohio R.C. 723.48

Vehicular homicide - see GEN. OFF. 537.02

Criminal mischief - see GEN. OFF. 541.04

553.01 OBSTRUCTING STREETS BY RAILROAD COMPANIES.

- (a) (1) No railroad company shall obstruct or permit or cause to be obstructed a public street, road or highway by permitting a railroad car, locomotive or other obstruction to remain upon or across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon such street, road or highway.
- (2) At the end of each five minute period of obstruction of a public street, road or highway, each railroad company shall cause such railroad car, locomotive or other obstruction to be removed for sufficient time, not less than three minutes, to allow the passage of persons and vehicles waiting to cross.
- (3) This section does not apply to obstruction of a public street, road or highway by a continuously moving through train or caused by circumstances wholly beyond the control of the railroad company, but does apply to other obstructions, including without limitation those caused by stopped trains and trains engaged in switching, loading or unloading operations.
- (4) If a railroad car, locomotive, or other obstruction is obstructing a public street, road, or highway in violation of subsection (a)(1) hereof and the violation occurs in the unincorporated area of one or more counties, or in one or more municipal corporations, the officers and employees of each affected county or municipal corporation may charge the railroad company with only one violation of the law arising from the same facts and circumstances and the same act.
- (5) Upon the filing of an affidavit or complaint for violation of this subsection (a)(1) hereof, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred.

(ORC 5589.21)

- (b) For purposes of this section, "railroad company" includes the officers, employees and agents of such company.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined one thousand dollars (\$1,000).

553.011 OBSTRUCTING STREETS BY ABANDONING THE LOCOMOTIVE.

(a) No railroad company shall obstruct, or permit or cause to be obstructed, a public street, road, or highway, by permitting any part of a train whose crew has abandoned the locomotive to remain across it for longer than five minutes to the hindrance or inconvenience of travelers or a person passing along or upon the street, road, or highway, unless the safety of the train crew requires them to abandon the locomotive.

(b) Upon the filing of an affidavit or complaint for violation of this section, summons shall be issued to the railroad company pursuant to Ohio R.C. 2935.10(B), which summons shall be served on the regular ticket or freight agent of the company in the county where the offense occurred.

(ORC 5589.211)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree and shall be fined five thousand dollars (\$5,000).

(ORC 5589.99)

553.02 CLIMBING UPON RAILROAD CARS.

(a) No person shall climb, jump, step or stand upon or cling or attach himself to a locomotive, engine or car upon the track of a railroad, unless in compliance with law or by permission under the rules of the corporation managing such railroad.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(ORC 4999.02)

553.03 DUTIES OF LOCOMOTIVE ENGINEER.

(a) No person in charge of a locomotive shall fail to bring the locomotive to a full stop at least 200 feet before arriving at a crossing with another track, or proceed through the crossing before signaled to do so or before the way is clear.

(b) Whoever violates this section is guilty of a misdemeanor of the fourth degree. If violation of this misdemeanor causes physical harm to any person, whoever violates this section is guilty of a misdemeanor of the third degree.

(ORC 4999.04)

553.04 RAILROAD VANDALISM.

(a) No person shall knowingly, and by any means, drop or throw any object at, onto, or in the path of, any railroad rail, railroad track, locomotive, engine, railroad car, or other vehicle of a railroad company while such vehicle is on a railroad track.

(b) No person, without privilege to do so, shall climb upon or into any locomotive, engine, railroad car, or other vehicle of a railroad company when it is on a railroad track.

(c) No person, without privilege to do so, shall disrupt, delay, or prevent the operation of any train or other vehicle of a railroad company while such vehicle is on a railroad track.

(d) Whoever violates subsection (a) of this section is guilty of railroad vandalism. Whoever violates subsection (b) of this section is guilty of criminal trespass on a locomotive, engine, railroad car or other railroad vehicle. Whoever violates subsection (c) of this section is guilty of interference with the operation of a train.

Except as otherwise provided in this subsection, railroad vandalism; criminal trespass on a locomotive, engine, railroad car, or other railroad vehicle; and interference with the operation of a train each is a misdemeanor of the first degree. If the violation of subsection (a), (b) or (c) of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or serious physical harm to any person, the violation is a felony and shall be prosecuted under appropriate State law.

(e) No person shall knowingly deface, damage, obstruct, remove, or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.

(f) Whoever violates subsection (e) of this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this division, railroad grade crossing device vandalism is a misdemeanor of the first degree. If the violation of subsection (e) of this section causes serious physical harm to property or creates a substantial risk of physical harm to any person, causes physical harm to any person, or causes serious physical harm to any person, railroad grade crossing device vandalism is a felony to be prosecuted under appropriate state law.

(ORC 2909.10, 2909.101)

553.05 GRADE CROSSING DEVICE VANDALISM.

(a) No person shall knowingly deface, damage, obstruct, remove or otherwise impair the operation of any railroad grade crossing warning signal or other protective device, including any gate, bell, light, crossbuck, stop sign, yield sign, advance warning sign, or advance pavement marking.

(b) Whoever violates this section is guilty of railroad grade crossing device vandalism. Except as otherwise provided in this subsection, railroad grade crossing device vandalism is a misdemeanor of the first degree. If the violation of this section causes serious physical harm to property, creates a substantial risk of physical harm to any person, causes physical harm to any person, or causes serious physical harm to any person, railroad grade crossing device vandalism is a felony and shall be prosecuted under appropriate State law.

(ORC 2909.101)

553.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 561

Streets and Sidewalks (Repealed)

EDITOR'S NOTE: Former Chapter 561 was repealed by Ordinance 9-13.

CHAPTER 565

Weeds and Trees

565.01 Failure to cut noxious weeds.

- 565.02 Permitting growth of weeds.**
- 565.03 Removal of dead trees and tree limbs.**
- 565.99 Penalty.**

CROSS REFERENCES

Notice to cut noxious weeds - see Ohio R.C. 731.51 et seq.
Shrubbery height limitation - see TRAF. 311.06

565.01 FAILURE TO CUT NOXIOUS WEEDS.

No owner, lessee or agent of the owner or tenant of land shall permit noxious weeds to grow thereon to such an extent that they are about to spread or mature seeds. Failure to keep such weeds cut is a minor misdemeanor.

(Ord. 63-53. Passed 9-14-53.)

565.02 PERMITTING GROWTH OF WEEDS.

No person shall permit any weeds, grass, plants or unattended vegetation, other than trees, flowers and ornamental plants, to grow to a height exceeding eight inches anywhere in the City.

(Ord. 47-80. Passed 10-13-80.)

565.03 REMOVAL OF DEAD TREES AND TREE LIMBS.

(a) It shall be a nuisance and shall be unlawful for any owner of property to permit dead trees or dead tree limbs to remain on lots and lands within the City.

(b) It shall be the duty of the Safety-Service Director to serve or cause to be served a notice upon the owner of any premises on which there are dead trees or dead tree limbs and to demand the abatement of the nuisance within ten days.

(c) If the owner so served does not abate the nuisance within ten days, the Director may proceed to abate the nuisance, keeping an account of the expense of the abatement, and such expense shall be charged to and paid by the owner.

(d) Whenever charges for abatement expense remain unpaid for sixty days after a statement has been mailed to the owner, Council, by resolution, may certify the charges to the County Auditor to be placed upon the tax duplicate, collected in the same manner as other taxes and returned to the City. Such charges for abatement expense shall be a lien on the premises from the date of entry upon the tax duplicate.

(Ord. 79-67. Passed 7-24-67.)

565.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor and any subsequent violation constitutes a misdemeanor of the fourth degree. Each day the violation continues shall constitute a separate offense.

(Ord. 51-97. Passed 8-11-97.)

CHAPTER 567

Civil Penalties for Violations Under Live Digital Video School Bus Violation Detection Monitoring Technology (“DMT”)

- 567.01 Applicability.**
- 567.02 Definitions.**
- 567.03 Notice requirements.**
- 567.04 Offense.**
- 567.05 Notice of liability.**
- 567.06 Options upon notice of liability, administrative appeal.**
- 567.07 Civil penalties.**

567.01 APPLICABILITY.

(a) Notwithstanding any other provisions of this traffic Code, there is hereby adopted a civil enforcement system for school bus stoppage law violations as outlined in this Section. The DMT system imposes monetary liability on the Registered Owner or Designated Party for failure of an operator thereof to comply with school bus stoppage laws in accordance with the provisions of this Section.

(b) The City of Lancaster Police Department shall be solely responsible for administering violations of the DMT system; the Lancaster City Schools District shall provide access to its bus fleet for installation of the DMT.

(c) The Police Department shall solely administer the DMT system and shall maintain a list of the buses within the city limits where DMT is installed.

(d) Whenever a Lancaster Police Officer witnesses a violation of Section 4511.75 of the Ohio Revised Code or otherwise has issued a citation pursuant to those sections, this chapter does not apply. However, the recorded images produced by the DMT system may be used as evidence for a violation of Ohio Revised Code Section 4511.75. Any citation for a violation of Ohio Revised Code Section 4511.75 issued personally by a police officer shall not be issued in the manner described under this chapter and shall instead be treated in the same manner as prescribed by applicable Traffic or other Rules.

(e) This chapter shall not apply to violations involving vehicle or pedestrian collisions.

(Ord. 16-13. Passed 9-9-13.)

567.02 DEFINITIONS.

For purposes of this chapter, the following words and phrases shall have the meanings indicated.

- (a) "Registered Owner" means the person or entity identified by the Ohio Bureau of Motor Vehicles or registered with any state vehicle registration office as the owner of a vehicle; a lessee of a motor vehicle under a lease of thirty days or more; or the renter of a vehicle during the period of infraction pursuant to a written rental agreement with a motor vehicle renting dealer.

- (b) "Recorded Images" means images recorded by an automated traffic control signal photographic system on any of the following:
 - (1) Two or more photographs; or
 - (2) Two or more microphotographs; or
 - (3) Two or more electronic images; or
 - (4) Two or more Digital images; or
 - (5) Videotape; or
 - (6) Any other medium; and
 - (7) Showing the front or rear of a motor vehicle and on at least one image or portion of tape, clearly identifying the license plate number of the motor vehicle.
- (c) "Live Digital Video School Bus Violation Detection Monitoring Technology" or "DMT" means a device with one or more motor vehicle sensors installed on school buses to produce recorded images of motor vehicles failing to stop as required pursuant to Ohio Revised Code Section 4511.75.
- (d) "In Operation" means operating in good working condition.
- (e) "Smart Bus" is a school bus on which DMT is installed to monitor offenses under this chapter.
(Ord. 16-13. Passed 9-9-13.)

567.03 NOTICE REQUIREMENTS.

- (a) Prior to DMT implementation, the City or its designee shall publish notice in a local newspaper of general circulation. Said notice must announce when DMT enforcement will begin.
- (b) Prior to DMT implementation, the City or its designee shall post any required signs in the time and manner set forth in Ohio Revised Code Section 4511.094. The City shall maintain substantial compliance with the requirements of Revised Code Section 4511.094 throughout the use of DMT.
- (c) For the first thirty (30) calendar days that DMT is in operation, no Notices of Liability may be issued on the basis of the images produced by the system. Warnings may be issued during that 30-day period.
(Ord. 16-13. Passed 9-9-13.)

567.04 OFFENSE.

- (a) An officer employed by the Lancaster Police Department shall examine the images recorded by DMT to determine whether an infraction of Ohio Revised Code 4511.75 has occurred. If the image recorded by DMT shows an infraction, contains a date and time of the alleged violation, and shows the letter and numbers on the vehicle's license plate, as well as the state in which the license was issued, the officer may use any lawful means to identify the Registered Owner.
- (b) The fact that a person or entity is the Registered Owner shall be prima facie evidence that said person or entity is the person who was operating the vehicle at the time of the violation.
- (c) A certified copy of a Notice of Liability alleging violation of this chapter, sworn to or affirmed by a duly authorized Police Officer of the City of Lancaster, with the recorded images produced by DMT, shall be prima facie evidence of the facts contained therein and shall be admissible in a proceeding for review of the Notice of Liability under this chapter.
- (d) Within thirty (30) calendar days of the infraction, the City or its designee may issue and send by first-class United States mail a Notice of Liability charging the Registered Owner with an infraction. Said Notice of Liability must substantially comply with the requirements set forth in Section 567.05(a).
- (e) The recipient of a Notice of Liability shall be required to respond to it in one of the manners set forth in Section 567.06(a).
- (f) The Registered Owner shall not be responsible for the violation if, within thirty (30) calendar days after issuance of the Notice of Liability, the Registered Owner furnishes the Police Department with:
 - (1) An affidavit by the Registered Owner identifying the person whom the Registered Owner believes was in control of the vehicle at the time of the violation (the "Designated Party"). Such Affidavit must contain, at a minimum, the Designated Party's name and current address; or
 - (2) An affidavit by the Registered Owner stating that at the time of the violation, the vehicle or the license plates of the vehicle were stolen or were in the care, custody, or control of some person or entity who did not have the Registered Owner's permission to use the vehicle. In order to demonstrate that the vehicle or the license plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the Registered Owner must submit proof that a police report about the stolen motor vehicle or license plates was filed prior to the violation or within 48 hours after the violation occurred; or
 - (3) If the Registered Owner is a "motor vehicle leasing dealer" or a "motor vehicle renting dealer" as defined in Ohio Revised Code Section 4511.092(A) and consistent with Section 4511.092(B), then such Registered Owner shall notify the Police Department of the name and address of the vehicle's lessor or renter at the time of the violation. A motor vehicle leasing dealer or motor vehicle renting dealer who receives a ticket for an alleged traffic law violation detected by a traffic law photo-monitoring device is not liable for a ticket issued for a vehicle that was in the care, custody, or control of a lessee or renter at the time of the alleged violation. In no case shall the dealer pay such a ticket and then attempt to collect a fee or assess the lessee or renter a charge for any payment of such a ticket made on behalf of the lessee or renter.
- (g) If the vehicle involved in the violation is a commercial vehicle and the Notice of Liability is issued to a corporate entity, the corporate entity must provide to the Police Department an affidavit, sworn to or affirmed by the statutory agent of the corporate entity, that:
 - (1) States that the person or entity named in the Notice of Liability was not in operation of the vehicle at the time of the violation; and
 - (2) Provides the name, address, and driver's license identification number of the person who had the contractual right of possession of the vehicle, e.g. an employee, (also known as a "Designated Party") .
- (h) Nothing in this Section shall be construed as limiting the liability of an operator of a vehicle for any violation of Ohio Revised Code Section 4511.75.
(Ord. 16-13. Passed 9-9-13.)

567.05 NOTICE OF LIABILITY.

(a) The Notice of Liability shall be processed by the City or its designee, and shall be served by first class United States mail to the Registered Owner address as given on the motor vehicle registration from the Bureau of Motor Vehicles of the state registered. The Notice of

Liability shall include:

- (1) The name and address of the Registered Owner;
 - (2) The license plate number of the motor vehicle involved in the violation;
 - (3) The violation charged;
 - (4) The location of the violation;
 - (5) The date and time of the violation;
 - (6) The amount of the civil penalty imposed and the date by which the civil penalty should be paid and where the payment should be made;
 - (7) A signed statement by a Lancaster Police Officer that based on inspection of recorded images, the motor vehicle was being operated in violation of Section 567.04, and a statement that the recorded images are prima facie evidence of a violation of Section 567.06;
 - (8) Information advising the person or entity alleged to be liable of the options as provided in Section 567.06;
 - (9) The time, place, and manner in which an administrative appeal can be initiated and a warning that failure to exercise the options provided under Section 567.06 in a timely manner is an admission of liability.
 - (10) A copy of the image(s) that served as a basis for the Notice of Liability.
- (b) The City of Lancaster or its designee may serve by first class United States mail a warning notice in lieu of a Notice of Liability under this Section.
- (c) Except as provided in Section 567.06(c), a Notice of Liability shall be mailed no later than thirty (30) calendar days after the alleged violation.
- (d) Except as provided in Section 567.06(c), the Police Department or its designee may not mail a Notice of Liability to a person or entity who is not the Registered Owner.
- (Ord. 16-13. Passed 9-9-13.)

567.06 OPTIONS UPON NOTICE OF LIABILITY, ADMINISTRATIVE APPEAL.

- (a) A person or entity named in a Notice of Liability under this Section may do any one of the following:
- (1) Pay the civil penalty, in accordance with instructions on the Notice of Liability, thereby waiving the opportunity to contest the violation and admitting liability; or
 - (2) Within thirty (30) calendar days from issuance of the Notice of Liability, provide the Police Department one of the affidavits described at Section 567.04(f) herein; in the case of a "motor vehicle leasing dealer" or "motor vehicle renting dealer" as defined in Ohio Revised Code 4511.092, provide the Police Department the name and address of the vehicle's lessee or renter at the time of the violation as described at Section 567.04(g) herein; or
 - (3) Contest the Notice of Liability by filing both a written request for a hearing to review of the Notice of Liability and payment of \$50 as an administrative hearing bond with the Police Department or its designee. Said written request and bond payment must be filed within thirty (30) calendar days after issuance of the Notice of Liability. Failure to request review and pay the bond amount within this time period shall constitute a waiver of the right to contest the violation, a waiver of all legal defenses that could have been asserted, and an admission of liability. The administrative hearing bond shall be refunded if the person or entity named in a Notice of Liability is found not liable.
- (b) When a person or entity named in a Notice of Liability chooses to contest the Notice of Liability and timely completes the requirements in Section 567.06(a)(3), the following shall apply.
- (1) A Hearing Officer selected by the City of Lancaster shall hear reviews. A hearing shall be held within twenty-one (21) business days after filing of a written request for review and administrative bond as set forth in subsection (a)(3) of this section. This time may be extended upon a written request for additional time.
 - (2) The hearing shall be open to the public, and a docket shall be posted in a conspicuous place near the entrance to the hearing room that shall identify, by respondent, the hearings scheduled for that day and the time of each hearing. More than one hearing may be scheduled for the same time to allow for such things as non-appearances or admissions of liability. The Hearing Officer shall determine whether a preponderance of evidence establishes that a violation of this section occurred and the person or entity requesting the review is party operating the vehicle at the time of the violation. The Hearing Officer shall advise the person or entity of the Hearing Officer's decision.
 - (3) If the Hearing Officer finds sufficient evidence of a violation, but the person or entity named in the Notice of Liability is not the party operating the vehicle at the time of the violation, the Hearing Officer shall issue a written decision finding the individual not liable and submit it to the Police Department or its designee.
 - (4) In determining whether the person or entity named in the Notice of Liability is liable, the Hearing Officer may consider any of the following as an affirmative defense of a violation:
 - A. That the vehicle caused the infraction in order to yield the right-of-way to an emergency vehicle in accordance with Ohio Revised Code Section 4511.45, or to a funeral procession in accordance with Section 4511.451.
 - B. That the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and were not under the control or possession of the Registered Owner at the time of the violation. In order to demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the Registered Owner at the time of the violation, the Registered Owner must submit proof that a police report about the stolen motor vehicle or registration plates was filed prior to the violation or within 48 hours after the violation occurred.
 - C. That this chapter is unenforceable because at the time and place of the alleged violation, the DMT system was not in proper position and the recorded image is not legible enough to determine the information needed.
 - D. Substantial and convincing evidence that the Registered Owner or person or entity named in the Notice of Liability was not the

party operating the vehicle at the time of the violation. To satisfy the evidentiary burden under this subsection, the Registered Owner or person or entity named in the Notice of Liability shall provide to the Hearing Officer evidence showing the identity of the person operating the vehicle at the time of the violation, including, at a minimum, such person's name and current address, and any other evidence that the Hearing Officer deems pertinent (also known as a "Designated Party").

(c) If the Hearing Officer finds that the person or entity named in the Notice of Liability was not the person operating the vehicle at the time of the violation or receives evidence identifying the Designated Party, the Hearing Officer shall provide to the Police Department or its designee within five (5) calendar days, a copy of any evidence substantiating the identity of the Designated Party.

- (1) Upon receipt of evidence of the identity of the Designated Party, the Police Department or its designee may issue a Notice of Liability to the Designated Party.
- (2) A Notice of Liability issued under this subsection (c)(2) shall be sent by ordinary mail no later than twenty-one (21) business days after receipt of the evidence from the Hearing Officer or the Registered Owner of the Designated Party's identity.
- (3) The content of a Notice of Liability issued under this subsection shall be the same as set forth in Section 567.05(a) above, and the applicable procedures shall be the same as set forth in subsection (a) above.

(Ord. 16-13. Passed 9-9-13.)

567.07 CIVIL PENALTIES.

(a) Unless the person received a citation from a Police Officer at the time of the violation, the Registered Owner or Designated Party is subject to a civil penalty if the motor vehicle is recorded by DMT while being operated in violation of this Section.

(b) The civil penalty under this Section shall be \$250.00. A Registered Owner or Designated Party who chooses to pay the civil penalty without appearing before a Hearing Officer may do so in the manner indicated on the Notice of Liability.

(c) A person against whom a decision is entered may appeal the decision as otherwise provided by law, including to the Fairfield County Municipal Court pursuant to Revised Code 1901.20(A)(1) or the Fairfield County Court of Common Pleas pursuant to Revised Code 2506.01 and nothing in this ordinance should be construed as in any way diminishing or otherwise interfering with the Fairfield County Municipal Court's jurisdiction to preside over civil actions relating to ordinance violations. Service of a notice of appeal does not stay enforcement and collection of applicable civil penalties resulting from the decision from which appeal is taken unless the appellant posts bond in the amount of the penalty. Unless a stay is in effect pending appeal, the City of Lancaster may seek to collect civil penalties imposed herein as debts that remain due and owing in the event they remain unpaid for sixty (60) or more days, and may also pursue collection of civil penalties imposed herein by filing a civil action in the Fairfield County Municipal Court.

(d) A violation for which a civil penalty is imposed under this section is not a moving violation for the purpose of assessing points under Ohio Revised Code Section 4507.021 (16) for minor misdemeanor moving traffic offenses and shall not be recorded on the driving record of the

owner or operator of the vehicle and shall not be reported to the Bureau of Motor Vehicles.

(Ord. 16-13. Passed 9-9-13.)

CODIFIED ORDINANCES OF LANCASTER

PART SEVEN - BUSINESS REGULATION CODE

Chap. 705. Designated Outdoor Refreshment Areas.

Chap. 707. Sexually Oriented Business Standards.

Chap. 709. Cultivation, Processing or Dispensing of Medical Marijuana.

Chap. 711. Auctions.

Chap. 715. Arcades.

Chap. 721. Liquidation Sales.

Chap. 731. Mechanical Amusement Devices.

Chap. 741. Mechanical Musical Instruments.

Chap. 751. Peddlers.

Chap. 753. Peddling on Private Property. (Repealed)

Chap. 761. Solicitors and Canvassers. (Repealed)

Chap. 771. Taxicabs. (Repealed)

Chap. 781. Scrap Metal Dealers.

Chap. 785. Itinerant Merchants.

Chap. 791. Vehicle Racing.

Chap. 795. Yard Sales.

Chap. 797. Video Service Providers.

CHAPTER 705

Designated Outdoor Refreshment Areas

705.01 **Definitions.**

705.02 **Creation of designated outdoor refreshment areas.**

705.03 **Review and re-approval existing designated outdoor refreshment areas.**

705.04 **Rules governing patrons in a designated outdoor refreshment area.**

705.05 **Safety requirements and application process for designated outdoor refreshment area.**

705.01 DEFINITIONS.

As used in this Chapter:

- (a) "Qualified permit holder" means the holder of an A-1, A-1-A, A-1c, A-2, or D permit issued under Chapter 4303 of the Ohio Revised Code ("ORC").
- (b) "Designated outdoor refreshment area" shall mean a designated territory in the City of Lancaster, no larger than one-half square mile, within which no fewer than four businesses with liquor permits may sell beer or intoxicating liquor for on-premises consumption and for consumption off-premises but within the outdoor refreshment area, in accordance with ORC §§ 4301.62 and 4301.82.

(Ord. 18-21. Passed 6-14-21.)

705.02 CREATION OF DESIGNATED OUTDOOR REFRESHMENT AREAS.

(a) The Mayor may file an application with City Council to have property within the City of Lancaster designated as a designated outdoor refreshment area or to expand an existing designated outdoor refreshment area to include additional property within the City, in accordance with ORC §§ 4301.62 and 4301.82. The Mayor or his or her designee shall ensure that the application contains all of the following:

- (1) A map or survey of the proposed designated outdoor refreshment area, which shall not exceed three hundred and twenty contiguous acres or one-half square mile, in sufficient detail to identify the boundaries of the area;
- (2) A general statement of the nature and types of establishments that will be located within the proposed designated outdoor refreshment area;
- (3) A statement that the proposed designated outdoor refreshment area will encompass not fewer than four qualified permit holders;
- (4) Evidence that the uses of land within the proposed outdoor refreshment area is in accordance with the master zoning plan or map of the city; and
- (5) Proposed requirements for the purpose of ensuring safety within the proposed designated outdoor refreshment area.

(b) Notice and time requirements.

- (1) Within forty-five days after the date the application is filed with City Council, City Council shall publish public notice of the application once a week for two consecutive weeks in one newspaper of general circulation in the City of Lancaster or as provided in ORC § 7.16. City Council shall ensure that the notice states that the application is on file in the office of the Clerk of Council and is available for inspection by the public during regular business hours. City Council also shall indicate in the notice the date and time of any public hearing to be held regarding the application by City Council.

- (2) Not earlier than thirty but not later than sixty days after the initial publication of notice, City Council shall approve or disapprove the application by ordinance. Approval of an application requires an affirmative vote of a majority of City Council.

(c) Upon approval of the application by City Council, the territory described in the application shall constitute a designated outdoor refreshment area. City Council shall provide to the Ohio division of liquor control notice of the approval of the application and a description of the area specified in the application. If City Council disapproves the application, the Mayor may make changes in the application to secure its approval by City Council.

(d) The number of designated outdoor refreshment areas is limited as provided in ORC § 4301.82 or any successor statute.

(e) As soon as possible after receiving notice that a designated outdoor refreshment area has been approved, the Ohio division of liquor control, for purposes of ORC § 4301.62, shall issue a designated outdoor refreshment area designation to each qualified permit holder located within the refreshment area that is in compliance with all applicable requirements under ORC Chapters 4301 and 4303. The division shall not charge any fee for the issuance of the designation. Any permit holder that receives such a designation shall comply with all laws, rules, and regulations that govern its license type and, if applicable, any safety requirements established for the designated outdoor refreshment area under division (f) of this section.

(f) Safety requirements and modification of existing designated outdoor refreshment areas.

- (1) At the time of the creation of a designated outdoor refreshment area or any time thereafter, City Council may adopt an ordinance that establishes requirements City Council determines necessary to ensure safety within the area. City Council may, but is not required to, include in the ordinance any safety requirements proposed in an application under division (a) of this section to designate or expand the designated outdoor refreshment area. City Council may subsequently modify the safety requirements as it determines necessary.
- (2) Prior to adopting an ordinance under this subsection, City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the City of Lancaster or as provided in ORC § 7.16.
- (3) City Council shall provide to the division of liquor control notice of any safety requirements established or modified under this subsection.

(g) ORC § 4399.18 applies to a liquor permit holder located within an outdoor refreshment area in the same manner as if the liquor permit holder were not located in a designated outdoor refreshment area.

(Ord. 18-21. Passed 6-14-21.)

705.03 REVIEW AND RE-APPROVAL OF EXISTING DESIGNATED OUTDOOR REFRESHMENT AREAS.

(a) Five years after the date of creation of a designated outdoor refreshment area, City Council shall review the operation of the area and shall, by ordinance, either approve the continued operation of the area or dissolve the area.

- (1) Prior to adopting the ordinance, City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the City of Lancaster or as provided in ORC § 7.16.
- (2) If City Council dissolves the designated outdoor refreshment area, the outdoor refreshment area ceases to exist. City Council then shall provide notice of its action to the Ohio division of liquor control, and the division shall revoke all designated outdoor refreshment area designations issued to qualified permit holders within the dissolved area.
- (3) If City Council approves the continued operation of the outdoor refreshment area, the area continues in operation.

(b) Five years after the approval of the continued operation of an outdoor refreshment area under division (a)(3) of this section, City Council shall conduct a review in the same manner as provided in division (a) of this section. The legislative authority also shall conduct such a review five years after any subsequent approval of continued operation under this subsection of this section.

(c) At any time, City Council may, by ordinance, dissolve all or a part of the outdoor refreshment area.

- (1) Prior to adopting the ordinance, City Council shall give notice of its proposed action by publication once a week for two consecutive weeks in one newspaper of general circulation in the City of Lancaster or as provided in ORC § 7.16.
- (2) If City Council dissolves all or part of a designated outdoor refreshment area, the area designated in the ordinance shall no longer constitute an outdoor refreshment area. City Council shall provide notice of its actions to the division of liquor control. Upon receipt of the notice, the division shall revoke all designated outdoor refreshment area designations issued to qualified permit holders within the dissolved area or portion of the area. (Ord. 18-21. Passed 6-14-21.)

705.04 RULES GOVERNING PATRONS IN A DESIGNATED OUTDOOR REFRESHMENT AREA.

(a) A person may possess an opened container of beer or intoxicating liquor at an outdoor location within a designated outdoor refreshment area created under ORC § 4301.82 if the opened container of beer or intoxicating liquor was purchased from a qualified

permit holder to which both of the following apply:

- (1) The permit holder's premises are located within the designated outdoor refreshment area; and
 - (2) The permit held by the permit holder has a designated outdoor refreshment area designation.
- (b) Subsection (a) of this section does not authorize a person to do either of the following:
- (1) Enter the premises of an establishment within a designated outdoor refreshment area while possessing an open container of beer or intoxicating liquor acquired elsewhere; or
 - (2) Possess an opened container of beer or intoxicating liquor while being in or on a motor vehicle within a designated outdoor refreshment area, unless the motor vehicle is stationary and is not being operated in a lane of vehicular travel or unless the possession is otherwise authorized under divisions (D), (E), or (F) of ORC § 4301.62.

(Ord. 18-21. Passed 6-14-21.)

705.05 SAFETY REQUIREMENTS AND APPLICATION PROCESS FOR **DESIGNATED OUTDOOR REFRESHMENT AREA.**

(a) Pursuant to Section 705.02(f)(1), in the interest of the safety of the City, City Council authorizes the Service Safety Director to create and implement safety requirements for the designated outdoor refreshment area.

(b) City Council authorizes the Service Safety Director to create and post appropriate signage designating the boundaries of the designated outdoor refreshment area.

(c) City Council authorizes the Service Safety Director to coordinate with designated permit holders to determine the type of cup that shall be used by all designated permit holders in the designated outdoor refreshment area.

(Ord. 18-21. Passed 6-14-21.)

CHAPTER 707

Sexually Oriented Business Standards

707.01 Rationale and findings.

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707.16 Penalties and enforcement.

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707.19 Scierter required to prove violation or business licensee liability.

707.20 Failure of City to meet deadline not to risk applicant/licensee rights.

707.21 Severability.

CROSS REFERENCES

Sexually oriented businesses - see P. & Z. Ch. 1137

707.01 RATIONALE AND FINDINGS.

(a) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 124 S.Ct. 2219 (June 7, 2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *Pap's A.M. v. City of Erie*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); and *Deja Vu of Cincinnati, Inc. v. Union Township, Ohio*, 411 F.3d 777 (6th Cir. 2005) (en banc); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Brandywine, Inc. v. City of Richmond*, 359 F.3d 830 (6th Cir. 2004); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Broadway Books v. Roberts*, 642 F.Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Center for Fair Public Policy v. Maricopa County*, 336 F.3d 1153 (9th Cir. 2003); *Déjà vu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 923 F.2d 470 (6th Cir. 1991); *Triplett Grille, Inc. v. City of Akron*, 40 F.3d 129 (6th Cir. 1994); *O'Connor v. City and County of Denver*, 894 F.2d 1210 (10th Cir. 1990); *Déjà vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 274 F.3d 377 (6th Cir. 2001); *Z.J. Gifts D-2, L.L.C. v. City of Aurora*, 136 F.3d 683 (10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F.3d 1413 (8th Cir. 1994); *Threesome Entertainment v. Strittmather*, 4 F.Supp.2d 710 (N.D. Ohio 1998); *Bigg Wolf Discount Video Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County*, 209 F.Supp.2d 672 (W.D. Ky. 2002); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *Restaurant Ventures v. Lexington-Fayette Urban County Gov't*, 60 S.W.3d 572 (Ct. App. Ky. 2001); *World Wide*

Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this ordinance are reasonably believed to be relevant to said secondary effects.

(Ord. 7-06. Passed 2-27-06.)

707.02 DEFINITIONS.

For purposes of this chapter, the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them unless a different meaning is clearly indicated by the context.

- (a) "Adult Bookstore or Adult Video Store" means a commercial establishment which, as one of its principal business activities, offers for sale or rental for any form of consideration any one or more of the following: books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, compact discs, digital video discs, slides, or other visual representations which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas."
A "principal business activity" means that the commercial establishment:
 - (1) Has a substantial portion of its displayed merchandise which consists of said items, or
 - (2) Has a substantial portion of the wholesale value of its displayed merchandise which consists of said items, or
 - (3) Has a substantial portion of the retail value of its displayed merchandise which consists of said items, or
 - (4) Derives a substantial portion of its revenues from the sale or rental, for any form of consideration of said items, or
 - (5) Maintains a substantial section of its interior business space for the sale or rental of said items; or
 - (6) Maintains an "adult arcade," which means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are regularly maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are characterized by their emphasis upon matter exhibiting "specified sexual activities" or specified "anatomical areas."
- (b) "Adult Cabaret" means a nightclub, bar, juice bar, restaurant, bottle club, or other commercial establishment, whether or not alcoholic beverages are served, which regularly features persons who appear semi-nude.
- (c) "Adult Motion Picture Theater" means a commercial establishment where films, motion pictures, videocassettes, slides, or similar photographic reproductions which are characterized by their emphasis upon the display of "specified sexual activities" or "specified anatomical areas" are regularly shown to more than five persons for any form of consideration.
- (d) "City Council" means the City Council of City of Lancaster, Ohio.
- (e) "Characterized by" means describing the essential character or quality of an item. As applied in this ordinance, no business shall be classified as a sexually oriented business by virtue of showing, selling, or renting materials rated NC-17 or R by the Motion Picture Association of America.
- (f) "City" means City of Lancaster, Ohio.
- (g) "Director" means the Service-Safety Director or his designee.
- (h) "Employ, Employee, and Employment" describe and pertain to any person who performs any service on the premises of a sexually oriented business, on a full time, part time, or contract basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.
- (i) "Establish or Establishment" shall mean and include any of the following:
 - (1) The opening or commencement of any sexually oriented business as a new business;
 - (2) The conversion of an existing business, whether or not a sexually oriented business, to any sexually oriented business; or
 - (3) The addition of any sexually oriented business to any other existing sexually oriented business.
- (j) "Hearing Body" shall mean the City Council of City of Lancaster.
- (k) "Influential interest" means any of the following: (1) the actual power to operate the sexually oriented business or control the operation, management or policies of the sexually oriented business or legal entity which operates the sexually oriented business, (2) ownership of a financial interest of thirty percent (30%) or more of a business or of any class of voting securities of a business, or (3) holding an office (e.g., president, vice president, secretary, treasurer, managing member,

managing director, etc.) in a legal entity which operates the sexually oriented business.

- (l) "Licensed Day-Care Center" means a facility licensed by the State of Ohio, whether situated within the City or not, that provides care, training, education, custody, treatment or supervision for more than twelve (12) children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to the owner or operator of the facility, for less than twenty-four (24) hours a day, regardless of whether or not the facility is operated for a profit or charges for the services it offers.
- (m) "Licensee" shall mean a person in whose name a license to operate a sexually oriented business has been issued, as well as the individual or individuals listed as an applicant on the application for a sexually oriented business license. In case of an "employee," it shall mean the person in whose name the sexually oriented business employee license has been issued.
- (n) "Nudity or a State of Nudity" means the showing of the human male or female genitals, pubic area, vulva, anus, anal cleft or cleavage with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any part of the nipple and areola.
- (o) "Operate or Cause to Operate" shall mean to cause to function or to put or keep in a state of doing business. "Operator" means any person on the premises of a sexually oriented business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a sexually oriented business whether or not that person is an owner, part owner, or licensee of the business.
- (p) "Person" shall mean individual, proprietorship, partnership, corporation, association, or other legal entity.
- (q) "Premises" means the real property upon which the sexually oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the sexually oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the licensee, as described in the application for a business license pursuant to Section IV of this ordinance.
- (r) "Regularly" means and refers to the consistent and repeated doing of the act so prescribed.
- (s) "Semi-Nude or State of Semi-Nudity" means the showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a dress, blouse, shirt, leotard, or similar wearing apparel provided the areola is not exposed in whole or in part.
- (t) "Semi-Nude Model Studio" means a place where persons regularly appear in a state of semi-nudity for money or any form of consideration in order to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons.
This definition does not apply to any place where persons appearing in a state of semi-nudity did so in a modeling class operated:
 - (1) By a college, junior college, or university supported entirely or partly by taxation;
 - (2) By a private college or university which maintains and operates educational programs in which credits are transferable to college, junior college, or university supported entirely or partly by taxation; or
 - (3) In a structure:
 - A. Which has no sign visible from the exterior of the structure and no other advertising that indicates a semi-nude person is available for viewing; and
 - B. Where, in order to participate in a class a student must enroll at least three days in advance of the class.
- (u) "Sexual Device" means any three (3) dimensional object designed and marketed for stimulation of the male or female human genital organ or anus or for sadomasochistic use or abuse of oneself or others and shall include devices such as dildos, vibrators, penis pumps, and physical representations of the human genital organs. Nothing in this definition shall be construed to include devices primarily intended for protection against sexually transmitted diseases or for preventing pregnancy.
- (v) "Sexual Device Shop" means a commercial establishment that regularly features sexual devices. Nothing in this definition shall be construed to include any pharmacy, drug store, medical clinic, or any establishment primarily dedicated to providing medical or healthcare products or services, nor shall this definition be construed to include commercial establishments which do not restrict access to any portion of their premises by reason of age.
- (w) "Sexual Encounter Center" shall mean a business or commercial enterprise that, as one of its principal business purposes, purports to offer for any form of consideration, physical contact in the form of wrestling or tumbling between persons of the opposite sex when one or more of the persons is semi-nude.
- (x) "Sexually Oriented Business" means an "adult bookstore or adult video store," an "adult cabaret," an "adult motel," an "adult motion picture theater," a "semi-nude model studio," "sexual device shop," or a "sexual encounter center."
- (y) "Specified Anatomical Areas" means and includes:
 - (1) Less than completely and opaquely covered: human genitals, pubic region; buttock; and female breast below a point immediately above the top of the areola; and
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
- (z) "Specified Criminal Activity" means:
 - (1) Any of the following specified crimes for which less than five years elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date:
 - A. Rape, aggravated rape, aggravated sexual assault, public indecency, statutory rape, rape of a child, sexual exploitation of a minor, indecent exposure;
 - B. Prostitution, patronizing prostitution, promoting prostitution;
 - C. Obscenity;
 - D. Dealing in controlled substances;
 - E. racketeering;
 - (2) Any attempt, solicitation, or conspiracy to commit one of the foregoing offenses; or

- (3) Any offense in another jurisdiction that, had the predicate act(s) been committed in Ohio, would have constituted any of the foregoing offenses.
- (aa) "Specified Sexual Activity" means any of the following:
- (1) Intercourse, oral copulation, masturbation or sodomy; or
 - (2) Excretory functions as a part of or in connection with any of the activities described in (a) above.
- (bb) "Substantial" means at least thirty percent (30%) of the item(s) so modified.
- (cc) "Transfer of Ownership or Control" of a sexually oriented business shall mean any of the following:
- (1) The sale, lease, or sublease of the business;
 - (2) The transfer of securities which constitute an influential interest in the business, whether by sale, exchange, or similar means; or
 - (3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.
- (dd) "Viewing Room" shall mean the room, booth, or area where a patron of sexually oriented business would ordinarily be positioned while watching a film, videocassette, or other video reproduction.
- (Ord. 7-06. Passed 2-27-06.)

707.03 CLASSIFICATION.

The classifications for sexually oriented businesses shall be as follows:

- (a) Adult bookstore or adult video store;
 - (b) Adult cabaret;
 - (c) Adult motion picture theater;
 - (d) Semi-nude model studio;
 - (e) Sexual device shop;
 - (f) Sexual encounter center.
- (Ord. 7-06. Passed 2-27-06.)

707.04 LICENSE REQUIRED.

(a) It shall be unlawful for any person to operate a sexually oriented business in City of Lancaster without a valid sexually oriented business license.

(b) It shall be unlawful for any person to be an "employee," as defined in this Chapter, of a sexually oriented business in City of Lancaster without a valid sexually oriented business employee license.

(c) An applicant for a sexually oriented business license or a sexually oriented business employee license shall file in person at the office of the City of Lancaster Director a completed application made on a form provided by the Director. The application shall be signed as required by subsection (e) herein and shall be notarized. An application shall be considered complete when it contains, for each person required to sign the application, the information and/or items required in Paragraphs 1 through 7 below, accompanied by the appropriate fee identified in Section 707.06:

- (1) The applicant's full true name and any other names used by the applicants in the preceding five (5) years.
 - (2) Current business address or another mailing address of the applicant.
 - (3) Written proof of age, in the form of a driver's license or a copy of a birth certificate accompanied by a picture identification document issued by a governmental agency.
- (4) If the application is for a sexually oriented business license, the business name, location, legal description, mailing address and phone number of the sexually oriented business.
 - (5) If the application is for a sexually oriented business license, the name and business address of the statutory agent or other agent authorized to receive service of process.
 - (6) A statement of whether an applicant has been convicted of or has pled guilty or nolo contendere to a specified criminal activity as defined in this ordinance, and if so, each specified criminal activity involved, including the date, place, and jurisdiction of each as well as the dates of conviction and release from confinement, where applicable.
 - (7) A statement of whether any sexually oriented business in which an applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - A. Been declared by a court of law to be a nuisance; or
 - B. Been subject to a court order of closure or padlocking.

The information provided pursuant to Paragraphs 1 through 7 of this subsection shall be supplemented in writing by certified mail, return receipt requested, to the Director within ten (10) working days of a change of circumstances which would render the information originally submitted false or incomplete.

(d) An application for a sexually oriented business license shall be accompanied by a legal description of the property where the business is located and a sketch or diagram showing the configuration of the premises, including a statement of total floor space occupied by the business. The sketch or diagram need not be professionally prepared but shall be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches. Applicants who are required to comply with Sections 707.14 and 707.18 of this chapter shall submit a diagram indicating that the interior configuration meets the requirements of those sections.

(e) If a person who wishes to operate a sexually oriented business is an individual, he shall sign the application for a license as applicant. If a person who wishes to operate a sexually oriented business is other than an individual, each person with an influential interest in the business shall sign the application for a license as applicant. Each applicant must be qualified under Section 707.05 and each applicant shall be considered a licensee if a license is granted.

(f) The information provided by an applicant in connection with an application for a license under this chapter shall be maintained by the office of the Director on a confidential basis, and such information may be disclosed only as may be required, and only to the extent required, by court order.

(Ord. 7-06. Passed 2-27-06.)

707.05 ISSUANCE OF LICENSE.

- (a) Upon the filing of a completed application under Section 707.04(c) for a sexually oriented business license, the City of Lancaster

Director shall immediately issue a Temporary License to the applicant if the completed application is from a business that is seeking renewal of a current license that was previously issued under this Ordinance. The Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business license application, the Director shall issue a license to the applicant or issue to the applicant a letter of intent to deny the application. The Director shall issue a license unless:

- (1) An applicant is less than eighteen (18) years of age.
 - (2) An applicant has failed to provide information as required by Section 707.04 for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license application fee required by this Chapter has not been paid.
 - (4) The sexually oriented business, as defined herein, is not in compliance with the interior configuration requirements of this Chapter or is not in compliance with locational requirements of this ordinance or the locational requirements of any other part of the City of Lancaster Code.
 - (5) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - A. Been declared by a court of law to be a nuisance; or
 - B. Been subject to an order of closure or padlocking.
 - (6) An applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.
- (b) Upon the filing of a completed application under Section 707.04(c) for a sexually oriented business employee license, the City of Lancaster Director shall immediately issue a Temporary License to the applicant, which Temporary License shall expire upon the final decision of the City to deny or grant an annual license. Within twenty (20) days of the filing date of a completed sexually oriented business employee license application, the Director shall either issue a license or issue a written notice of intent to deny a license to the applicant. The Director shall approve the issuance of a license unless:
- (1) The applicant is less than eighteen (18) years of age.
 - (2) The applicant has failed to provide information as required by Section 707.04 for issuance of a license or has falsely answered a question or request for information on the application form.
 - (3) The license application fee required by this Chapter has not been paid.
 - (4) Any sexually oriented business in which the applicant has had an influential interest, has, in the previous five (5) years (and at a time during which the applicant had the influential interest):
 - A. Been declared by a court of law to be a nuisance; or
 - B. Been subject to an order of closure or padlocking.
 - (5) The applicant has been convicted of or pled guilty or nolo contendere to a specified criminal activity, as defined in this ordinance.
- (c) The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the number of the license issued to the licensee(s), the expiration date, and, if the license is for a sexually oriented business, the address of the sexually oriented business. The sexually oriented business license shall be posted in a conspicuous place at or near the entrance to the sexually oriented business so that it may be read at any time. A sexually oriented business employee shall keep the employee's license on his or her person or on the premises where the licensee is then working or performing.
- (Ord. 7-06. Passed 2-27-06.)

707.06 FEES.

The initial license and annual renewal fees for sexually oriented business licenses and sexually oriented business employee licenses shall be as follows: one hundred dollars (\$100.00) for the initial fee for a sexually oriented business license and fifty dollars (\$50.00) for annual renewal; fifty dollars (\$50.00) for the initial sexually oriented business employee license and twenty-five dollars (\$25.00) for annual renewal.

(Ord. 7-06. Passed 2-27-06.)

707.07 INSPECTION.

(a) Sexually oriented businesses and sexually oriented business employees shall permit the Director and his or her agents to inspect, from time to time on an occasional basis, the portions of the sexually oriented business premises where patrons are permitted, for the purpose of ensuring compliance with the specific regulations of this chapter, during those times when the sexually oriented business is occupied by patrons or is open to the public. This section shall be narrowly construed by the City to authorize only reasonable inspections of the licensed premises pursuant to this chapter, but not to authorize any inspections that would infringe a reasonable expectation of privacy.

(b) The provisions of this section do not apply to areas of an adult motel which are currently being rented by a customer for use as a permanent or temporary habitation.

(Ord. 7-06. Passed 2-27-06.)

707.08 EXPIRATION OF LICENSE.

(a) Each license shall remain valid for a period of one calendar year from the date of issuance unless otherwise suspended or revoked. Such license may be renewed only by making application and payment of a fee as provided in Section 707.04 and Section 707.06.

(b) Application for renewal should be made pursuant to the procedures set forth in Section 707.04 at least ninety (90) days before the expiration date, and when made less than ninety (90) days before the expiration date, the expiration of the license will not be affected.

(Ord. 7-06. Passed 2-27-06.)

707.09 SUSPENSION.

(a) The City shall issue a written letter of intent to suspend a sexually oriented business license for a period not to exceed thirty (30) days if the sexually oriented business licensee has knowingly violated this chapter or has knowingly allowed an employee to violate this chapter.

(b) The City shall issue a written letter of intent to suspend a sexually oriented business employee license if the employee has knowingly violated this chapter.

(Ord. 7-06. Passed 2-27-06.)

707.10 REVOCATION.

(a) The City shall issue a letter of intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if the licensee knowingly violates this chapter or has knowingly allowed an employee to violate this chapter and the licensee's license has been suspended within the previous twelve-month period.

(b) The City shall issue written intent to revoke a sexually oriented business license or a sexually oriented business employee license, as applicable, if:

- (1) The licensee has knowingly given false information in the application for the sexually oriented business license.
- (2) The licensee has knowingly or recklessly engaged in or allowed possession, use, or sale of controlled substances on the premises;
- (3) The licensee has knowingly or recklessly engaged in or allowed prostitution on the premises;
- (4) The licensee knowingly or recklessly operated the sexually oriented business during a period of time when the license was finally suspended or revoked; or
- (5) The licensee has knowingly or recklessly engaged in or allowed any specified sexual activity to occur in or on the licensed premises.

(c) The fact that any relevant conviction is being appealed shall have no effect on the revocation of the license, provided that, if any conviction which serves as a basis of a license revocation is overturned or reversed on appeal, that conviction shall be treated as null and of no effect for revocation purposes.

(d) When, after the notice and hearing procedure described in Section 707.11, the City Council revokes a license, the revocation shall continue for one (1) years and the licensee shall not be issued a sexually oriented business license or sexually oriented business employee license for one (1) year from the date revocation becomes effective.

(Ord. 7-06. Passed 2-27-06.)

707.11 HEARING; DENIAL, SUSPENSION, AND REVOCATION; APPEAL.

(a) When the Director issues a written notice of intent to deny, suspend, or revoke a license, the Director shall immediately send such notice, which shall include the specific grounds under this ordinance for such action, to the applicant or license (respondent) by personal delivery or certified mail. The notice shall be directed to the most current business address or other mailing address on file with the Director for the respondent. The notice shall specify a date, not less than ten (10) days nor more than twenty (20) days after the date the notice is issued, on which the City Council shall conduct a hearing on the Director's intent to deny, suspend, or revoke the license.

- (1) At the hearing, the respondent shall have the opportunity to present all of respondent's arguments and to be represented by counsel, present evidence and witnesses on his or her behalf, and cross-examine any of the Director's witnesses. The Director shall also be represented by counsel, and shall bear the burden of proving the grounds for denying, suspending, or revoking the license. The hearing shall take no longer than two (2) days, unless extended at the request of the respondent to meet the requirements of due process and proper administration of justice. The City Council shall issue a written decision, including specific reasons for the decision pursuant to this ordinance, to the respondent within five (5) days after the hearing.
- (2) If the decision is to deny, suspend, or revoke the license, the decision shall not become effective until the thirtieth (30th) day after it is rendered, and the decision shall include a statement advising the respondent of the right to appeal such decision to a court of competent jurisdiction. If the City Council's decision finds that no grounds exist for denial, suspension, or revocation of the license, the City Council shall, contemporaneously with the issuance of the decision, order the Director to immediately withdraw the intent to deny, suspend, or revoke the license and to notify the respondent in writing by certified mail of such action. If the respondent is not yet licensed, the Director shall contemporaneously therewith issue the license to the applicant.

(b) If any court action challenging the City Council's decision is initiated, the City Council shall prepare and transmit to the court a transcript of the hearing within ten (10) days after receiving written notice of the filing of the court action. The City Council shall consent to expedited briefing and/or disposition of the action, shall comply with any expedited schedule set by the court, and shall facilitate prompt judicial review of the proceedings. The following shall apply to any sexually oriented business that is in operation as of the effective date of this ordinance: Upon the filing of any court action to appeal, challenge, restrain, or otherwise enjoin the City's enforcement of the denial, suspension, or revocation, the City shall immediately issue the respondent a Provisional License. The Provisional License shall allow the respondent to continue operation of the sexually oriented business or to continue employment as a sexually oriented business employee and will expire upon the court's entry of a judgment on the respondent's appeal or other action to restrain or otherwise enjoin the City's enforcement.

(Ord. 7-06. Passed 2-27-06.)

707.12 TRANSFER OF LICENSE.

A licensee shall not transfer his or her license to another, nor shall a licensee operate a sexually oriented business under the authority of a license at any place other than the address designated in the sexually oriented business license application.

(Ord. 7-06. Passed 2-27-06.)

707.13 HOURS OF OPERATION.

No sexually oriented business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day, except that a sexually oriented business which has obtained a permit or license to sell alcoholic beverages from the State of Ohio may remain open until the hour specified in that permit or license.

(Ord. 7-06. Passed 2-27-06.)

707.14 REGULATIONS PERTAINING TO EXHIBITION OF SEXUALLY EXPLICIT FILMS OR VIDEOS.

(a) A person who operates or causes to be operated a sexually oriented business, other than an adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements.

- (1) Each application for a sexually oriented business license shall contain a diagram of the premises showing the location of all operator's stations, viewing rooms, overhead lighting fixtures, videocameras and monitors installed for monitoring purposes and restrooms, and shall designate all portions of the premises in which patrons will not be permitted.

Restrooms shall not contain video reproduction equipment. The diagram shall also designate the place at which the permit will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches. The Director may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- (2) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted in the application filed pursuant to Paragraph 1 of this subsection.
 - (3) The interior premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot candles as measured at the floor level. It shall be the duty of the operator, and of any employees present on the premises, to ensure that the illumination described above is maintained at all times that the premises is occupied by patrons or open for business.
 - (4) It shall be the duty of the operator, and of any employees present on the premises, to ensure that no sexual activity occurs in or on the licensed premises.
 - (5) It shall be the duty of the operator to post conspicuous signs in well-lighted entry areas of the business stating all of the following:
 - A. That the occupancy of viewing rooms is limited to one person.
 - B. That sexual activity on the premises is prohibited.
 - C. That the making of openings between viewing rooms is prohibited.
 - D. That violators will be required to leave the premises.
 - E. That violations of subparagraphs B., C. and D. of this paragraph are unlawful.
 - (6) It shall be the duty of the operator to enforce the regulations articulated in (5)A. through D. above.
 - (7) The interior of the premises shall be configured in such a manner that there is an unobstructed view from a operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed thirty-two (32) square feet of floor area. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this paragraph must be by direct line of sight from the operator's station. It is the duty of the operator to ensure that at least one employee is on duty and situated in each operator's station at all times that any patron is on the premises. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.
- (b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

(Ord. 7-06. Passed 2-27-06.)

707.15 LOITERING, EXTERIOR LIGHTING, VISIBILITY, AND MONITORING REQUIREMENTS.

- (a) It shall be the duty of the operator of a sexually oriented business to:
 - (1) Post conspicuous signs stating that no loitering is permitted on such property;
 - (2) Designate one or more employees to monitor the activities of persons on such property by visually inspecting such property at least once every ninety (90) minutes or inspecting such property by use of video cameras and monitors; and
 - (3) Provide lighting of the exterior premises to provide for visual inspection or video monitoring to prohibit loitering. If used, video cameras and monitors shall operate continuously at all times that the premises are open for business. The monitors shall be installed within an operator's station.
- (b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.
- (c) No sexually oriented business shall erect a fence, wall, or other barrier that prevents any portion of the parking lot(s) for the establishment from being visible from a public right of way.

(Ord. 7-06. Passed 2-27-06.)

707.16 PENALTIES AND ENFORCEMENT.

(a) A person who knowingly violates, disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of this chapter shall be guilty of a misdemeanor of the first degree. Each day that a violation continues shall constitute a separate offense.

(b) The City's legal counsel is hereby authorized to institute civil proceedings necessary for the enforcement of this ordinance to prosecute, restrain, or correct violations hereof. Such proceedings, including injunction, shall be brought in the name of the City, provided, however, that nothing in this section and no action taken hereunder, shall be held to exclude such criminal or administrative proceedings as may be authorized by other provisions of this ordinance, or any of the laws or ordinances in force in the City or to exempt anyone violating this code or any part of the said laws from any penalty which may be incurred.

(Ord. 7-06. Passed 2-27-06.)

707.17 APPLICABILITY OF ORDINANCE TO EXISTING BUSINESSES.

All existing sexually oriented businesses and sexually oriented business employees are hereby granted a De Facto Temporary License to continue operation or employment for a period of ninety (90) days following the effective date of this chapter. By the end of said ninety (90) days, all sexually oriented businesses and sexually oriented business employees must conform to and abide by the

requirements of this chapter.
(Ord. 7-06. Passed 2-27-06.)

707.18 PROHIBITED ACTIVITIES.

It is unlawful for a sexually oriented business to knowingly violate the following regulations or to knowingly allow an employee or any other person to violate the following regulations.

- (a) It shall be a violation of this chapter for a patron, employee, or any other person to knowingly or intentionally, in a sexually oriented business, appear in a state of nudity, regardless of whether such public nudity is expressive in nature.
- (b) It shall be a violation of this chapter for a person to knowingly or intentionally, in a sexually oriented business, appear in a semi-nude condition unless the person is an employee who, while semi-nude, remains at least six (6) feet from any patron or customer and on a stage at least eighteen (18) inches from the floor in a room of at least one thousand (1,000) square feet.
- (c) It shall be a violation of this chapter for any employee who regularly appears semi-nude in a sexually oriented business to knowingly or intentionally touch a customer or the clothing of a customer on the premises of a sexually oriented business.
- (d) It shall be a violation of this chapter for any person to sell, use, or consume alcoholic beverages on the premises of a sexually oriented business.

A sign in a form to be prescribed by the Director, and summarizing the provisions of Paragraphs (a), (b), (c), and (d) of this section, shall be posted near the entrance of the sexually oriented business in such a manner as to be clearly visible to patrons upon entry.

(Ord. 7-06. Passed 2-27-06.)

707.19 SCIENTER REQUIRED TO PROVE VIOLATION OF BUSINESS LICENSEE LIABILITY.

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this ordinance, an act by an employee that constitutes grounds for suspension or revocation of that employee's license shall be imputed to the sexually oriented business licensee for purposes of finding a violation of this ordinance, or for purposes of license denial, suspension, or revocation, only if an officer, director, or general partner, or a person who managed, supervised, or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(Ord. 7-06. Passed 2-27-06.)

707.20 FAILURE OF CITY TO MEET DEADLINE NOT TO RISK APPLICANT/LICENSEE RIGHTS.

In the event that a City official is required to take an act or do a thing pursuant to this chapter within a prescribed time, and fails to take such act or do such thing within the time prescribed, said failure shall not prevent the exercise of constitutional rights of an applicant or licensee. If the act required of the City official under this chapter, and not completed in the time prescribed, includes approval of condition(s) necessary for approval by the City of an applicant or licensee's application for sexually oriented business license or a sexually oriented business employee's license (including a renewal), the license shall be deemed granted and the business or employee allowed to commence operations or employment the day after the deadline for the City's action has passed. (Ord. 7-06. Passed 2-27-06.)

707.21 SEVERABILITY.

This chapter and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid. Should any procedural aspect of this ordinance be invalidated, such invalidation shall not affect the enforceability of the substantive aspects of this chapter.

(Ord. 7-06. Passed 2-27-06.)

CHAPTER 709

Cultivation, Processing or Dispensing of Medical Marijuana

709.01 **Definitions.**

709.02 **Cultivating, processing or dispensing medical marijuana prohibited.**

709.99 **Penalty.**

CROSS REFERENCES

Illegal cultivation - see GEN. OFF. 513.06

709.01 DEFINITIONS.

As used in this chapter:

- (a) "Marijuana" means marihuana as defined in Section 3719.01 of the Ohio Revised Code.
 - (b) "Medical marijuana" means marijuana that is cultivated, processed, dispensed, tested, possessed or used for a medical purpose.
- (Ord. 20-16. Passed 9-26-16.)

709.02 CULTIVATING, PROCESSING OR DISPENSING MEDICAL MARIJUANA PROHIBITED.

No person shall cultivate, process, dispense or sell medical marijuana.

(Ord. 20-16. Passed 9-26-16.)

709.99 PENALTY.

Whoever violates any section of this chapter is guilty of a misdemeanor of the first degree. Each day that any person continues to violate this chapter shall constitute a separate and complete offense.

(Ord. 20-16. Passed 9-26-16.)

CHAPTER 711

Auctions

- 711.01 License required; issuance.**
- 711.02 Application and bond.**
- 711.03 Fee for auctioneer.**
- 711.04 Mayor's authority.**
- 711.05 Conduct of sale; inventory and sales list required.**
- 711.06 By-bidding prohibited.**
- 711.99 Penalty.**

CROSS REFERENCES

Power to regulate - see Ohio R. C. 715.24, 715.63
State licensing of new merchandise public auction sales - see Ohio R.C. Ch. 1318
State licensing of motor vehicle auctioning - see Ohio R. C. Ch. 4517
State licensing of auctioneers - see Ohio R. C. Ch. 4707
Liquidation sales - see BUS. REG. Ch. 721

711.01 LICENSE REQUIRED; ISSUANCE.

Except sales under judicial processes and exceptions granted by Ohio R. C. 4707.01, no person shall sell, dispose of or offer for sale in the City at public auction any merchandise, whether the same is his property or whether he sells or offers the same for sale as an agent, unless a license therefor is issued for such sale. Such license shall be issued by the Mayor.

(1939 R.O., 4:02)

711.02 APPLICATION AND BOND.

All applications for such licenses shall be in writing and filed with the Mayor fifteen days previous to the commencement of such sale. The application shall state that the applicant has been in continuous business in the City as a retail or wholesale merchant for a period of one year preceding such application, that such applicant shall have owned the goods to be sold for a period of one month prior thereto, that such applicant has tendered with the application a bond in a sum not to exceed two thousand five hundred dollars (\$2,500) and conditioned for the observance of this chapter and for the indemnification of any purchaser at such auction sale suffering loss, upon proof by reason of misrepresentation, and that such applicant consents to the forfeiture of the license and bond in the event of conviction of a violation of this chapter.

(1939 R.O., 4:02)

711.03 FEE FOR AUCTIONEER.

Any auctioneer shall pay a fee of five dollars (\$5.00) per day, or one hundred dollars (\$100.00) per annum.

(1939 R.O., 4:02)

711.04 MAYOR'S AUTHORITY.

Authority is vested with the Mayor as to the granting and revoking of licenses, the time such auction sale may be held and the length of time of such sale.

(1939 R.O., 4:02)

711.05 CONDUCT OF SALE; INVENTORY AND SALES LIST REQUIRED.

All auction sales shall be held on successive days, Sundays and legal holidays excepted. Satisfactory evidence shall be submitted to the Mayor that the property proposed to be sold is a bona fide part of the applicant's stock in trade and was not secured, purchased or brought into such place of business for, or in anticipation of, such sale. No person shall, during the progress of any auction sale, replenish his stock by substitutions, fill-ins or goods of any character. On the day preceding the commencement of any such auction sale, the licensee shall file with the Mayor a complete inventory of stock to be sold. At the close of each day's business and before the opening of the next day's sale, the licensee shall file with the Mayor an itemized list of the articles sold on the previous day's sale, which list shall identify such articles on the inventory. Failure to file such sales list shall be deemed a violation of this chapter and the right to conduct further sales under such license shall be suspended during such delinquency.

(1939 R.O., 4:02)

711.06 BY-BIDDING PROHIBITED.

No person shall act or employ another to act as a by-bidder, or what is commonly known as a "caper" or "booster", at any such auction sale or make or accept any false or misleading bid or pretend to buy or sell any articles sold or offered for sale at any such auction sale.

(1939 R.O., 4:02)

711.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00). Each day's violation shall constitute a separate offense.

(Ord. 72-55. Passed 11-28-55.)

Arcades

715.01 License required; term.

715.02 License fee.

715.99 Penalty.

CROSS REFERENCES

Gambling - see GEN. OFF. Ch. 517

Mechanical amusement devices - see BUS. REG. Ch. 731

715.01 LICENSE REQUIRED; TERM.

Each person, firm or corporation which has at any of its locations in the City, any pool tables, video games, pinball machines and other amusement devices and machines, shall register as an arcade and obtain a license from the Mayor's office to operate as an arcade. The license shall be obtained annually and shall be effective July 1 of each year.

(Ord. 18-85. Passed 4-8-85.)

715.02 LICENSE FEE.

A fee shall be charged for the issuance of an arcade license based on the following schedule:

<u>Number of Amusement Devices</u>	<u>Fee</u>
Less than 5	\$ 50.00
5 or more	100.00

(Ord. 18-85. Passed 4-8-85.)

715.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the fourth degree.

(Ord. 18-85. Passed 4-8-85.)

CHAPTER 721

Liquidation Sales

721.01 Legislative findings.

721.02 Definitions.

721.03 License required.

721.04 License application and inventory; information confidential.

721.05 Bond required.

721.06 Application investigation; grounds for license denial.

721.07 Examiners; information confidential.

721.08 License issuance and conditions.

721.09 License revocation.

721.10 License renewal.

721.11 License fee.

721.12 Exceptions.

721.99 Penalty.

CROSS REFERENCES

Auctions - see BUS. REG. Ch. 711

Peddlers - see BUS. REG. Ch. 751

Solicitors and canvassers - see BUS. REG. Ch. 761

721.01 LEGISLATIVE FINDINGS.

Council finds that:

- (a) The provisions of this Chapter 721 regulating distress merchandise sales are being circumvented by persons who purchase the stock in trade of defunct businesses and conduct liquidation sales at the former place of business of such defunct businesses;
- (b) In most such sales the persons conducting the sales represent to the public that the goods, wares and merchandise being sold have been purchased from defunct businesses and that such goods, wares and merchandise are being sold at greatly reduced prices, whereas in reality most of the goods, wares and merchandise offered at such sales were never a part of the stock in trade of such defunct businesses but were purchased by the persons conducting the sales only for the purpose of being offered for sale at such sales;
- (c) Misrepresentation with respect to the real retail value of such goods, wares and merchandise are commonplace and many persons are being deceived and defrauded by such sales, and
- (d) The regulation of such sales is necessary to protect the public welfare.

(Ord. 17-59. Passed 3-9-59.)

721.02 DEFINITIONS.

The following words shall have the meanings ascribed unless the context clearly indicates a different meaning:

- (a) "Defunct business" means any business or branch store thereof which has terminated business at a particular location.
- (b) "Liquidation sale" means any sale in which the seller represents, either directly or indirectly, that any or all of the goods, wares or merchandise offered for sale are all or part of the former stock in trade of a defunct business which was theretofore

conducted on the premises on which the sale is held. Without limiting the generality of the foregoing, "liquidation sale" includes any sale in connection with which the seller represents that he is liquidating all or part of the stock in trade of a business previously conducted on the premises on which the sale is being held.

(Ord. 17-59. Passed 3-9-59.)

"Liquidation sale", includes and means any closing-out sale, which is hereby defined as any offer to sell to the public or the sale to the public of goods, wares or merchandise upon the implied or direct holding out or representation that such sale is in anticipation of the ceasing, discontinuance and termination of a business at its present location.

(Ord. 17-59. Passed 3-9-59; Ord. 48-60. Passed 7-11-60.)

721.03 LICENSE REQUIRED.

No person shall advertise or conduct a liquidation sale without first having obtained a license to do so in accordance with the provisions of this chapter.

(Ord. 17-59. Passed 3-9-59.)

721.04 LICENSE APPLICATION AND INVENTORY; INFORMATION CONFIDENTIAL.

Any person desiring to conduct a liquidation sale shall make, at least five days prior to the date on which such sale is to be commenced, written application to the Mayor on forms furnished by the Mayor and sworn to by the applicant before a person authorized to administer oaths. In cases where, due to circumstances beyond the control of the applicant, application cannot be made five days prior to the commencement of the sale, the Mayor shall waive such five-day requirement.

Each application shall contain the following information and such other information as the Mayor may deem necessary:

- (a) The name and address of the owner of the goods, wares or merchandise to be sold.
- (b) The name and address of the owner of the defunct business, the former stock in trade of which is to be offered for sale, and the full name of such defunct business.
- (c) A description of the place where the liquidation sale is to be held.
- (d) The commencement and termination date of the liquidation sale.
- (e) A complete and detailed inventory of the goods, wares and merchandise offered at the liquidation sale, which inventory may be in the form of a copy of the bill of sale from the owner of the defunct business to the person conducting the sale. Only the former stock in trade of the defunct business sold to the person conducting the liquidation sale can be sold at such sale.

The filing of an application for a license, the contents of such application and the issuance of a license shall be confidential information and no disclosure thereof shall be made, except such as may be necessary in the administration of the provisions of this chapter. However, any disclosure may be made with the consent of the applicant, and the filing of an application and the issuance of a license shall not be confidential after public notice has been given of the proposed sale.

(Ord. 17-59. Passed 3-9-59.)

721.05 BOND REQUIRED.

No license shall be issued for a liquidation sale unless there is filed with the Mayor a bond conditioned upon the observance of all the conditions of this chapter and the indemnifying of any purchaser at such sale who suffers any loss by reason of any misrepresentation made in connection therewith, and authorizing actions thereunder by the City for the violation of any provisions of this chapter, and by any purchaser at such sale for damages or loss suffered by him by reason of any misrepresentation made in connection with such sale. The amount of the bond shall be determined as follows: five percent of the inventory cost of all the goods, wares and merchandise to be offered at sale. The bond shall be approved as to form by the City Solicitor.

(Ord. 17-59. Passed 3-9-59.)

721.06 APPLICATION INVESTIGATION; GROUNDS FOR LICENSE DENIAL.

Upon receipt of an application, the Mayor shall cause such investigation as he deems necessary to be made of the facts contained therein. No license shall be issued if any one or more of the following facts or circumstances are found to exist:

- (a) The defunct business, the stock in trade of which is to be sold, conducted a going out-of-business sale at the premises described in the application for a license within one year prior to the date of the filing of such application.
- (b) The applicant was theretofore convicted of a violation of this chapter or had a license issued to him pursuant to this chapter revoked within the five-year period immediately preceding the date of the filing of the application.
- (c) The inventory submitted with the application includes goods, wares or merchandise which was not part of the stock in trade of the defunct business sold to applicant.
- (d) The applicant, in the ticketing of the goods, wares and merchandise to be offered for sale, has misrepresented the original retail price or value thereof.
- (e) Any representation made in the application is false.

(Ord. 17-59. Passed 3-9-59.)

721.07 EXAMINERS; INFORMATION CONFIDENTIAL.

The Mayor shall from time to time enter into contracts with competent, qualified persons for the examination of the inventories and records of applicants for licenses. Such persons shall work under the direction and control of the Mayor and shall make such examinations of records and inventories as are specified by the Mayor and authorized by this chapter. All information obtained by such persons or any City employee or official through applications or examinations made pursuant to this chapter shall be confidential, and any disclosure thereof, except where such disclosure is necessary in the administration of the provisions of this chapter, shall constitute a misdemeanor.

(Ord. 17-59. Passed 3-9-59.)

721.08 LICENSE ISSUANCE AND CONDITIONS.

When it appears to the Mayor that all the statements in the application are true and that the proposed sale is of the character represented therein, that the application is in full compliance with the terms and conditions of this chapter, that the required license fee has been paid and the required bond has been filed, the Mayor shall issue a license to the applicant authorizing such applicant to advertise and conduct the sale as described in the application, subject to the following conditions:

- (a) The sale shall be held at the place named in the application and by the particular licensee named therein for a period of not more than thirty consecutive calendar days, Sundays and legal holidays excluded, next following the date specified in the license.
- (b) Only goods, wares and merchandise included in the inventory attached to the application shall be sold at the sale.
- (c) Upon the commencement of the sale and for its duration, the license issued here under shall be prominently displayed in the place at which the sale is conducted.
- (d) The licensee shall keep suitable books during the sale at the location at which the sale is conducted and in which shall be made daily entries showing the goods, wares and merchandise sold each day. Copies of such daily entries shall be sent to the Mayor weekly, and all books of the licensee shall be open for inspection by the Mayor or his duly authorized representatives during business hours.

(Ord. 17-59. Passed 3-9-59.)

721.09 LICENSE REVOCATION.

The Mayor shall revoke any license issued pursuant to the provisions of this chapter if he shall find that the licensee has:

- (a) Violated any provisions of this chapter;
- (b) Made any material misstatement on his application for a license;
- (c) Failed to include in the inventory required by the provisions of this chapter all the goods, wares and merchandise being offered for sale;
- (d) Offered, or permitted to be offered at such sale, any goods, wares or merchandise not included in the inventory attached to the application;
- (e) Failed to keep suitable records of such sale, or
- (f) Made or permitted to be made any false or misleading statement or representation in advertising such sale or in displaying, ticketing or pricing goods, wares or merchandise offered for sale.

(Ord. 17-59. Passed 3-9-59.)

721.10 LICENSE RENEWAL.

The Mayor shall, upon application therefor, renew a license issued under the provisions of this chapter for one or more periods of thirty days each, Sundays and legal holidays excluded, if the licensee has not sold all the goods listed on the inventory submitted with the original application. Such facts shall be sworn to by the applicant in the appropriate place on the application for renewal of the license. Only such goods as were listed on the original inventory filed with the application and not previously sold may be sold during the renewal period. The fee for the renewal of a license shall be ten dollars (\$10.00).

(Ord. 17-59. Passed 3-9-59.)

721.11 LICENSE FEE.

The fee for any license issued pursuant to this chapter shall be twenty-five dollars (\$25.00).

(Ord. 17-59. Passed 3-9-59.)

721.12 EXCEPTIONS.

The provisions of this chapter shall not apply to any sale conducted by a public officer as part of his official duties, to any sale an accounting of which must be made to a court of law, or to any sale conducted pursuant to an order of a court of law.

(Ord. 17-59. Passed 3-9-59.)

721.99 PENALTY.

(a) Any person violating any provision of this chapter, where no other penalty is provided, shall upon conviction thereof be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisoned for not more than thirty days, or both. Each day's violation shall constitute a separate offense.

(b) Whoever violates the confidential information provisions of Section 721.07 shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than sixty days, or both.

(Ord. 17-59. Passed 3-9-59.)

CHAPTER 731

Mechanical Amusement Devices

731.01 Definitions.

731.02 Exhibitor's license required.

731.03 Each device to be licensed and registered.

731.04 License and registration issuance, fees and renewal.

731.05 Affidavit of ownership required.

731.06 License and registration application, contents, display and exceptions.

731.07 Mayor's records.

731.08 Mayor's regulations; affidavit of moral character.

731.09 Minors prohibited. (Repealed)

731.10 Seizure and destruction of devices adapted for gambling.

731.11 License revocation, suspension; notice.

731.12 Appeal procedure and Board.

731.99 Penalty.

CROSS REFERENCES

Gambling - see GEN. OFF. Ch. 517

Mechanical musical instruments - see BUS. REG. Ch. 741

Arcades - see BUS. REG. Ch. 715

731.01 DEFINITIONS.

When used in this chapter, unless otherwise provided, the following words shall have the meanings respectively ascribed to them in this section:

- (a) "Exhibitor" means any person owning and exhibiting or contracting or permitting any mechanical amusement device to be installed, used and exhibited in his own place of business irrespective of the ownership of such devices.
- (b) "Mechanical" or "electrically operated amusement device" means a machine which, upon the insertion of a coin or slug, operates or may be operated for use as a game, contest of amusement of any description or which may be used for any such game, contest or amusement, and which contains no automatic payoff device for the return of slugs, money, coins, checks, tokens, merchandise or anything of value or which contains no automatic device by the operation of which the player may win at uncertain intervals a free game, free play or any other additional amusement. This definition shall not include any mechanical or electrically operated amusement device which is a gambling device per se. This definition is not intended to and does not include merchandise vending machines.
- (c) "Owner" means any person having title to any such mechanical amusement device.

(Ord. 33-53. Passed 6-8-53.)

731.02 EXHIBITOR'S LICENSE REQUIRED.

No exhibitor shall install or permit the use of any mechanical amusement device without first obtaining an exhibitor's license and registration therefor from the Mayor. The Mayor shall not issue a license or registration to any exhibitor who installs or proposes to install any gambling device per se. The Mayor shall not issue a license or registration for any device that is adapted to or may be readily converted into a gambling device. Such license and registration shall be issued only to persons of good moral character and shall not be transferable to any other person.

(Ord. 33-53. Passed 6-8-53.)

731.03 EACH DEVICE TO BE LICENSED AND REGISTERED.

Each individual mechanical amusement device shall be licensed and registered, and no person shall keep, maintain, permit or allow any unlicensed or unregistered device to be in or upon any public place, or place of business under the control, supervision or direction of such person, except such devices as may be exempted from such license and registration by this chapter.

(Ord. 33-53. Passed 6-8-53.)

731.04 LICENSE AND REGISTRATION ISSUANCE, FEES AND RENEWAL.

(a) The Mayor is authorized to issue licenses and registrations to exhibitors of mechanical amusement devices upon fulfillment of the requirements set forth in this chapter, and upon the payment of the following fees:

- (1) For one-cent (1¢) to four-cent (4¢) mechanical amusement devices, the fee shall be two dollars and fifty cents (\$2.50) each per year.

(Ord. 33-53. Passed 6-8-53; Ord. 78-57. Passed 10-14-57.)

- (2) For five-cent (5¢), ten-cent (10¢) or higher denomination mechanical amusement devices commonly known as pin ball machines, the fee shall be twenty-five dollars (\$25.00) each per year.

- (3) For all other five-cent (5¢), ten-cent (10¢) or higher denomination mechanical amusement devices, including skill pool, shuffleboard and television games, the fee shall be twenty-five dollars (\$25.00) each per year.

(Ord. 11-85. Passed 3-11-85.)

However, no license or registration shall be issued to an applicant therefor until the Mayor shall have found that such applicant is of good moral character. The lack of such good moral character on the part of the applicant shall be deemed grounds for denial or revocation of such license and registration by the Mayor.

(Ord. 33-53. Passed 6-8-53, Ord. 78-57. Passed 10-14-57.)

(b) License renewal fees shall become due and payable on July 1 of each year. Fees for new registrations shall be prorated at one-twelfth of the total fee for each month or portion thereof remaining until the next following July 1. (Ord. 27-65. Passed 2-22-65.)

731.05 AFFIDAVIT OF OWNERSHIP REQUIRED.

The exhibitor shall be required to take out a machine license and registration for each mechanical amusement device used, and shall be required to furnish the Mayor with the name of the owner of such mechanical amusement device. In the event the exhibitor is also the owner of such device, he shall file an affidavit with the Mayor setting forth that he is the bona fide owner of such mechanical amusement device and that, as such owner, he receives all the benefits from the operation thereof and that no other person has any actual or beneficial interest therein, either directly or indirectly.

(Ord. 33-53. Passed 6-8-53.)

731.06 LICENSE AND REGISTRATION APPLICATION, CONTENTS, DISPLAY AND EXCEPTIONS.

Every applicant for an exhibitor's license and registration shall file an affidavit with the Mayor prior to receiving such license and registration stating the number of machines intended to be exhibited, together with affidavit as to good moral character as required by

Section 731.04. Upon payment of the fees required by this chapter, the Mayor shall issue a license and registration which shall contain the name and address of the licensee, the number of mechanical amusement devices exhibited, the address at which it is desired to exhibit and operate the devices, the nature of the business conducted at such place, the make, name, model and other identifying information with reference to the particular devices desired to be exhibited, the serial number of the license, and such other information as the Mayor, in his discretion, may require. Such license and registration shall be displayed by the exhibitor in a conspicuous place within his place of business and in close proximity to the mechanical amusement devices licensed and registered therein. A licensee desiring to exhibit additional mechanical amusement devices shall apply for a license and registration to cover the exhibition of such additional mechanical amusement devices in the manner above set forth and shall pay the fees required by this chapter for the exhibition of any such additional mechanical amusement devices.

All licenses for one year shall expire on the anniversary date of issuance in the following year, unless earlier revoked by the Mayor.

No license fee shall be charged for mechanical amusement devices exhibited and operated solely for the benefit of a charitable, benevolent, religious or eleemosynary institution.

This chapter shall not be applicable to owners and exhibitors having machines on the Fairfield County Fairgrounds during the days when the Fairfield County Fair is in session.

The Mayor is authorized and empowered to deny, for reasonable cause, applications for licenses.

(Ord. 33-53. Passed 6-8-53.)

731.07 MAYOR'S RECORDS.

The Mayor shall keep and maintain on file in his office a full and complete list of all licensees licensed under this chapter, and also a full and complete list of all mechanical amusement devices which are licensed and registered under this chapter, together with a cross index showing the location of each such licensed and registered mechanical amusement device.

(Ord. 33-53. Passed 6-8-53.)

731.08 MAYOR'S REGULATIONS; AFFIDAVIT OF MORAL CHARACTER.

The Mayor is authorized and empowered to establish, adopt and enforce or cause to be enforced such rules and regulations governing the issuance of the licenses and registrations required under this chapter as he may deem reasonable and necessary and not inconsistent with this chapter.

Applicants for licenses under this chapter shall be required to be of good moral character, and the Mayor shall adopt and enforce a rule or regulation requiring an affidavit by each applicant relative to any arrest or conviction of such applicant for any crime involving morals or moral turpitude within a period of five years immediately preceding the date of application.

(Ord. 33-53. Passed 6-8-53.)

731.09 MINORS PROHIBITED.

(EDITOR'S NOTE: This section was repealed by Ordinance 55-81, passed November 9, 1981.)

731.10 SEIZURE AND DESTRUCTION OF DEVICES ADOPTED FOR GAMBLING.

Any machine, apparatus, contrivance or device which is adapted to or may be readily converted into a gambling device which shall have been exhibited or made use of by any owner or exhibitor in violation of this chapter may be seized and destroyed in compliance with the statutes of the State relating to gambling devices.

(Ord. 33-53. Passed 6-8-53.)

731.11 LICENSE REVOCATION, SUSPENSION; NOTICE.

The license of any person violating any of the provisions of this chapter or any of the rules and regulations established and adopted by the Mayor as herein provided, except those relating to the exhibition or operation of such machine or device for gambling, for the first violation thereof shall be suspended by the Mayor for not less than ten or more than thirty days, for the second violation thereof shall be suspended by the Mayor for not less than thirty or more than sixty days, and for the third violation thereof shall be revoked by the Mayor. For a violation of the chapter or the rules and regulations established and adopted by the Mayor as herein provided relating to the exhibition or operation of such machine or device for gambling, such license shall be revoked by the Mayor.

In case of any hearing before the Mayor involving the denial of a license to an applicant therefor, as provided by Section 731.06, or involving the suspension or revocation of a license, the Mayor shall notify such applicant or licensee of such hearing by registered mail directed to the last address of such applicant or licensee on file with the Mayor. In the event such license is denied, suspended or revoked, the Mayor shall notify such applicant or licensee of such denial, suspension or revocation in the same manner as provided for notification of hearings.

(Ord. 33-53. Passed 6-8-53.)

731.12 APPEAL PROCEDURE AND BOARD.

There is created the Amusement Device Board of Appeals consisting of the Safety- Service Director, who shall be Chairman, the City Treasurer, who shall be Secretary, and the City Solicitor. An applicant for a license who has been refused a license or a licensee whose license has been suspended or revoked, as provided in Section 731.11 herein, may appeal to such Board within ten days after the date of mailing by the Mayor of the notice of denial, suspension or revocation, by filing written notice of such appeal with the chairman of the Board. The Board shall consider such appeal within five days after the date upon which written appeal is filed with the Board. The Board may, in its discretion, consider such appeal, either solely upon the evidence considered by the Mayor in cases of denial, suspension or revocation of license respectively, or may consider such appeal de novo. Upon such hearing the Board shall affirm, disaffirm or modify such order of denial, suspension or revocation from which an appeal has been perfected, and the decision of the Board shall be final. The Board shall also hear appeals concerning licenses of mechanical musical instruments.

(Ord. 33-53. Passed 6-8-53.)

731.99 PENALTY.

Any exhibitor who shall exhibit or permit the exhibition of any mechanical amusement device without first having obtained a license and registration therefor and paying the fees herein required, or any person who shall exhibit or permit to be exhibited any mechanical amusement device for which a license and registration has not been first obtained, or any person who shall exhibit or operate such machine or device or who shall permit the same to be exhibited or operated for gambling, or any person who shall violate this chapter or any rule or regulation of the Mayor established and adopted hereunder, shall be deemed guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00) for a first offense, and for a second or subsequent such offense shall be fined not more than one hundred dollars (\$100.00) or imprisoned not more than ninety days, or both, as the court hearing the case may, in its discretion, determine. No person shall be charged with a second or subsequent offense unless such fact is set forth in the affidavit charging such second or subsequent offense. However, in addition to and independent of such fine for a first offense, or such fine and imprisonment for a second or subsequent offense, such person, so convicted, is thereby subject to having his license and registration suspended or revoked by the Mayor. Any person who shall swear falsely in any affidavit required to be made under the terms of this chapter shall be subject to the penalties as provided therefor by the statutes of the State.

(Ord. 33-53. Passed 6-8-53.)

CHAPTER 741

Mechanical Musical Instruments

741.01 Definitions.

741.02 License required.

741.03 License application.

741.04 Licenses issuance, fee, expiration and registration sticker.

741.05 Mayor's records.

741.06 Obscenity and peace disturbance prohibited.

741.07 Mayor's regulations.

741.08 License revocation or denial; notice.

741.09 Appeal from denial or revocation order.

741.99 Penalty.

CROSS REFERENCES

Peace disturbance - see GEN. OFF. 509.02

Mechanical amusement devices - see BUS. REG. Ch. 731

Board of Appeals - see BUS. REG. 731.12

741.01 DEFINITIONS.

As used in this chapter:

- (a) "Mechanical musical instrument" means and includes any amusement machine, apparatus or device designed or constructed for the purpose of producing, reproducing or playing any musical or vocal tone or combination of tones, the operation or use of which instruments is permitted, controlled, allowed or made possible by the deposit or placing of any coin, plate, disc, token or key into any slot, crevice or other opening in such instrument.
- (b) "Premises which are open to the public", or similar words include clubs, private clubs, headquarters and meeting places of fraternal and other societies, associations and bodies, and all other public places.

(Ord. 34-53. Passed 6-8-53.)

741.02 LICENSE REQUIRED.

No person shall maintain, operate or permit to be maintained or operated in, upon or about any premises under his control, which premises are open to the public, any mechanical musical instrument unless a license and registration therefor shall have been first obtained from the Mayor.

(Ord. 34-53. Passed 6-8-53.)

741.03 LICENSE APPLICATION.

Application for such license shall be made to the Mayor upon such blank forms as shall be prescribed therefor. On such application the applicant shall state his name; whether an individual, partnership or corporation, and if a partnership the names and addresses of the partners composing the same; the addresses at which it is desired to maintain and operate the mechanical musical instrument; the nature of the business conducted at such place; the make, name, model, serial number and other identifying information with reference to the particular mechanical musical instrument which it is desired to operate; the name and address of the owner of such instruments, and such other and further information as the Mayor, in his discretion, may require.

(Ord. 34-53. Passed 6-8-53.)

741.04 LICENSE ISSUANCE, FEE, EXPIRATION AND REGISTRATION STICKER.

Upon the filing of the application and the payment of the sum of fifteen dollars (\$15.00), which is the annual license fee for the license, the Mayor shall issue to the applicant a license which shall entitle the licensee to maintain and operate at the premises mentioned in the application the mechanical musical instruments described in the application, subject to the terms and conditions of this chapter, other ordinances of the City and to the rules and regulations which may be promulgated under this chapter. At the time of issuing the license, the Mayor shall also issue to the licensee a registration slip or sticker for each mechanical musical instrument described in the application. The license fee herein provided for shall be the annual license fee for the fiscal year which shall expire on December 31 of each calendar year.

(Ord. 34-53. Passed 6-8-53.)

741.05 MAYOR'S RECORDS.

The Mayor shall keep and maintain on file in his office a full and complete list of all licensees licensed under this chapter, and also a full and complete list of all mechanical musical instruments which are registered under this chapter, together with a cross index showing the location of each registered mechanical musical instrument.

(Ord. 34-53. Passed 6-8-53.)

741.06 OBSCENITY AND PEACE DISTURBANCE PROHIBITED.

No person shall play, produce or reproduce upon any mechanical musical instrument any obscene selection or rendition. No person shall use or permit to be used or maintained any mechanical musical instrument in such manner as to disturb the peace and quiet of the neighborhood.

(Ord. 34-53. Passed 6-8-53.)

741.07 MAYOR'S REGULATIONS.

The Mayor is authorized and empowered to establish, adopt and enforce, or cause to be enforced, such rules and regulations governing the issuance of the licenses required under this chapter as he may deem reasonable and necessary and not inconsistent with this chapter.

(Ord. 34-53. Passed 6-8-53.)

741.08 LICENSE REVOCATION OR DENIAL; NOTICE.

The license of any person violating any of the terms of this chapter or any of the rules and regulations established and adopted by the Mayor, as herein provided, shall be revoked by the Mayor. The Mayor is authorized and empowered to deny, for reasonable cause, applications for licenses.

The Mayor shall notify any licensee of any hearing of the Mayor involving the denial or revocation of such license. Such notification shall be by registered mail directed to the last address of the licensee on file with the Mayor.

(Ord. 34-53. Passed 6-8-53.)

741.09 APPEAL FROM DENIAL OR REVOCATION ORDER.

A licensee who has been refused a license or whose license has been revoked, may appeal in writing to the Amusement Device Board of Appeals within ten days after the date of mailing of the notice of denial or revocation. The Board may consider such appeal in whatever manner it may determine and its decision thereon shall be final. Such written appeal shall be filed with the Chairman of the Amusement Device Board of Appeals.

(Ord. 34-53. Passed 6-8-53.)

741.99 PENALTY.

Any person who shall maintain or operate any mechanical musical instrument in any public place without first having obtained a license and registration thereof shall be deemed guilty of a misdemeanor and shall be fined not more than two hundred fifty dollars (\$250.00). Any licensee who shall violate this chapter or any rule of the Mayor established and adopted hereunder shall be deemed guilty of a misdemeanor and may be punished by having his license revoked and, in addition thereto, by being fined not more than one hundred dollars (\$100.00).

(Ord. 34-53. Passed 6-8-53.)

CHAPTER 751

Peddlers

751.01 Definitions.

751.02 Peddling, solicitation or canvassing.

751.03 Organizational liability.

751.04 Display of registration card.

751.05 Reserved.

751.06 Street peddler.

751.07 Permit to solicit charitable contributions in the roadway.

751.99 Penalty.

CROSS REFERENCES

Power to inspect food products - see Ohio R.C. 715.46

Power to regulate - see Ohio R. C. 715.61 et seq.

Frozen desserts - see Ohio R.C. 3717.51 et seq.

Disturbing the peace - see GEN. OFF. 509.02

Trespass - see GEN. OFF. 537.06

Littering - see GEN. OFF. 553.04

Solicitors and canvassers - see BUS. REG. Ch. 761

751.01 DEFINITIONS.

As used in this chapter:

- (a) "Peddler" means any person who travels door to door either by foot, automobile, truck, or any other type of conveyance and calls upon private residents, including any house, apartment or other dwelling within the City, taking or attempting to take orders for profit for the sale of goods, wares, and merchandise or personal property of any nature whatsoever for immediate or future delivery or for services to be furnished and/or performed immediately or in the future.
- (1) "Street peddler" means a peddler that sells or offers for sale food, beverages, merchandise or service on public property or right of way as further defined in Section 751.06(a). Street peddlers are stationary peddlers and are often referred to as

street vendors.

- (b) "Solicitor" means any person who seeks to obtain funds for any cause whatsoever by traveling door to door either by foot, automobile, truck, or any type of conveyance and calling upon private residences including any house, apartment or other dwelling within the City.
- (c) "Canvasser" means any person who obtains or influences the opinions of the residents of the City by traveling door to door either by foot, automobile, truck or other type of conveyance and calling upon private residences including any house, apartment or other dwelling in the City, but does not seek to obtain funds for any cause whatsoever.
- (d) "Charitable" means and includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, educational, civic, fraternal, veterans, medical and social research, either actual or purported.
- (e) "Religious" as used herein for organizations registered with the Secretary of State religious organization and given its community accepted definition. Charitable organizations are excluded from this definition.

(Ord. 34-07. Passed 6-25-07.)

751.02 PEDDLING, SOLICITATION OR CANVASSING.

(a) Registration Required. No peddler or solicitor shall peddle or solicit within the City unless he or she is the holder of a valid registration issued pursuant to this chapter. Canvassers do not need to register but must abide by relevant sections of this chapter.

(b) Registration Application; Contents. Application for a registration as a solicitor or as a peddler shall be made upon a form provided by the Service-Safety Director. Each application shall contain among other information, the name, address, and telephone number of the applicant; the name, address, and telephone number of his or her employer, if any; the nature of the goods or services for which he or she will take orders or to be offered for sale; proof of motor vehicle insurance; a valid operator's license; the proposed method of operation in the City; a written commitment that such person(s) shall comply with Chapter 751 of the Codified Ordinances; and such other information as the Service-Safety Director may require.

(c) Criminal Background Checks.

(1) Required. All peddlers and solicitors not exempt in subsection (c)(2) hereof are required to provide a criminal background check completed that is no more than 30 days old. Said background check must be presented at the time a registration application is completed.

(2) Exempt. All charitable or religious solicitors or peddlers are exempt from the criminal background checks.

(d) Registration Prohibition.

(1) No person who has been convicted of:

A. Any felony; or

B. Any misdemeanors involving false statements, dishonesty, theft, offenses of violence, offenses against juveniles, or violations of Ohio Revised Code Chapter 2907,

shall be issued a registration.

(e) Registration Expiration. All registrations issued under this chapter shall be valid for not more than one year from date of issue or as otherwise designated by the Service-Safety Director.

(f) Group Registration. An organization which desires to place a number of solicitors or peddlers for charitable or religious purposes at residences or on public property in the City may make a group application to cover all of them, even if such application is for more than one fund raising event during the period for which the certificate is valid; however, a separate information card shall be issued to each solicitor or peddler by the registered organization. Such information card shall include, at a minimum, the name of the registered organization; description of the purpose of the solicitation; the period for which the registration was issued, and the name of the solicitor or peddler. The organization shall keep a record of each solicitor or peddler and his or her social security number and date of birth which shall be made available to law enforcement upon request.

(g) Exceptions.

(1) The provisions of this section shall not apply to solicitations conducted only among the members of the entity or organization conducting the soliciting or to solicitations in the form of collections or contributions at the regular assemblies, meetings or services of any such established charitable or religious organization.

(2) No registration shall be required of a farmer or producer who is selling the product of his own farm.

(3) Street peddlers must comply with Section 751.06.

(h) Registration Revocation.

(1) Any registration issued hereunder shall be revoked by the Service-Safety Director if the holder thereof is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the application. Any conviction for a violation of this chapter shall be cause for rejection of future registrations.

(2) Immediately upon such revocation, written notice thereof shall be given by the Service-Safety Director to the holder of the registration in person or by certified U.S. mail addressed to his or her residence address as set forth in the application. Immediately upon the giving of such notice the registration shall become null and void.

(i) Fraudulent Solicitations Prohibited.

(1) No solicitor or peddler shall make or perpetrate any misstatement, deception, or fraud in connection with any solicitation of any contribution for any charitable purpose.

(2) No person having entered into an agreement to conduct any solicitation on behalf of any person or any charitable purpose shall fail to remit or pay to the party entitled thereto the proceeds of such solicitation in accordance with the true terms of the agreement.

(j) Fee.

(1) No person shall act as a peddler or solicitor without the invitation or previous consent of the owner(s) or occupant(s) without first having secured from the Service-Safety Director a registration therefor. The fee for each registration shall be as follows:

A. For one day: \$1.00.

B. For one week: \$5.00.

C. For one year: \$15.00.

(2) All fees collected shall be paid into the General Fund.

(3) Fee exemption. Individuals or corporations soliciting or peddling on behalf of an educational, religious, civic or charitable organization shall not be required to pay registration fees.

(k) Nontransferable. Once issued a registration may be used only in conformity with the laws of the City and the State of Ohio and may not be assigned or transferred.

(l) Restrictions; Hours; Conduct. Every person to whom a registration to peddle or solicit is issued and every canvasser shall be governed by the following rules and regulations:

(1) No person subject to the provisions of this chapter shall peddle, solicit, or canvass except between the hours of 9:00 a.m. and 8:00 p.m. or one-half hour after sunset whichever is later.

(2) No peddler, solicitor or canvasser shall enter or attempt to enter a residence, house, apartment or other dwelling in the City without an express invitation from an adult occupant of the residence, house, apartment or other dwelling.

(3) No peddler or solicitor shall engage in any peddling or solicitation other than that specified in the registration application.

(4) No peddler, solicitor or canvasser shall by any device make unlawful noises, nor shall any peddler, solicitor or canvasser remain at the residence, house, apartment or other dwelling in the City without the consent of any adult occupant of the residence, house, apartment or other dwelling in the City.

(m) Resident Prohibition by Notice. Notwithstanding any other provision of this chapter, no peddler, solicitor, or canvasser, while peddling, soliciting or canvassing, shall call upon, knock at the door or ring the door bell of any residence, house, apartment or other dwelling in the City upon which there is posted at the entrance a notice which reads: "No Peddlers, Solicitors or Canvassers Allowed", or words of similar import, which clearly prohibits peddlers, solicitors and canvassers on the premises, unless such peddler, solicitor or canvasser has previously been invited upon the premises by the owner, lessee or an adult occupant thereof.

(n) Appeals. Any registrant or applicant may appeal his/her revocation or denial to the City Staff Safety Committee. Said appeal will be heard within 45 days. The Committee shall issue its finding in writing within 10 days of the meeting and shall mail said finding to the appellant at the address on the application.

(Ord. 34-07. Passed 6-25-07.)

751.03 ORGANIZATIONAL LIABILITY.

The organization sponsoring or employing individuals violating any of the provisions of Chapter 751 may be prosecuted and held liable for the criminal penalties contained herein.

(Ord. 34-07. Passed 6-25-07.)

751.04 DISPLAY OF REGISTRATION CARD.

Any peddler, street peddler, or solicitor shall, at all times while soliciting or peddling, carry said registration. Upon request of any resident, police officer or City official, a solicitor, peddler or street peddler shall present said registration card for further inspection.

(Ord. 34-07. Passed 6-25-07.)

751.05 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

751.06 STREET PEDDLER.

(a) Registration Required; Effective Period; Revocation. No peddler shall sell or offer for sale any ice cream, frozen dessert, soft drink, candy, sandwich, nuts, novelty confection or similar foodstuff, food, merchandise, or services on public rights of way within the City without first obtaining a registration from the City prior to engaging in such selling or offering for sale, such registration to be issued by the Service-Safety Director. Any registration issued hereunder shall be valid for a period of one year from the date of issue. Such registration may be revoked for failure of the registrant, or his agents or employees to comply with the terms of this chapter.

(b) Conditions of Registration; Fee. The registration provided in this Section 751.06 shall be issued by the Service-Safety Director upon payment of a fee of twenty-five dollars (\$25.00) and upon compliance with the following conditions:

(1) The applicant shall submit to the City evidence of insurance providing coverage for property damage and bodily injury occasioned by the registrant, his/her agents or employees, the limits of such coverage to be not less than one million dollars (\$1,000,000) combined single limit coverage (property damage and bodily injury).

(2) The application shall contain a schedule of vehicles to be used by the applicant, and the applicant shall submit evidence that each person required to be licensed to operate such vehicles under the laws of the State has a valid Ohio operator's or chauffeur's license as required by law.

(3) Each operator shall provide evidence that a valid food handler's permit has been issued by the Fairfield County Department of Health to the operator and his/her agents and employees.

(4) The applicant shall be the owner.

(5) Street peddlers requesting registration desiring access to City water and electricity shall comply with additional administrative regulations adopted by the Service-Safety Director. Any additional fee and utility charges may be assessed.

(6) The Service-Safety Director shall establish Administrative Rules and Regulations and fees as necessary.

(c) Hours of Sale. Street peddlers or their agents or employees, subject to the provisions of this Section 751.06 shall operate only from 9:00 a.m. to 8:00 p.m.

(d) Location of Sales. The Service-Safety Director maintains management and oversight of the public rights of way and reserves the right to deny a street peddler's request for a location due to health, safety or welfare concern.

(e) Stopping Vehicle for Sales. Solicitors, peddlers and street peddlers, or their agents or employees shall transact business only when the vehicle is stopped at the curbing or, if there is not curbing, when the vehicle is stopped at the right edge of the paved part of the right of way.

(f) Street Vendors Serving Fairs and Festivals.

(1) In order to provide for the health and safety of persons attending a fair or festival authorized by the City, the Service-Safety Director shall designate those streets, highways and public rights of way adjacent to, or in the area of, a fair or festival which shall not be used for the purpose of the sale of foodstuffs pursuant to the registration issued under the terms of this chapter or for the purpose of the sale of goods, merchandise or property of any kind and under terms of the right of way permit.

(2) The Service-Safety Director shall approve the layout of the festival and number of approved street peddlers at the time the right-

of-way permit is drawn by the festival. The Service-Safety Director shall establish administrative rules governing said use of right of way for fairs and festivals.

- (3) Any person, firm, corporation, group or agency which has secured a permit for the purpose of sponsoring a fair or festival may promulgate its own rules, regulations and fees to oversee its function in addition to those established by the Service-Safety Director, as long as said rules are consistent with those established by the Service-Safety Director.

(g) Registration Revocation. Any registration issued hereunder shall be revoked by the Service-Safety Director if the holder thereof is convicted of a violation of any of the provisions of this chapter, or has made a false material statement in the registration application.

(h) Nontransferable. Once issued, a registration may be used in conformity with the laws of the City and the State of Ohio and may not be assigned or transferred.

(Ord. 34-07. Passed 6-25-07.)

751.07 PERMIT TO SOLICIT CHARITABLE CONTRIBUTIONS IN THE ROADWAY.

(a) The Service-Safety Director or his/her designee may issue a permit to solicit contributions on a street, highway or roadway from the driver or occupant of a vehicle when all of the requirements of subsection (b) hereof have been met.

(b) Charitable organizations may apply for and obtain a permit to solicit contributions in the street, highway or roadway but not on a freeway as provided by Ohio R.C. 4511.051 when a permit issued by the Service-Safety Director or his/her designee as follows:

- (1) The Service-Safety Director or his/her designee shall prescribe a form and receive applications to solicit contributions on a street, highway or roadway.
- (2) An application may be made only by a charitable organization that has received from the Internal Revenue Service a currently valid ruling or determination letter recognizing the tax exempt status of the organization pursuant to Section 501(c) of the Internal Revenue Code with a local charitable organization meeting within Fairfield County. The Internal Revenue Service ruling or determination shall be attached to the application prescribed by the Service-Safety Director and/or his/her designee.
- (3) Collections shall be made only at Center Alley, Main Street between Broad and Columbus Street. A permit shall be obtained from the Service-Safety Director.
- (4) Collections shall not commence before thirty minutes after sunrise and shall not continue beyond thirty minutes before sunset.
- (5) Collections shall not exceed thirty hours on three continuous days, and shall be one time only, per calendar year.
- (6) All persons collecting in the streets shall be eighteen years of age or older.
- (7) All collectors shall be neatly attired and wear orange safety vests when working in the street collecting moneys.
- (8) Only four people may be in the same location at one time for street collections.
- (9) A one million dollar (\$1,000,000) personal liability insurance policy for any occurrence shall be carried by the collector and proof of such insurance shall be provided to the Service-Safety Director.
- (10) A collector shall sign a release of liability form for the City, relieving the City from all liability and agreeing to indemnify the City for all damages.
- (11) The supervisor of all organizations engaged in street collections shall list all workers who will collect at a specific time. Each worker shall sign the release liability mentioned in subsection (a)(10) hereof, and the supervisor shall sign for the organization.
- (12) Orange cones and orange vests shall be furnished by the Lancaster Street Department. A plan showing where collectors are recommended to stand shall be given to each organization.
- (13) Two temporary signs shall be displayed that shall notify motorists of street collections ahead.
- (14) The Service-Safety Director shall be given fourteen days notice prior to requesting the street collection permit.

(Ord. 34-07. Passed 6-25-07.)

751.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor and, in addition, may have his or her registration revoked by the Service-Safety Director. A second offense shall be enhanced to a misdemeanor of the fourth degree.

(Ord. 34-07. Passed 6-25-07.)

CHAPTER 753

Peddling on Private Property

EDITOR'S NOTE: Former Chapter 753 was repealed by Ordinance 4-07, passed February 26, 2007.

CHAPTER 761

Solicitors and Canvassers

EDITOR'S NOTE: Former Chapter 761 was repealed by Ordinance 4-07, passed February 26, 2007.

CHAPTER 771

Taxicabs

EDITOR'S NOTE: Former Chapter 771 was repealed by Ordinance 12-03, passed April 28, 2003.

CHAPTER 781

Scrap Metal Dealers

781.01 Definitions.

781.02 License requirement; expiration.

781.03 Application for scrap metal facility licenses; fee.

781.04 Issuance and display of license.

781.05 Transfer of license.

781.06 License suspension or revocation.

781.07 Records of transaction; daily report to police.

- 781.08 Additional requirements for motor vehicles and parts; exemption.**
- 781.09 Retention of articles; permission of police for disposition; recovery of stolen goods by true owner.**
- 781.10 Purchase of certain articles restricted.**
- 781.11 Purchases prohibited.**
- 781.12 Authority to conduct inspections.**
- 781.13 Appeals.**
- 781.14 Severability.**
- 781.99 Penalty.**

CROSS REFERENCES

Power to regulate - see Ohio R.C. 715.61
 Secondhand dealers - see Ohio R.C. Ch. 4737
 Record of transactions required - see Ohio R.C. 4737.01, 4737.04
 Dealing with minors prohibited; hours regulated - see Ohio R.C. 4737.03
 Receiving stolen property - see GEN. OFF. 545.18
 Unlawful transactions in weapons - see GEN. OFF. 549.07

781.01 DEFINITIONS.

As used in this chapter:

- (a) "Scrap metal facility" means any facility, establishment or place of business that is maintained or operated for the primary purpose of receiving, storing, processing, buying, or selling scrap metal for remelting or recycling purposes.
- (b) "Scrap metal facility licensee" or "licensee" means any person holding a scrap metal facility license issued pursuant to this chapter and includes any person acting as the license holder's authorized agent or employee.
- (c) "Scrap metal" means any scrap article or material composed of iron, steel, or nonferrous metal or metal alloy, including but not limited to, copper, brass, bronze, aluminum, or stainless steel.
- (d) "Motor vehicle" shall have the same meaning as set forth in Ohio Revised Code 4501.01 B.
- (e) "Vehicle identification number or derivative thereof" means any number or derivative of such a number that is embossed, engraved, etched, or otherwise marked on any vehicle or vehicle part by the manufacturer. "Vehicle identification number" also includes a duplicate vehicle identification number replaced upon a vehicle under the authority of the registrar of motor vehicles.
- (f) "Retail transaction" means any transaction involving any person other than an industrial or commercial account, a nonprofit account, or a governmental account, in which a scrap metal facility purchases or receives scrap metal.
- (g) "Industrial or commercial account" means any person, operating from a fixed location, that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification. The term may include other scrap metal facilities.
- (h) "Nonprofit account" means any nonprofit organization that is exempt from federal income taxation under subsection 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a), and that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.
- (i) "Governmental account" means any political subdivision, as defined in Section 2744.01(F) of the Ohio Revised Code, that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.

(Ord. 42-07. Passed 8-27-07.)

781.02 LICENSE REQUIREMENT; EXPIRATION.

No person shall operate a scrap metal facility in the City of Lancaster except under authority of a valid scrap metal facility license issued by the Service-Safety Director, in the name of the person operating the facility and for the specific site of the facility. Every license shall expire on December 31st of each year following its date of issuance, subject to suspension or revocation pursuant to Section 781.06 of this chapter. An application for a renewal of a license must be submitted prior to the annual expiration date of the existing license, and operation under authority of the existing license may continue until issuance or denial of the renewal of the license, provided submission of the renewal application is timely.

(Ord. 42-07. Passed 8-27-07.)

781.03 APPLICATION FOR SCRAP METAL FACILITY LICENSES; FEE.

(a) Application for a scrap metal facility license required by Section 781.02, including the renewal of a license, shall be made in writing and sworn to on a form provided by the Service- Safety Director and pursuant to the terms of this chapter. Each application and renewal shall include a filing fee of fifty dollars (\$50.00), which shall not be refundable, and identify the applicant and the address of the facility to be licensed. The fee shall be waived for any person that is operating a scrap metal facility at that specific site as a 501-C nonprofit organization.

(b) The application for a license to operate a scrap metal facility shall include the following information:

- (1) A list identifying every individual who will be directly engaged in managing or supervising the daily operations of the facility, and for each individual so identified the following information shall be provided by the applicant:
 - A. The individual's name, address and social security number;
 - B. A photocopy of a current and valid driver's license, military identification, or other government-issued photo identification card issued to the individual;
 - C. A set of fingerprints and a certified copy of the individual's criminal history information, including date, time and place of convictions for all violations except traffic offenses as obtained from any local or state law enforcement agency;
- (2) The applicant's history of any government-issued licenses or permits related to the operation of any scrap metal facility, including any currently held by the applicant and any previously issued licenses or permits that were revoked or suspended within the past ten (10) years and the reasons therefore;
- (3) If the applicant is a business entity that is required to register with the Secretary of State of Ohio, a copy of a current certificate

of good standing issued by that office.

(c) No person shall knowingly make a false license application or procure or seek to procure a license for another.
(Ord. 42-07. Passed 8-27-07.)

781.04 ISSUANCE AND DISPLAY OF LICENSE.

(a) Subject to the terms of this chapter the Service-Safety Director shall issue a license to an applicant to operate a scrap metal facility at a specified location, unless the Service-Safety Director finds any of the following:

- (1) That the application does not contain all the required information, or that the application contains a material misrepresentation;
- (2) That the facility which is to be licensed fails to conform to the Lancaster Codified Ordinances, including, but not limited to, zoning, building, health and fire.

(b) The Service-Safety Director may refuse to issue a license to an applicant if it finds any of the following:

- (1) That the applicant, or any person having a direct or indirect interest in that which is to be licensed, has been convicted of a felony or theft offense within the past ten (10) years or is on probation or parole for a felony or theft offense;
- (2) That criminal conduct as defined in Title 29 of the Ohio Revised Code has or is occurring on the premises of the facility on a repeated basis by customers, patrons, employees, operators or licensees. Repeated basis shall mean two (2) or more offenses within the previous twelve (12) months.

(c) The issued license shall be displayed in a conspicuous place within the public area of the facility.

(Ord. 42-07. Passed 8-27-07.)

781.05 TRANSFER OF LICENSE.

(a) A scrap metal facility license is not transferable to another location. No person so licensed shall transact or solicit business at any location other than at the address stated in the license. Any change in location of scrap metal facility licensed pursuant to this chapter shall require the submission of a new application and the issuance of a new license.

(b) Any change in ownership or location of scrap metal facility licensed pursuant to this chapter shall require the submission of a new application and the issuance of a new license. For purposes of this section, whenever the person to which a license has been issued is a corporation or limited liability company and there is a transfer of the corporation's stock or that limited liability company's membership interests such that, following the transfer, the owner of the majority or plurality of the limited liability company's membership interests would change, the transfer of stock or membership interests shall be considered a change of ownership.

(Ord. 42-07. Passed 8-27-07.)

781.06 LICENSE SUSPENSION OR REVOCATION.

(a) The Service-Safety Director may revoke or suspend a scrap metal facility license where it finds:

- (1) A section of this chapter was violated upon the facility premises;
- (2) A violation of the Ohio Revised Code or Lancaster Codified Ordinances was committed upon the facility premises, and was reasonably related to the management or operation of the facility;
- (3) A material misrepresentation was made upon the application for a license;
- (4) An operator of the facility, or employee or agent of the operator, hindered, obstructed or prevented any inspection of the facility authorized by this chapter.

(b) Unless a stay order has been issued by a court of competent jurisdiction, a licensee is prohibited from purchasing, receiving or selling any scrap metal articles or material during the time that the licensee's scrap metal facility license is revoked or suspended.

(Ord. 42-07. Passed 8-27-07.)

781.07 RECORDS OF TRANSACTION; DAILY REPORT TO POLICE.

(a) All scrap metal facility licensees shall maintain a separate record book or electronic file in which the licensee shall keep an accurate, legible and complete record of all of the following specified information for each retail transaction on a form approved by the Chief of Police:

- (1) A complete and accurate description of any scrap metal article or material that has been purchased or received by the licensee, including, where available, the name and maker of the article or material, and the serial number or other identification number, letters or marks written or inscribed on the article or material;
- (2) The seller's name and current address;
- (3) The identification number from a current and valid driver's license, military identification, or other government-issued photo identification card issued to the seller;
- (4) The license plate number and state issuing the license plate of the motor vehicle being used by the seller to transport the articles or material to the facility;
- (5) An impression of the right or left thumb of the seller;
 - A. If the licensee uses the electronic reporting method, the following procedures will comply with the requirement for a thumb impression:
 1. A finger print scanner impression of the thumb print provided in an electronic file with the daily reporting titled by name and date.
 2. A thumb print impression on a receipt signed by seller, filed by date, and retained for three (3) years, and kept in such a manner as it may be retrieved by law enforcement upon request.
- (6) The date and time that the licensee purchased or received the article or material and the name of the individual employee or operator of the facility who conducted the transaction;
- (7) A declaration of whether the total amount paid by the licensee for the articles or material purchased or received was five hundred dollars (\$500.00) or more.

(b) Every retail transaction shall be numbered consecutively.

(c) Every retail transaction shall have a digital image taken with date and time stamp of such quality as approved by the Chief of Police. The tapes or pictures must be maintained for 90 days.

(d) The licensee shall prepare a daily report listing all retail transactions occurring during the preceding day and containing all the information described in this section for each retail transaction. Before 12:00 noon each day, the licensee shall deliver a copy of the

licensee's daily report to the chief of police or his or her designee. Delivery of the daily report shall be by means of a secured electronic transmission, a legible facsimile transmission, or the delivery of a paper copy or physical electronic medium containing the report. Licensees submitting a physical electronic medium or data from a computerized tracking system must submit the data in a format approved by the chief of police or his or her designee. Timing of delivery of the report may be adjusted by a written protocol of the Chief of Police.

(e) The records described in this section shall be retained by the licensee for three years following the date of the retail transaction.

(f) Aluminum cans are exempt from reporting.

(Ord. 42-07. Passed 8-27-07.)

781.08 ADDITIONAL REQUIREMENTS FOR MOTOR VEHICLES AND PARTS; EXEMPTION.

(a) In addition to all other requirements of this chapter, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle shall also comply with all the following requirements:

(1) No motor vehicle shall be purchased or received unless at the time of the transaction the seller has provided both a valid certificate of title showing that the seller is the owner of that motor vehicle and a current and valid driver's license, military identification, or other government-issued identification card issued to the seller bearing a photograph of the seller.

(2) A scrap metal facility that purchases or receives a motor vehicle from the owner described on the certificate of title shall within ten days mark the certificate "TO BE CANCELED," keep a record of the cancellation, and forward the certificate to the clerk of the court who issued it in accordance with Section 4738.16(B) of the Ohio Revised Code. The scrap metal facility shall keep the record of the cancellation for three years after creating the record. The record shall include a copy of the canceled title.

(b) In addition to all other requirements of this chapter, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle part bearing a vehicle identification number or derivative thereof shall also record, as part of the record of the retail transaction, that part's vehicle identification number or derivative thereof.

(c) This chapter shall not apply to any operations person licensed by the state of Ohio as a motor vehicle salvage dealer under Ohio Revised Code Chapter 4738. Non auto salvage derived scrap operations shall be subject to regulation as a scrap metal facility.

(Ord. 42-07. Passed 8-27-07.)

781.09 RETENTION OF ARTICLES; PERMISSION OF POLICE FOR DISPOSITION; RECOVERY OF STOLEN GOODS BY TRUE OWNER.

(a) Except as otherwise provided in this section, a scrap metal facility licensee shall retain any and all scrap metal articles or material composed of copper, brass, aluminum or stainless steel that have been purchased or received by the licensee in a retail transaction, in the condition the article or material was received, until the expiration of at least seven (7) days after the date of purchase or receipt. This required seven (7) days retention period does not apply to: aluminum cans; motor vehicles; scrap metal articles or material other than copper, brass, aluminum or stainless steel; or, any other scrap metal articles or material for which the licensee has received written permission for disposition from the chief of police or his or her designee.

(b) For any article or material received for which a retention period is required under this section, the licensee shall attach a tag to the article or material in some visible and convenient place that identifies the date and transaction number applicable to that article or material, which tag shall remain attached until disposition of the article or material.

(c) If the Chief of Police or his or her designee has probable cause to believe that an article or material is stolen property, he shall notify the licensee in writing. Upon receipt of such a notice, the licensee shall retain the article or material until the expiration of thirty (30) days after receipt of the notice, unless the chief or his or her designee notifies the licensee in writing that retention of the article or material is no longer required. Upon expiration of the thirty (30) day period, absent renewal thereof by the chief or his or her designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

(d) If the Chief of Police or his or her designee receives a report that property has been stolen and determines the identity of the true owner of the allegedly stolen property that is in the possession of a licensee, and informs the licensee of the true owner's identity, the licensee shall hold the allegedly stolen property for at least thirty (30) days from the date of notification by the chief of police or his or her designee to enable the true owner to pick up that property from the licensee. If a licensee fails or refuses to return the allegedly stolen property that has been held as required by this division, the true owner may recover the property from the licensee in an action at law. Upon expiration of the thirty (30) day period, absent renewal thereof by the chief or his or her designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

(e) If the Chief of Police or his or her designee determines that there is a need for investigative purposes to tag and retain certain articles or materials received from a specified person, the chief of police or his or her designee shall notify the licensee in writing of such need and the licensee shall tag and retain said material for three (3) days. Upon expiration of the three (3) day period, absent renewal thereof by the chief or his or her designee, the scrap article or material may be immediately recycled. This tagging shall occur regardless of whether or not the licensee reports electronically.

(f) A scrap metal facility licensee shall be exempt from the retention requirements contained in division (a) of this section provided:

(1) The licensee utilizes the automated electronic reporting system approved by the Chief of Police for all retail transactions involving scrap metal for which a retention period would otherwise be required under this section; and

(2) All required data fields in the transaction report, as determined by the director or his designee, are completed and transmitted by the licensee to the approved reporting system.

(3) The licensee takes a digital image with date and time of such quality as is approved by the Chief of Police. The tapes or pictures must be maintained for 90 days showing date and time.

(Ord. 42-07. Passed 8-27-07.)

781.10 PURCHASE OF CERTAIN ARTICLES RESTRICTED.

(a) No scrap metal facility licensee shall purchase or receive any restricted article in a retail transaction unless at the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the article, or is an employee, agent, or other person authorized to sell the article on behalf of the owner.

(b) For purposes of this section, "restricted article" means all of the following:

beer kegs; shopping carts; electric or communication cable or wire and their electronic components owned by a public utility, electric or communication company; grave markers, sculptures, plaques, and vases, the appearance of which suggest that the articles have been obtained from a cemetery; guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; manhole covers, water meter covers, and other similar types of utility access covers; traffic directional and control signs and light signals; metal marked with the name of a political subdivision of the state, and other articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state; historical markers.

(c) No scrap metal facility licensee shall purchase or receive any consumer appliance in a retail transaction unless:

(1) At the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the consumer appliance, or is an employee, agent, or other person authorized to sell the consumer appliance on behalf of the owner; or

(2) No more than two (2) consumer appliances are purchased or received per seller per day.

(d) For purposes of this section, "consumer appliance" means all of the following:

air conditioners; hot water heaters; furnaces; refrigerators; freezers; stoves; clothes washers or dryers.

(e) No scrap metal facility licensee shall purchase or receive any catalytic converter in a retail transaction unless:

(1) At the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the catalytic converter, or is an employee, agent, or other person authorized to sell the catalytic converter on behalf of the owner; or

(2) No more than one (1) catalytic converter is purchased or received per seller per day.

(Ord. 42-07. Passed 8-27-07.)

781.11 PURCHASES PROHIBITED.

No licensee shall purchase or receive any scrap metal article or material from any person under the age of eighteen (18), or from any person identified in writing to the licensee by the chief of police as a known or suspected thief or receiver of stolen property, or from any person failing or refusing to provide to the licensee all the identifying information required from the seller under Section 781.07(a). Aluminum cans may be purchased from a minor without identification or reporting.

(Ord. 42-07. Passed 8-27-07.)

781.12 AUTHORITY TO CONDUCT INSPECTIONS.

(a) Upon display of the proper credentials, any law enforcement officer or designee of the Service-Safety Director authorized to enforce this chapter shall be granted entry to a scrap metal facility at any time the facility is open for business for the purpose of conducting an inspection to ensure compliance with this chapter. For purposes of such inspection, an inspecting official shall be granted full and immediate access by the licensee to the building, grounds and records of the licensee.

(b) No person shall deny access to, or in any way impede, or any law enforcement officer authorized to enforce this chapter conducting an inspection of a licensed scrap metal facility, or any portion thereof, or fail to cooperate with an inspecting official.

(Ord. 42-07. Passed 8-27-07.)

781.13 APPEALS.

The refusal to issue or renew, and the suspension or revocation of, a scrap metal facility license shall be pursuant to the provisions of this chapter, and the appeal of any such order shall be pursuant to the provisions of Chapter 1303 of the Lancaster Codified Ordinances.

(Ord. 42-07. Passed 8-27-07.)

781.14 SEVERABILITY.

In the event any section or provision of this chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional. (Ord. 42-07. Passed 8-27-07.)

781.99 PENALTY.

Whoever violates any section of this chapter is guilty of a misdemeanor of the first degree subject to the costs of prosecution. Each day that any person continues to violate this chapter shall constitute a separate and complete offense.

(Ord. 42-07. Passed 8-27-07.)

CHAPTER 785

Itinerant Merchants

785.01 Defined.

785.02 Registration required.

785.03 Registration information.

785.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R. C. 715.61 et seq.

Transient dealers - see Ohio R. C. 715.64

Home solicitation sales - see Ohio R. C. 1345.21 et seq.

Charitable solicitations - see Ohio R.C. Ch. 1716

Secondhand dealers - see BUS. REG. Ch. 781

785.01 DEFINED.

For the purpose of this chapter any merchant engaging or intending to engage in business as a merchant in the City for a period of time not exceeding 100 days shall be considered as an itinerant merchant.

(Ord. 35-84. Passed 9-10-84.)

785.02 REGISTRATION REQUIRED.

It shall be unlawful to do business in the City of Lancaster as an itinerant merchant without having first registered as herein provided.

(Ord. 35-84. Passed 9-10-84.)

785.03 REGISTRATION INFORMATION.

Registrations to do business in the City shall be made in writing to the Mayor and shall disclose all information which the Mayor determines necessary in order to assure compliance with the City income tax ordinance.

(Ord. 35-84. Passed 9-10-84.)

785.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a minor misdemeanor on first offense. Additional violations within a two year period shall be a misdemeanor of the fourth degree.

(Ord. 35-84. Passed 9-10-84.)

CHAPTER 791

Vehicle Racing

- 791.01 Racing Commission composition and term.**
- 791.02 Supervision; permit fee.**
- 791.03 Rules subject to Council approval.**
- 791.99 Penalty.**

CROSS REFERENCES

- Street racing - see TRAF. 333.07
- Vehicle gas or noise - see TRAF. 337.20
- Emergency vehicle required - see GEN. OFF. 521.08

791.01 RACING COMMISSION COMPOSITION AND TERM.

There is hereby created a Motor Vehicle Racing Commission to govern and regulate stock car and motorcycle races and other motor vehicle races. Such Commission shall consist of five residents of the City whose members shall serve during the term of the Mayor appointing them.

(Ord. 7-85. Passed 2-25-85.)

791.02 SUPERVISION; PERMIT FEE.

The Motor Vehicle Racing Commission shall regulate, supervise and govern all stock car and motorcycle races and other motor vehicle races in the City. It shall issue permits for all races or a racing season, for which it shall charge a fee of five percent (5%) of the gross receipts.

(Ord. 7-85. Passed 2-25-85.)

791.03 RULES SUBJECT TO COUNCIL APPROVAL.

The Motor Vehicle Racing Commission shall have the authority to adopt rules and regulations governing the hours, noise level, safety conditions and all other conditions incident to motor vehicle racing. Such rules and regulations shall not be effective until approved by Council.

(Ord. 7-85. Passed 2-25-85.)

791.99 PENALTY.

Whoever violates any provision of this chapter, including rules and regulations lawfully promulgated pursuant thereto shall be guilty of a misdemeanor of the fourth degree.

(Ord. 7-85. Passed 2-25-85.)

CHAPTER 795

Yard Sales

- 795.01 Intent and purpose.**
- 795.02 Definitions.**
- 795.03 Permitted goods.**
- 795.04 Permitted garage sales.**
- 795.05 Hours of operation.**
- 795.06 Exceptions.**
- 795.07 Advertising; signs.**
- 795.08 Parking.**
- 795.09 Exemptions.**
- 795.99 Penalty.**

795.01 INTENT AND PURPOSE.

- (a) The provisions contained in this chapter are intended to prohibit the infringement of any businesses in any established residential

areas by regulating the term and frequency of garage sales, so as not to disturb or disrupt the residential environment of the area.

(b) The provisions of this chapter do not seek control of sales by individuals selling a few of their household or personal items.

(c) The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the public health, safety and welfare of the City's residents.

(Ord. 60-97. Passed 10-13-97.)

795.02 DEFINITIONS.

For the purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(a) "Garage sale" includes all general sales, open to the public, conducted from or on a residential premises in any residential zone, as defined by the zoning ordinance, for the purpose of disposing of personal property including but not limited to, all sales entitled "garage", "lawn", "yard", "attic", "porch", "room", "backyard", "patio", "flea market", "rummage", "basement", "barn" or "clothesline" sale. This definition shall not include a situation where no more than five specific items are held out for sale and all advertisement of such sale specifically names those items to be sold.

(b) "Personal property" means property which is owned, utilized and maintained by an individual or members of his or her residence and acquired in the normal course of living in or maintaining a residence. It does not include merchandise which was purchased for resale or obtained on consignment.

(Ord. 60-97. Passed 10-13-97.)

795.03 PERMITTED GOODS.

No person shall sell or offer for sale, under authority granted by this chapter, property other than personal property.

(Ord. 60-97. Passed 10-13-97.)

795.04 PERMITTED GARAGE SALES.

Each residence is permitted to have two garage sales per calendar year with each garage sale lasting no more than three consecutive days.

(Ord. 60-97. Passed 10-13-97.)

795.05 HOURS OF OPERATION.

Such garage sales shall be limited in time to no more than the daylight hours of three consecutive days.

(Ord. 60-97. Passed 10-13-98.)

795.06 EXCEPTIONS.

A third garage sale shall be permitted in a calendar year only with prior written approval by the Service-Safety Director or his designee.

(Ord. 60-97. Passed 10-13-97.)

795.07 ADVERTISING; SIGNS.

(a) Only the following specified signs may be displayed in relation to a pending garage sale:

(1) One sign permitted. One sign of not more than nine square feet shall be permitted to be displayed on the property of the residence where the garage sale is being conducted.

(2) No lighted signs. No lighted signs shall be used.

(b) No signs shall be placed on the public right of way or on property other than where the sale is being conducted.

(c) Permitted signs shall be displayed only during the sale and shall promptly be removed after the sale.

(Ord. 60-97. Passed 10-13-97.)

795.08 PARKING.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the Police Division may enforce such temporary controls to alleviate any special hazards and/or congestion created by any garage sale.

(Ord. 60-97. Passed 10-13-97.)

795.09 EXEMPTIONS.

The provisions of this chapter shall not apply to or affect the following:

(a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction.

(b) Persons acting in accordance with their powers and duties as public officials.

(c) Any sale conducted by any merchant or mercantile or other business establishment from or at a place of business where such sale would be permitted by the zoning regulations of the City or under the protection of the nonconforming use section thereof or any other sale conducted by a manufacturer, dealer or vendor and which sale would be conducted from properly zoned premises and not otherwise prohibited in other ordinances.

(d) Any bona-fide charitable, educational, cultural or governmental institution or organization when the proceeds from the sale are used directly for the institution's or organization's charitable purposes and the goods or articles are not sold on a consignment basis.

(e) Any auction conducted by a certified auctioneer.

(f) Any person selling or advertising for sale an item or items of personal property which is specifically named or described in the advertisement and which separate items do not exceed five in number.

(Ord. 60-97. Passed 10-13-97.)

795.99 PENALTY.

Whoever violates or fails to comply with any provision of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 60-97. Passed 10-13-97.)

CHAPTER 797

Video Service Providers

797.01 Fee.

797.01 FEE.

(a) Council hereby establishes a VSP Fee that is calculated by applying a VSP Fee Percentage of five percent (5%) to the video service provider’s gross revenues as defined in Section 1332.32(B) of the Video Law. For purposes of calculating the VSP Fee, the provider’s gross revenues shall include advertising revenues in accordance with Section 1332.23(B)(2)(g) of the Video Law. The VSP Fee Percentage and Video Law gross revenues definition, as modified in this Ordinance, shall apply equally to all video service providers and cable television operators providing video service in the City.

(b) The VSP Fee shall be paid by each video service provider providing service in the City on a quarterly basis but not sooner than forty-five (45) days nor later than sixty (60) days after the end of the each calendar quarter.

(c) The Mayor is authorized and directed to provide any video service provider with notice of the VSP Fee Percentage and gross revenues definition as determined by this Council above, which notice shall be given by certified mail, upon receipt of notice from such video service provider that it will begin providing video service in the City pursuant to a state-issued video service authorization.

(Ord. 50-08. Passed 11-10-08.)

CODIFIED ORDINANCES OF LANCASTER

PART NINE - STREETS, UTILITIES AND PUBLIC SERVICES CODE

TITLE ONE - Streets and Sidewalks

Chap. 901. Management, Administration, and Control Ordinance Governing the Use of the Public Rights-of-Way.

Chap. 902. Supplemental Right-of-Way Controls.

Chap. 903. Sidewalks.

Chap. 905. Curbs and Driveways.

TITLE THREE - Public Utilities

Chap. 910. Potable Water Supply Well Code.

Chap. 911. Water.

Chap. 912. Use of Public and Private Sewers.

Chap. 913. Drainage Generally.

Chap. 914. Trucked Wastes.

Chap. 915. Sewer Rates.

Chap. 916. Wastewater Pretreatment.

Chap. 917. Natural Gas Service.

Chap. 918. Storm Water Utility Program.

Chap. 919. Storm Water Sediment and Soil Erosion Protection.

Chap. 920. Electricity.

Chap. 921. Utilities Installation in Developments.

TITLE FIVE - Other Public Services.

Chap. 931. Parks.

Chap. 933. Cemeteries.

Chap. 935. Lancaster-Fairfield County Joint Hospital.

Chap. 937. Waste Removal.

Chap. 939. Trees.

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Chap. 905. Curbs and Driveways.

CHAPTER 901

Management, Administration, and Control Ordinance Governing the Use of the Public Rights-of-Way

901.01 Findings and purpose.

901.02 Scope.

901.03 Definitions.

901.04 Rights-of-Way administration.

901.05 Certificate of Registration applications.

901.06 Reporting requirements.

901.07 Compensation for Certificate of Registration.

901.08 Oversight and regulations.

901.09 Registration term.

- 901.10 Small cell facilities and wireless support structures.
- 901.11 Indemnity.
- 901.12 Civil forfeitures.
- 901.13 Termination of Certificate of Registration.
- 901.14 Unauthorized use of public rights-of-way.
- 901.15 Assignment or transfer of ownership and renewal.
- 901.16 Construction permits.
- 901.17 Construction, relocation and restoration.
- 901.18 Minor maintenance permit.
- 901.19 Enforcement of permit obligation.
- 901.20 Performance security.
- 901.21 Indemnification and liability.
- 901.22 General provisions.
- 901.99 Penalty.

CROSS REFERENCES

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
 Openings by the City - see Ohio R.C. 723.02
 Surface treatment - see Ohio R.C. 723.23, 723.31
 Excavation liability - see Ohio R. C. 723.49 et seq.
 Compulsory service connections - see Ohio R. C. 729.06, 743.23, 743.37
 Digging, excavating and piling earth on streets - see Ohio R. C. 5589.10
 Littering by contractors - see GEN. OFF. 553.05
 Subdivision improvements - see P. & Z. Ch. 1109
 Permit to obstruct with building materials - see BLDG. 1311.02 et seq.

901.01 FINDINGS AND PURPOSE.

- (a) The City of Lancaster, Ohio (the "City") is concerned with the use of all Rights-of-Way in the City as such Rights-of-Way are valuable and limited resources.
- (b) Changes in the public utilities and communications industries have increased the demand and need for access to Rights-of-Way and placement of facilities and structures therein.
- (c) It is necessary to comprehensively plan and manage access to, and structures and facilities in, the Rights-of-Way and provide innovative and economic solutions to efficiently and economically utilize limited Rights-of-Way capacity.
- (d) The City has authority under the laws and Constitution of the State of Ohio, including, but not limited to Article XVIII Section 3 and Section 4 to regulate the public and private entities which use the Right-of-Way. (Ord. 13-19. Passed 9-9-19.)

901.02 SCOPE.

The provisions of this chapter shall apply to all users of the Rights-of-Way as provided herein. (Ord. 13-19. Passed 9-9-19.)

901.03 DEFINITIONS.

- (a) For the purposes of this chapter, the following terms, words, phrases, and their derivations shall have the meanings set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "sections" are, unless otherwise specified, references to sections in this chapter. Defined terms remain defined terms whether or not capitalized.
 - (1) "AFFILIATE." Each Person who falls into one or more of the following categories: (i) each Person having, directly or indirectly, a controlling interest in a Provider, (ii) each Person in which a Provider has, directly or indirectly a controlling interest, (iii) each officer, director, general partner, limited partner or shareholder holding an interest of fifteen percent (15%) or more, joint venturer or joint venture partner, of a Provider, and (iv) each Person, directly or indirectly, controlling, controlled by, or under common control with the Provider; provided that Affiliate shall in no event mean any limited partner or shareholder holding an interest of less than fifteen percent (15%) of such Provider, or any creditor of such Provider solely by virtue of its status as a creditor and which is not otherwise an Affiliate by reason of owning a controlling interest in, being owned by, or being under common ownership, common management, or common control with, such Provider.
 - (2) "ANTENNA." Communications equipment that transmits or receives radio frequency signals in the provision of wireless service.
 - (3) "APPLICANT." Any Person who seeks to obtain a Certificate of Registration and/or a Permit.
 - (4) "APPLICATION." The process by which an Applicant submits a request to obtain Certificate of Registration and/or a Permit.
 - (5) "APPLICATION FEE." The fee paid to the City for application for a Certificate of Registration pursuant to Section 901.05(a).
 - (6) "BANKRUPTCY CODE." The United States Bankruptcy Code of 1978, as amended including regulations promulgated by Title 11 of the United States Code.
 - (7) "BEST EFFORT(S)." The best reasonable efforts under the circumstances, taking into consideration, among other appropriate matters, all applicable laws, regulations, safety, engineering and operational codes, available technology, human resources, and cost.
 - (8) "CABLE FRANCHISE." Has the same meaning as "franchise" in the Cable Communications Policy Act of 1984, 98 Stat. 2779, 47 U.S.C. 522.
 - (9) "CABLE OPERATOR." Has the same meaning as in the Cable Communications Policy Act of 1984, 98 Stat. 2779, 47 U.S.C. 522.
 - (10) "CABLE SERVICE." Has the same meaning as in the Cable Communications Policy Act of 1984, 98 Stat. 2779, 47 U.S.C. 522.
 - (11) "CERTIFICATE OF REGISTRATION." The document issued to each Provider and its unique System to occupy the Rights-of-Way within the City that outlines the terms of that occupancy of the Rights-of-Way.
 - (12) "CITY." The City of Lancaster, Ohio.
 - (13) "CITY ENGINEER." The duly appointed City Engineer of the City of Lancaster.
 - (14) "CODE (or C.O)." The Codified Ordinances of the City of Lancaster, Ohio.
 - (15) "CO-LOCATION." To install, mount, maintain, modify, operate, or replace Wireless Facilities on a Wireless Support Structure.
 - (16) "CONSTRUCT." Shall mean, but not be limited to, digging, boring, tunneling, trenching, excavating, obstructing, installing wires, installing conduit, installing pipes, installing transmission lines, installing poles, installing signs or

installing Facilities, other than landscaping, ornamental plantings in, on, above, within, over, below, under or through any part of the Rights-of-Way. "Construct" shall also include the act of opening and/or cutting into the surface of any paved, unimproved, or improved surface that is any part of the right-of-way.

- (17) "CONSTRUCTION." Shall mean, but not be limited to, the act or process of digging, boring, tunneling, trenching, excavating, obstructing, installing wires, installing conduit, installing pipes, installing transmission lines, installing poles, installing signs or installing Facilities, other than landscaping, ornamental plantings in, on, above, within, over, below, under or through any part of the Rights-of-Way. "Construction" shall also include the act of opening and/or cutting into the surface of any paved, unimproved or improved surface that is part of the right-of-way.
- (18) "CONSTRUCTION BOND." A bond posted to ensure proper and complete Construction and/or repair of a Facility and the affected Rights-of-Way pursuant to a Permit.
- (19) "CONSTRUCTION AND MAJOR MAINTENANCE PLAN." A written plan including maps of the expected location, design, other related equipment and Facilities of a Provider that describes in full the Construction intended to be accomplished by the Provider in the Rights-of-Way over the next calendar year.
- (20) "CONSTRUCTION PERMIT." The Permit specified in Section 901.18 et seq. which must be obtained before a Person may Construct in, locate in, occupy, maintain, move or remove Facilities from, in or on a Rights-of-Way.
- (21) "COUNTY." Fairfield County, Ohio. County specifically excludes any and all contractors, agents or other Persons acting on behalf of said County.
- (22) "DECORATIVE POLE." A pole, arch, or structure other than a street light pole placed in the public way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for the following (i) electric lighting; (ii) specifically designed informational or directional signage; or (iii) temporary holiday or special event attachments.
- (23) "DESIGN GUIDELINES." Detailed guidelines and specifications promulgated by the City in accordance with O.R.C. Chapter 4939 for the design and installation of Small Cell Facilities and Wireless Support Structures in the Right-of-Way.
- (24) "EMERGENCY." A condition that poses a clear and immediate danger to life or health, or of a significant loss of property.
- (25) "FACILITY(IES)." Any tangible thing located in, on, under, or above, any Rights-of-Way within the City, and includes Wireless Facilities and Wireless Support Structures; but shall not include boulevard plantings, ornamental plantings or gardens planted or maintained in the Rights-of-Way between a Person's property and the street edge of pavement.
- (26) "FCC." The Federal Communications Commission, or any successor thereto.
- (27) "FERC." The Federal Energy Regulatory Commission as created and amended in accordance with the Federal Power Act, 16 U.S.C. 792, or its statutory successor.
- (28) "FULL." Right-of-Way that is unable to accommodate any additional Facilities as determined by the City Engineer in accordance with the principles of public health, safety and welfare, following a reasonable analysis taking into consideration all applicable Law; commonly accepted industry standards; and routine engineering practices.
- (29) "HEIGHT." The distance measured from the pre-existing grade level to the highest point on the structure, including the Small Cell Facility, even if said highest point is an Antenna or lightening protection device.
- (30) "HISTORIC DISTRICT." A building, property, or site, or group of buildings, properties, or sites that are either of the following:
 - A. Listed in the national register for historic places or formally determined eligible for listing by the keeper of the national register, the individual who has been delegated the authority by the federal agency to list properties and determine their eligibility for the national register, in accordance with Section VI.D.1.a.i-v of the nationwide programmatic agreement codified at 47 C.F.R. part 1, Appendix C.
 - B. A registered historic district as defined in O.R.C. Section 149.311.
- (31) "INSPECTOR." Any Person authorized by the City Engineer to carry out inspections related to the provisions of this chapter.
- (32) "LAW." Any local, state and/or federal legislative, judicial or administrative order, certificate, decision, statute, constitution, ordinance, resolution, regulation, rule, tariff or other requirement in effect either at the time of execution of this Chapter or at any time during the location of, and/or while a Provider's Facilities are located in the public Rights of Way.
- (33) "LAW DIRECTOR." The duly elected law director of the City of Lancaster, Ohio or his/ her designee.
- (34) "MICRO WIRELESS PERMIT." A Permit, which must be obtained before a Person can Construct, modify, collocate, or replace a Small Cell Facility or Wireless Support Structure, as set forth in Section 901.10, in or on the Rights-of-Way.
- (35) "MINOR MAINTENANCE PERMIT." A Permit, which must be obtained before a Person can perform minor maintenance, as set forth in Section 901.18, in or on the Rights-of- Way.
- (36) "MUNICIPAL ARBORIST." The duly appointed municipal arborist of the City of Lancaster, Ohio who shall be, pursuant to Section 939.03, the Superintendent of the Parks Department.
- (37) "OHIO MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES (OMUTCD)." The uniform system of traffic control devices promulgated by the Ohio Department of Transportation pursuant to O.R.C. Section 4511.09.
- (38) "OPERATOR." A Wireless Service Provider, Cable Operator, or a Video Service Provider that operates a Small Cell Facility and provides Wireless Service. For purposes of this chapter, "Operator" includes a Wireless Service provider, Cable Operator, or a Video Service Provider that provides information services as defined in the "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), as services that are fixed in nature or use unlicensed spectrum.
- (39) "O.R.C." The Revised Code of the State of Ohio.
- (40) "OHIO UTILITY PROTECTION SERVICE." The utility protection service as defined in O.R.C. Section 153.64 and/or Section 3781.26 or a statutory successor thereto.
- (41) "OPEN VIDEO SERVICE." Any video programming Services provided to any Person through the use of Rights-of-Way, which Person is certified by the FCC to operate an Open Video System pursuant to Section 651 et seq. of the Telecommunications Act of 1996 (codified at 47 U.S.C. Title VI, Part V), regardless of the facilities used.
- (42) "PERMIT." A Construction Permit, Micro Wireless Permit, or a Minor Maintenance Permit as the context requires.
- (43) "PERMIT COST." All direct, incidental and indirect costs actually incurred or realized by the City for Permit issuance, Permit oversight and pavement degradation resulting from Construction activity.
- (44) "PERMIT FEE." Money paid to the City for a Permit.
- (45) "PERMITTEE." Any Person to whom a Permit has been granted by the City and not revoked.
- (46) "PERSON." Any natural person or corporate entity, business association or other business entity including, but not limited to, a firm, a partnership, a joint venture, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
- (47) "PROVIDER." A Person who owns or operates a System and has a valid Certificate of Registration. The City, County, Small Cell Facility operators, and Cable Operators operating pursuant to a valid Cable Franchise, or Video Service Provider operating pursuant to a valid Video Service Authorization shall also be considered Providers.

- (48) “PUBLIC UTILITY (or UTILITY).” Any company described in Section 4905.03 of the O.R.C., except in divisions (B) and (I) of that Section, which company is also a “Public Utility” as defined in O.R.C. Section 4905.02 and regulated by the PUCO; and includes any electric supplier as defined in O.R.C. Section 4933.81.
- (49) “PUCO.” The Public Utilities Commission of Ohio as defined in O.R.C. Section 4901.02.
- (50) “REGISTRATION MAINTENANCE FEE.” The money paid to the City to maintain a Certificate of Registration and compensate the City for actual costs incurred by the City in the management, administration and control of the Rights-of-Way of the City, and which are not reasonably recoverable by the City through construction permit fees or other approved recovery mechanisms.
- (51) “REMOVAL BOND.” A bond posted to ensure the availability of sufficient funds to remove a Provider’s Facilities upon abandonment or disuse, or discontinuance of a Provider’s use or occupation of the Rights-of-Way.
- (52) “RESTORATION.” The process and the resultant effects by which a Rights-of-Way is returned to a condition as good as or better than its condition immediately prior to the Construction. “Restoration” shall occur in accordance with the Rules and Regulations as may be enacted and amended from time to time by the City.
- (53) “RIGHT(S) OF WAY.” The surface of, and the space within, through on, across, above or below, the paved or unpaved portion of any public street, public road, public highway, public freeway, public lane, public path, public alley, public court, public sidewalk, public boulevard, public parkway, public drive, public easement, and any other land dedicated or otherwise designated for a compatible public use, which, on or after July 2, 2002, is owned or controlled by the City. “Right-of-Way” excludes a private easement.
- (54) “RIGHT(S) OF WAY COST.” All direct, incidental and indirect costs borne by the City for the management and administration of the Rights-of-Way and this chapter.
- (55) “RULES AND REGULATIONS.” Any rules or regulations adopted by the City Engineer pursuant to Section 901.08(e) of this chapter.
- (56) “SERVICE(S).” The offering of any service or utility for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, or alternatively, the provision (for a fee or otherwise) of any service or utility between two or more points for a proprietary purpose to a class of users other than the general public that in the opinion of the City Engineer constitutes a service.
- (57) “SERVICE-SAFETY DIRECTOR.” The duly appointed Service-Safety Director of the City of Lancaster, Ohio or his/ her designee.
- (58) “SMALL CELL FACILITY.” A wireless facility that meets both of the following requirements:
- A. Each antenna is located inside an enclosure of not more than six cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six cubic feet in volume.
 - B. All other wireless equipment associated with the facility is cumulatively not more than twenty-eight cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- (59) “STATE.” The State of Ohio.
- (60) “SUPERINTENDENT OF THE PARKS DEPARTMENT.” The duly appointed Superintendent of the Parks Department of the City of Lancaster, Ohio.
- (61) “SUPPLEMENTARY APPLICATION.” Any application made to Construct on or in more of the Rights-of-Way than previously allowed, to extend a Permit that had already been issued, or to otherwise modify or amend the specifics of a Permit Application.
- (62) “SYSTEM.” Any System of conduit, cables, ducts, pipes, wires, lines, towers, antennas, wave guides, fiber optics, microwave, laser beams and any associated converters, equipment or Facilities or Utilities designed and constructed for the purpose of producing, receiving, amplifying, delivering or distributing Services within the City. A System shall specifically include, but not necessarily be limited to: electric distribution and/or transmission systems, natural or artificial gas distribution and/or transmission systems, water distribution systems, storm sewer systems, sanitary sewer systems, cable television systems, video service networks, telecommunications systems (whether voice, video, data, or other), fiber optic systems, and wireless communications systems.
- (63) “SYSTEM REPRESENTATIVE.” The specifically identified agent/employee of a Provider who is authorized to direct field activities of that Provider and serve as official notice agent for System-related information. Any such System Representative shall be required to be available at all times to receive notice of and immediately direct response to System related emergencies or situations.
- (64) “TRENCHLESS TECHNOLOGY.” Shall mean, but not be limited to, the use of directional boring, horizontal drilling, micro-tunneling and other techniques in the Construction of underground portions of Facilities which result in the least amount of disruption and damage to Rights-of-Way as possible.
- (65) “UNDERGROUND FACILITIES.” All lines, cables, conduits, pipes, posts, tanks, vaults and any other Facilities which are located wholly or partially underneath Rights-of-Way.
- (66) “UNUSED FACILITY(IES).” Facilities located in the Rights-of-Way which have remained unused for twelve (12) months and for which the Provider is unable to provide the City with a credible plan detailing the procedure by which the Provider intends to begin actively using such Facilities within the next twelve (12) months, or that the Provider has a potential purchaser or user of the Facilities who will be actively using the Facilities within the next twelve (12) months, or that the availability of such Facilities is required by the Provider to adequately and efficiently operate its System.
- (67) “UTILITY CORRIDOR(S).” Those specific areas of the Rights-of-Way designated as such by the City Engineer pursuant to this chapter.
- (68) “VIDEO SERVICE.” Means the same as “video service” as defined in O.R.C. Section 1332.21(J).
- (69) “VIDEO SERVICE AUTHORIZATION (VSA).” A “video service authorization” as issued to a Video Service Provider by the Director of the Ohio Department of Commerce in accordance with O.R.C. Section 1332.24(A)(1).
- (70) “VIDEO SERVICE NETWORK.” Means the same as “video service network” in O.R.C. Section 1332.21(L).
- (71) “VIDEO SERVICE PROVIDER (VSP).” Means the same as “video service provider” in O.R.C. Section 1332.21(M).
- (72) “WIRELESS FACILITY.” An antenna, accessory equipment, distributed antenna system, small cell facility, micro wireless facility, or other device or equipment used to provide Wireless Service, including such devices and equipment as provided for in O.R.C. Chapter 4939.
- (73) “WIRELESS SERVICE.” Any services using licensed or unlicensed wireless spectrum, whether at a fixed location or mobile, provided to the public using Wireless Facilities.
- (74) “WIRELESS SUPPORT STRUCTURE.” A pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, a fifteen-foot or taller sign pole, or utility pole capable of supporting Small Cell Facilities. As used in this chapter, “Wireless Support Structure” excludes all of the following:
- A. A utility pole or other facility owned or operated by a municipal electric utility;
 - B. A utility pole or other facility used to supply traction power to public transit systems including railways, trams, streetcars, and

901.04 RIGHTS-OF-WAY ADMINISTRATION.

- (a) Administration. The City Engineer shall be the principal City official responsible for the administration of this chapter, except as otherwise provided herein. The City Engineer may delegate any or all of the duties hereunder to any appropriate designee.
- (b) Rights-of-Way Occupancy. Each Person who occupies, uses or seeks to occupy or use the Rights-of-Way to operate a System located in the Rights-of-Way, or who has, or seeks to have, a System located in any Rights-of-Way, shall apply for and obtain a Certificate of Registration pursuant to this chapter. Any Person owning, operating or maintaining a System in the Rights-of-Way without a Certificate of Registration, including Persons operating under a permit, license or franchise issued by the City prior to the effective date of this chapter shall apply for and obtain a Certificate of Registration from the City within ninety (90) days of the effective date of this chapter, unless exempted by Section 901.04(d). The ninety (90) day requirement will be extended if, due to an inability on the City's behalf, all Persons obtaining or wishing to obtain a Certificate of Registration are not accommodated within the ninety (90) day period. The application for a Certificate of Registration will consist of providing the information set forth in Section 901.05(b) and as reasonably required by the City.
- (c) No Construction Without a Certificate of Registration. Following the effective date of this chapter, no Person shall Construct or perform any work on or in, or use any System or any part thereof located on or in any Rights-of-Way without first obtaining a Certificate of Registration. Whoever violates this section is guilty of a misdemeanor of the first (1st) degree as provided for in Section 901.99.
- (d) Exceptions.
- (1) The following entities are not obligated to obtain a Certificate of Registration: the City and resellers of Services that do not own any System or Facilities in the Rights-of-Way.
 - (2) The following entities are required to participate in the Certificate of Registration process, but shall be exempt from the financial obligations of the Application Fee required by Section 901.05(a) and the Registration Maintenance Fee required by Section 901.07(a): a county; Cable Operators for the purpose of providing only Cable Service and operating pursuant to a valid Cable Franchise; a Video Service Provider for the purpose of providing only video service and operating pursuant to a valid video service authorization issued in accordance with O.R.C. Section 1332.24; and any entity which possesses an existing and valid non-terminable, non-amendable or non-revocable written privilege or authority previously granted by the City for the use or occupancy of the Right-of-Way, whereby such exemption shall be limited to a specific term and limited conditions or obligations as previously granted. In addition, cable operators shall be exempt from any requirement of the certificate of registration process that is in direct conflict with the requirements of, and/or specifically exempted by, a valid current and valid cable franchise with the city.
- (e) Systems in Place Without a Certificate of Registration. Any system or part of a system found in Rights-of-Way for which a Certificate of Registration has not been obtained or is not otherwise exempted under Section 901.04(d) shall be deemed to be a nuisance and an unauthorized use of the Rights-of-Way. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to abating the nuisance; taking possession of the facilities and/or noncomplying portion of such system; and/or prosecuting the violator.
- (f) Future Uses. Subject to applicable law, in allowing Providers and Permittees to place Facilities in the Rights-of-Way, the City shall not be liable for any damages caused thereby to any Provider's Facilities that are already in place or that shall be placed in the Rights-of-Way. No Provider is entitled to rely on the provisions of this chapter as creating a special duty to any Provider.
- (g) Discontinuance of Operations, Abandoned and Unused Facilities.
- (1) A Provider who has discontinued or is discontinuing its operations of any System in the City shall:
 - A. Provide information satisfactory to the City that the Provider's obligations for its System in the Rights-of-Way under this Section and any other Sections in the Code have been lawfully assumed by another Applicant and/or Provider through written notification to the City Engineer; or
 - B. Submit a written proposal to re-use its Facilities in a manner that promotes the City's goals of providing innovative solutions to efficiently and economically utilize limited Rights-of-Way capacity. Such proposal must be approved or denied by the City Engineer. A denial by the City Engineer shall be done in writing and describe the reasons for such a denial. The denial may be appealed by the Provider to the Service-Safety Director. The decision of the Service-Safety Director shall be final; or
 - C. Submit a written proposal for abandonment of Facilities indicating why good engineering practice would support this type of solution. The City Engineer must approve or deny said proposal. A denial by the City Engineer shall be done in writing and describe the reasons for such a denial. The denial may be appealed by the Provider to the Service-Safety Director. The decision of the Service-Safety Director shall be final; or
 - D. Completely remove all specifically identified portion(s) of its System in a manner acceptable to the City within a reasonable amount of time if the City believes that there exists a reasonable justification for such removal; or
 - E. Submit to the City within a reasonable amount of time and in accordance with O.R.C. Section 4905.20 and Section 4905.21, a proposal for transferring ownership of its Facilities to the City. If a Provider proceeds under this clause, the City may, at its option where lawful:
 1. Purchase the Facilities; or
 2. Unless a valid Removal Bond has already been posted pursuant to Section 901.20, require the Provider to post a bond in an amount sufficient to reimburse the City for reasonably anticipated costs to be incurred in removing the Facilities.
 - (2) Facilities of a Provider who fail to comply with this section and which remain Unused Facilities shall be deemed to be abandoned. Abandoned Facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to:
 - A. Abating the nuisance;
 - B. Taking possession of the Facilities and restoring them to a useable condition subject to a finding of the PUCO pursuant to the requirements of O.R.C. Section 4905.20 and Section 4905.21; or
 - C. Requiring removal of the Facilities by the Provider or by the Provider's surety.
 - (3) If the City requires a Provider to remove Unused Facilities in any Rights-of-Way, the City shall use reasonable efforts to insure that this removal occur in conjunction with other scheduled excavations of the Rights-of-Way. If the City abates the nuisance it may take all action necessary to recover its costs and to abate said nuisance, including but not limited to, those methods set forth in O.R.C. Section 715.261.
- (h) Nature of Issuance. A Certificate of Registration shall not convey equitable or legal title in the Rights-of-Way. A Certificate of Registration is only the nonexclusive, limited right to occupy Rights-of-Way in the City, for the limited purposes and for the limited period stated in the Certificate of Registration and in accordance with this chapter. The rights to occupy the Right-of-Way may not be subdivided or subleased; provided, however, that two (2) or more Providers may locate Facilities in the same area of the Rights-of-Way so long as each such Provider complies with the provisions of this chapter. Such Providers may file a joint application for a Construction Permit. A Certificate of Registration does not excuse a Provider from obtaining appropriate access or pole attachment agreements before locating its Facilities on Facilities of others, including the City's Facilities. A Certificate of Registration does not prevent a Provider from leasing space in or on the Provider's System, so long as the sharing of Facilities does not cause a violation of law, including the

provisions of this chapter. A Certificate of Registration does not excuse a Provider from complying with any provisions of the Code or other applicable law.

(i) Other Approvals, Permits, and Agreements. In addition to a Certificate of Registration, Providers shall obtain any and all regulatory approvals, permits, authorizations, or licenses necessary for the offering or provision of such Services from the appropriate federal, state and local authorities and upon the City's reasonable request, shall provide copies of such documents to the City. Further, a Certificate of Registration issued pursuant to this chapter shall not entitle a Provider to use, alter, convert to, or interfere with, the Facilities, Small Cell Facilities, Wireless Facilities, Wireless Support Structures, easements, poles, conduits, lines, pipelines, wires, fiber, cable or any other real or personal property of any kind whatsoever under the management or control of the City.
(Ord. 13-19. Passed 9-9-19.)

901.05 CERTIFICATE OF REGISTRATION APPLICATIONS.

(a) Certificate of Registration Applications. To obtain a Certificate of Registration to Construct, own, or maintain any System within the City, or to obtain a renewal of a Certificate of Registration issued pursuant to this chapter, an Application must be filed with the City on the form adopted by the City Engineer. For all applications the City shall collect an Application Fee. The Application Fee shall be equal to all the actual and direct costs incurred by the City that are associated with receiving, reviewing, processing and granting (or denying) an Application. At the time of its decision to either grant or deny an Application the City shall calculate and assess all actual and direct costs involved in receiving, reviewing, processing and granting (or denying) the Application and provide a written invoice to the Applicant for the appropriate amount. The City shall require that the Applicant remit all Application Fee amounts invoiced within thirty (30) days of its decision to either grant or deny a Certificate of Registration. Any Applicant who fails to timely remit such invoiced Application Fee amounts shall be subject to the penalties of this chapter, the imposition of any other legal or equitable remedies available to the City and the immediate revocation of any Certificate of Registration having been issued.

(b) Information Required for Application to Obtain a Certificate of Registration.

(1) The Applicant or Provider shall keep all of the information required in this Section current at all times, provided further that Applicant or Provider shall notify the City of any changes to the information required by this section within thirty (30) days following the date on which the Applicant or Provider has knowledge of such change. The information provided to the City at the time of Application shall include, but not be limited to:

- A. Each Applicant's name, legal status (i.e. partnership, corporation, etc.), street address, e-mail address, telephone number and facsimile number, if applicable; and
- B. The name, address, e-mail address, telephone number, and facsimile number, if applicable, of a System Representative. The System Representative shall be available to the City at all times. Current information regarding how to contact the System Representative in an Emergency shall be provided at the time of Application and shall be updated as necessary to assure accurate contact information is available to the City at all times; and
- C. A certificate of insurance where required to be provided to meet the requirements of this section shall:
 1. Verify that an insurance company licensed to do business in the State of Ohio has issued an insurance policy to the Applicant;
 2. Verify that the Applicant is insured on an occurrence basis against claims for personal injury, including death, as well as claims for property damage arising out of the:
 - i. Use and occupancy of the Rights-of-Way by the Applicant, its officers, agents, employees and contractors; and
 - ii. Placement and use of Facilities in the Rights-of-Way by the Applicant, its officers, agents, employees and contractors, including, but not limited to, protection against liability arising from any and all operations, damage of underground facilities and collapse of property;
 3. Name the City, its elected officials, officers, employees, agents and volunteers as an additional insured as to whom the comprehensive general liability and completed operation and products liability insurance required herein are in force and applicable and for whom defense will be provided as to all such coverages, as is required within this chapter;
 4. Require that the City be notified thirty (30) days in advance of cancellation of, or coverage changes in, the policy. The liability insurance policies required by this Section shall contain the following endorsement:
"It is hereby understood and agreed that this policy may not be diminished in value, canceled nor the intention not to renew be stated, until thirty (30) days after receipt by the City, by registered mail, return receipt requested, of a written notice addressed to the City Engineer or her/his designee of such intent to cancel, diminish or not to renew."
 5. Within thirty (30) days after receipt by the City of said notice, and in no event later than five (5) days prior to said cancellation, the Provider (or Applicant) shall obtain and furnish to the City Engineer a certificate of insurance evidencing replacement insurance policies.
 6. Satisfy the requirements for comprehensive liability coverage, automobile liability coverage and umbrella coverage as follows:
 - i. Comprehensive general liability insurance: comprehensive general liability insurance to cover liability, bodily injury, and property damage must be maintained. Coverage must be written on an occurrence basis, with the following minimum limits of liability and provisions, or their equivalent:
 - a. Bodily injury:
Each occurrence - One Million Dollars (US \$1,000,000.00)
Annual aggregate- Three Million Dollars (US \$3,000,000.00)
 - b. Property damage:
Each occurrence - One Million Dollars (US \$1,000,000.00)
Annual aggregate - Three Million Dollars (US \$3,000,000.00)
 - c. Personal injury:
Annual aggregate - Three Million Dollars (US \$3,000,000.00)
 - d. Completed operations and products liability shall be maintained for six (6) months after the termination of a Certificate of Registration.
 - e. Property damage liability insurance shall include coverage for the following hazards: E – Explosion, C – Collapse, U – Underground.
 - ii. Comprehensive auto liability insurance: Comprehensive auto liability insurance to cover owned, hired, and non-owned vehicles must be maintained. Applicant may maintain comprehensive auto liability insurance as part of Applicant's comprehensive general liability insurance, however, said insurance is subject to approval by the City Engineer or his or her designee. Coverage must be written on an occurrence basis, with the following limits of liability and provisions, or their equivalent:
 - a. Bodily injury:
Each occurrence - One Million Dollars (US \$1,000,000.00)
Annual aggregate - Three Million Dollars (US \$3,000,000.00)
 - b. Property damage:
Each occurrence - One Million Dollars (US \$1,000,000.00)

Annual aggregate - Three Million Dollars (US \$3,000,000.00)

- (2) Additional insurance: The City reserves the right to require any other insurance coverage it deems necessary after review of any proposal submitted by Applicant.
 - (3) Self-insurance: Those Applicants maintaining a book value in excess of fifty million dollars (US\$50,000,000.00) may submit a statement requesting to self-insure. If approval to self-insure is granted, Applicant shall assure the City that such self-insurance shall provide the City with no less than would have been afforded to the City by a third party insurer providing Applicant with the types and amounts of coverage detailed in this Section. This statement shall include:
 - A. Audited financial statements for the previous year; and
 - B. A description of the Applicant's self-insurance program; and
 - C. A listing of any and all actions against or claims made against Applicant for amounts over one million dollars (US \$1,000,000.00) or proof of available excess umbrella liability coverage to satisfy all total current claim amounts above fifty million dollars (US \$50,000,000.00).
 - D. The City Engineer may modify or waive these requirements if they are not necessary to determine the sufficiency of the self-insurance. The City Engineer may request applicable and pertinent additional information if it is necessary to determine the sufficiency of the self-insurance.
 - (4) A copy of Applicant's Construction and Major Maintenance Plan, including Mapping Data, as described in Section 901.06.
 - (5) Documentation that Applicant or Provider maintains standard workers' compensation coverage as required by law. Similarly, Provider shall require any subcontractor to provide workers' compensation coverage in amounts required by law for all of the subcontractor's employees.
 - (6) If the Person is a corporation or other legal entity, upon specific request of the City, a copy of the certificate of incorporation (or its legal equivalent) as recorded and certified to by the secretary of state (or legal equivalent) in the state or country in which incorporated.
 - (7) A copy of the Person's certificate of authority from the PUCO and/or the FCC and/or FERC, if the Person is lawfully required to have or actually does possess such certificate(s) from said commission(s) and any other approvals, permits, or agreements.
 - (8) Upon request of the City, a narrative (or if applicable, PUCO/FCC/FERC application information) describing Applicant's proposed activities in the City including, but not limited to, credible information detailing Applicant's financial, managerial, and technical ability to fulfill Applicant's obligations under this chapter and carry on Applicant's proposed activities.
 - (9) The City's examination of, or failure to request or demand, any evidence of insurance in accordance with this chapter shall not constitute a waiver of any requirement of this Section and the existence of any insurance shall not limit Applicant's obligations under this chapter.
 - (10) Any other information as described or required in this chapter and/or in the Rules and Regulations.
- (c) Criteria for Issuance of a Certificate of Registration.
- (1) In deciding whether to issue a Certificate of Registration, the City shall consider:
 - A. Whether the issuing of the Certificate of Registration will contribute to the health, safety, and welfare of the City and its citizens.
 - B. Whether the issuing of the Certificate of Registration will be consistent with this chapter and the Code.
 - C. Whether Applicant has submitted a complete Application and has secured all certificates and other authorizations required by law in order to Construct and operate a System in the manner proposed by the Applicant.
 - D. Whether the Applicant is delinquent on any taxes or other obligations owed to the City, County or State of Ohio.
 - E. Whether the Applicant has the requisite financial, managerial, and technical ability to fulfill all of its obligations under this chapter and the issuance of a Certificate of Registration.
 - (2) The City may also consider compliance with the Rules and Regulations and/or other applicable Law.
- (d) Grant or Denial of an Application for a Certificate of Registration.
- (1) The City, not later than sixty (60) days after the date of filing by an Applicant of a completed Application, shall grant or deny the Application.
 - (2) If an Application for a Certificate of Registration is denied, the Applicant may request from the City, within thirty (30) days of the notice of denial, the City's reasons for denying the Application.
- (e) Obligations of a Provider Upon Receipt of a Certificate of Registration. In addition to the other requirements set forth herein and in any applicable Rules and Regulations of the City each Provider shall:
- (1) Use its Best Efforts to cooperate with other Providers and users of the Rights-of-Way and the City for the best, most efficient, and least obtrusive use of Rights-of-Way, consistent with safety, and to minimize traffic and other disruptions including street cuts; and
 - (2) When possible, participate in joint planning, Construction and advance notification of Rights-of-Way work, as may be required by the City; and
 - (3) Upon reasonable written notice, and at the direction of the City Engineer, promptly remove or rearrange Facilities as necessary for public safety; and
 - (4) Perform all work, Construction, maintenance or removal of Facilities within the Rights-of-Way in accordance with good engineering, Construction and horticultural and arboricultural practice (if applicable), including any appropriate state building codes, safety codes and law, and use Best Efforts to repair and replace any street, curb or other portion of the Rights-of-Way, or Facilities located therein, to a condition to be determined by the City Engineer to be adequate under current standards and not less than substantially equivalent to its condition prior to such work and to do so in a manner which minimizes any inconvenience to the public, the City and other Providers, all in accordance with all applicable provisions of this chapter, the Code, and any Rules and Regulations that the City may adopt; and
 - (5) Construct, install, operate and maintain its Facilities and System in a manner consistent with all applicable laws, ordinances, construction standards and governmental requirements including, but not limited to, the National Electric Safety Code, National Electric Code and applicable FCC, FERC, or other federal, state and/or local Rules and Regulations; and
 - (6) Be on notice that removal of trees, or the use of vegetation management programs within the Rights-of-Way of the City requires prior written approval by the Municipal Arborist or his/her designee and compliance with applicable provisions of the Code. Any such activities, unless an Emergency, shall only be performed following the prior written approval of the Municipal Arborist and the City Engineer or their designee's and must be performed in accordance with the then most current standard horticultural and arboricultural practices as promulgated by entities such as the National Arbor Day Foundation, the International Society of Arboriculture, and the Tree Care Industry, all as may be required by the City. Pruning shall at a minimum meet or exceed the requirements of the most current version of the American National Standards Institute ANSI A300 standard. Any additionally required horticultural and arboricultural practices and guidelines shall be described in the Rules and Regulations adopted by the City Engineer pursuant to Section 901.08(e). Emergency removal of trees or the use of vegetation management programs within the Rights-of-Way of the City may be performed in Rights-of-Way as described herein and in

accordance with the Rules and Regulations, but the Municipal Arborist and City Engineer shall be provided notice of such Emergency work being performed within two (2) business days of the start of the work. Any non-emergency tree removal or the use of vegetation management programs within the Rights-of-Way that is performed without the Municipal Arborist and City Engineer or their designee's written permission shall subject a Person to the penalties of Section 901.99 and may further require that the tree or vegetation be replaced, at the sole expense of the responsible Person, with a healthy tree or vegetation of like kind and quality; and

- (7) Warrant that all worker facilities, conditions and procedures that are used during Construction, installation, operation and maintenance of the Provider's Facilities within the Rights-of-Way shall comply with all applicable standards of the Federal Occupational Safety and Health Administration; and
 - (8) Use its Best Efforts to cooperate with the City in any Emergencies involving the Rights-of-Way; and
 - (9) Provider shall, weather permitting, remove all graffiti within 21 calendar days of notice. Provider shall use all reasonable efforts to remove any and all graffiti on any of the Provider's Facilities located within the City Rights-of-Way. Should the Provider fail to do so, the City may take whatever action is necessary to remove the graffiti and invoice the Provider for the cost thereof which costs shall be paid by Provider; and
 - (10) Provider shall use all reasonable efforts to field identify its Facilities in the Rights-of-Way whenever the Provider is notified by the City that the City has determined that such identification is reasonably necessary in order for the City to begin planning for the Construction, paving, maintenance, repairing, relocating or in any way altering any street or area in the Rights-of-Way as defined in this chapter. The City shall notify the Providers of the City's date to begin the process at least thirty (30) days prior to the commencement of said activities. In field identifying Facilities:
 - A. Providers shall identify all Facilities that are within the affected Rights-of-Way using customary industry standards and distinct identification; and
 - B. Facilities will be so marked as to identify the Provider responsible for said Facilities; and
 - C. Should any such marking interfere with the Facilities' function, create a safety problem or violate any safety code, alternative methods of marking the Facilities may be approved by the City Engineer; and
 - D. All markings should be clearly readable from the ground and include the Provider's name, logo and identification numbering or tracking information. No advertising will be permitted.
 - (11) A Provider that is replacing an existing utility pole shall be responsible for coordinating with all other Providers to ensure the orderly transfer of all lines or cables to the replacement utility pole, the removal of the existing utility pole, and the Restoration of the Rights-of-Way within thirty (30) days after the replacement utility pole is installed. Upon request, the City Engineer may grant the Provider additional time for good cause.
- (f) Establishment of Utility Corridors.
- (1) The City Engineer may assign specific corridors within the Rights-of- Way, or any particular segment thereof as may be necessary, for each type of Facilities that are, or that the City Engineer expects, may someday be, located within the Rights-of- Way.
 - (2) Any Provider whose Facilities are in the Rights-of-Way and are in a position at variance with Utility Corridors established by the City Engineer shall at the time of the next Construction of the area, excluding normal maintenance activities, move such Facilities to their assigned position within the Rights-of-Way. Existing Underground Facilities located within a designated Utility Corridor shall not be required to relocate into adjacent or alternative portions of the Rights-of-Way unless they are in conflict with an actual or proposed public improvement project. The above requirements may be waived by the City Engineer for good cause shown including, but not limited to, consideration of such factors as: the remaining economic life of the Facilities, public safety, customer service needs, law precluding such Underground Facilities, and hardship to the Provider. If a Provider is denied a requested waiver from the above requirements, the Provider may appeal the denial of the City Engineer to the Service-Safety Director. The decision of the Service-Safety Director shall be final.
 - (3) Providers may enter into written agreements to use existing poles and conduits with the owners of same and shall use Best Efforts to install their Facilities within the Rights-of-Way.
 - (4) No Facility placed in any Rights-of-Way shall be placed in such a manner that interferes with travel on such Rights-of-Way.
 - (5) Unless otherwise stated in a Certificate of Registration or Permit, or required by Law, all Facilities within the Rights-of-Way shall be Constructed and located in accordance with the Code, the Rules and Regulations, and with the following provisions:
 - A. Whenever all existing Facilities that have been traditionally located overhead are located underground in a certain area within the City, a Provider who desires to place its Facilities in the same area must also locate its Facilities underground.
 - B. Whenever a Provider is required to locate or re-locate Facilities underground within a certain area of the City, every Provider with Facilities within the same area of the City shall concurrently re-locate their Facilities underground.
 - C. The above requirements may be waived by the City Engineer for good cause shown including, but not limited to, consideration of such factors as: the remaining economic life of the Facilities, public safety, customer service needs, law precluding such undergrounding of facilities, and hardship to the Provider. If a Provider is denied a requested waiver from the above requirements, the Provider may appeal the denial of the City Engineer to the Service-Safety Director.
- (g) Historic Districts.
- (1) The City shall have the authority to prohibit the use or occupation of the Right-of-Way by a Provider if the Right-of-Way for which the Provider seeks use and occupancy lies within a Historic District.
 - (2) As a condition for approval for the Co-location or installation of Small Cell Facilities or Wireless Support Structures in an area of the City designated as a Historic District, the City may do any of the following:
 - A. Require reasonable, technically feasible, and nondiscriminatory design or concealment measures for the Small Cell Facilities and Wireless Support Structures in any Historic District.
 - B. Request that a Provider comply with the design and aesthetic standards of the Historic District or a Residential District, as provided for in the City's Design Guidelines.
 - C. Request that a Provider explore the feasibility of using certain camouflage measures to improve the aesthetics of the Small Cell Facilities and Wireless Support Structures to minimize the impact to the aesthetics in a Historic District.
 - (3) This Section may not be construed to limit the City's authority to enforce local codes, administrative rules, Rules and Regulations, Design Guidelines, or regulations adopted by ordinance, which are applicable to a historic area designated by the state or City and historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. Section 332(c)(7), the requirements for facility modifications under 47 U.S.C. Section 1455(a), or the National Historic Preservation Act of 1966 (54 U.S.C. Section 300101 et seq.), and the regulations adopted to implement those laws.

(Ord. 13-19. Passed 9-9-19.)

901.06 REPORTING REQUIREMENTS.

- (a) Construction and Major Maintenance Plan. Each Provider shall, at the time of initial Application and using its Best Efforts by

January 1 of each following year, file a Construction and Major Maintenance Plan with the City Engineer. Such Construction and Major Maintenance Plan shall be provided for all geographical areas requested by the City Engineer, up to and including the entire geographical area of the City. It shall be submitted using a format(s) mutually agreeable to the Provider and the City and shall contain the information determined by the City Engineer to be necessary to facilitate the coordination and reduction in the frequency of Construction in the Rights-of-Way. The Construction and Major Maintenance Plan shall include, but not be limited to, all currently scheduled and/or anticipated Construction projects for the next calendar year. If none of such Construction projects are scheduled or anticipated for the next calendar year then the Construction and Major Maintenance Plan shall so state. The Provider shall use its Best Efforts in supplying this information and shall update the Construction and Major Maintenance Plan on file with the City Engineer whenever there is a material change in scheduled and/or anticipated Construction projects. In an effort to assist Providers with the completion of their annual Construction and Major Maintenance Plan, the City Engineer, on or before November 1 of each year, will send each Provider's System Representative a descriptive narrative (and any mapping information reasonably available) for all the planned Right-of-Way improvements and/or scheduled maintenance that the City then currently intends to undertake during the next calendar year.

(b) Provider's Provision of Mapping Data.

(1) With the filing of its Application for a Certificate of Registration, a Provider shall be required to:

- A. Accurately inform the City of the number of miles (rounded up to the nearest mile) of Right-of-Way the Provider's System then currently occupies, and
 - B. Begin submitting to the City all information that currently exists and which can be provided regarding the location of its Facilities in the Right-of-Way in hard copy or in the most advanced format (including, but not limited to, electronic and/or digital format) then currently being used by the Provider that is then currently capable of technologically being read (or readily converted to a readable form) by the City.
- (2) Unless otherwise required by Section 901.16, a Provider shall have up to one (1) year from the date of the Provider's initial filing of an Application for a Certificate of Registration to completely submit all the mapping data for the System owned by the Provider or over which it has control that is located in any Rights-of-Way of the City in the most advanced format (including, but not be limited to electronic and/or digital format) then currently being used by the Provider that is then currently capable of technologically being read (or readily converted to a readable form) by the City.
- A. The mapping data is only required to be at the "Atlas" level of detail necessary for the City to reasonably determine the location of the Provider's facilities in the Rights-of-Way.
 - B. The Provider shall supply the mapping data on paper if the City Engineer determines that the format currently being used by the Provider is not capable of being read by the City.
- (3) Any time after the issuance of a Certificate of Registration, and upon the reasonable request of the City Engineer, a Provider shall be required to provide to the City any additional location information for any Facilities which it owns or over which it has control that are located in any Rights-of-Way of the City required by the City.
- (4) Unless otherwise required by Law, any and all actual direct, incidental and indirect costs incurred by the City during the process of reviewing, inputting and/or converting a Provider's mapping information to comport with the City's then current standard format (whether electronic or otherwise) shall be directly billed to, and must be timely remitted by, the Provider.
- A. Failure to pay such mapping costs within sixty (60) days of receipt of an invoice shall subject an Applicant or Provider to revocation of its Certificate of Registration and the penalties of Section 901.99.
- (5) Each Provider that has been issued a Certificate of Registration shall accurately inform the City on or before each subsequent January 1 of the number of miles (rounded up to the nearest mile) of Right-of-Way the Provider's System) then occupied as of the immediately previous December 1.
- (6) The City Engineer may, in the future, adopt additional specifications and further define or modify the mapping data requirements under this section for reasons including, but not limited to, changes in technology or the law regarding public disclosure of a Provider's mapping information.
- A. When the City modifies and/or amends the mapping data requirements, the City shall use Best Efforts to avoid unreasonably increasing the burden to the Providers that may be associated with satisfying the amended mapping requirements.
 - B. When these mapping requirements are amended, each Provider shall be served with a copy of the new specifications or modifications by regular U.S. Mail to the System Representative identified in each Certificate of Registration and in accordance with Section 901.22(e); however, any failure of any Provider to actually receive such notice shall not in any way affect the validity or enforceability of said specifications or modifications.

(c) Exemption from Disclosure. A Provider shall notify the City if the Provider believes that any specific document or portion of a document being submitted to the City is exempt from the public records disclosure requirements of O.R.C. Section 149.43. The notification shall be in writing and indicate the specific document or portion of a document that the provider believes is exempt from disclosure. The notification shall include the legal basis for the claimed exemption, including the applicable statutory reference and any additional information necessary to make a determination of exemption for each specific document or portion of a document. If a public records request is made for documents submitted by a provider, the City will consider the written notification in making its own independent determination of whether a specific document or a portion of a document is exempt from the disclosure requirements of O.R.C. Section 149.43. To the extent permitted by law, the City will endeavor to use reasonable Best Efforts to notify the Provider of the request prior to making the document available for inspection or copying.

(Ord. 13-19. Passed 9-9-19.)

901.07 COMPENSATION FOR CERTIFICATE OF REGISTRATION.

(a) Compensation. As compensation for the City's costs to administer and implement this chapter, manage, administer and control the Rights-of-Way and maintain each Certificate of Registration issued, every Provider or any Person operating a System or otherwise using and occupying the Rights-of-Way shall pay to the City a Registration Maintenance Fee. The Registration Maintenance Fee shall be determined and assessed to Providers and other Persons operating a System or otherwise using and occupying the Rights-of-Way in accordance with the following process and formula:

- (1) The City by February 28 of each year shall calculate all actual and incurred costs associated with Rights-of-Way management, administration and control for the previous calendar year that the City was not able to reasonably recover through Construction Permit Fees or other recovery mechanisms provided for in this chapter.
- (2) Providers and Applicants, as required in Section 901.06(b), shall accurately inform the City upon application for a Certificate of Registration and on or before each subsequent January 1 of the number of miles (rounded up to the nearest mile) of Right-of- Way the Provider's System then occupied as of the immediately previous December 1.
- (3) The City shall total the entire number of miles of Right-of-Way reported as being used or occupied by all Providers.
- (4) The City shall divide the calculated costs referenced in Section 901.07(a)(1) by the total number of miles of Right-of-Way reported as being used or occupied by all Providers as referenced in Section 901.07(a)(3) to arrive at a per-mile cost number.
- (5) The City shall then multiply each Provider's mileage calculation as referenced in Section 901.07(a)(2) by the per-mile cost

calculation referenced in Section 901.07(a)(4). The product shall be a Provider's then current annual Registration Maintenance Fee.

- (6) The City shall perform its annual calculation of Registration Maintenance Fees following receipt of the Provider's required January 1 mileage report. Registration Maintenance Fees shall be invoiced to Providers within sixty (60) days of receipt of the Provider's required January 1 mileage report and shall be due within thirty (30) days of the date of the invoice. All fees shall be invoiced to Providers by March 1 of each calendar year.
- (7) Cable companies operating under non-exclusive Cable Franchises for the purposes of providing Cable Service, Video Services Provider operating under a VSA for the purpose of providing Video Services, and providers of Open Video System services, which compensate the City under other mechanisms in an amount equal to or greater than the Annual Registration Maintenance Fee that would normally be required for their Right-of-Way use in the City, shall have the mileage of the Right-of-Way they use and/or occupy included in the calculations described in Section 901.07, but shall not be required to contribute to the recovery of Rights-of-Way Costs as defined by this chapter with the exception of Permit Costs.
- (8) The City may by administrative action on or about February 28 of each year, in accordance with the results of Section 901.07(a)(4), enact an initial and thereafter a new annual Registration Maintenance Fee (per mile) by appropriately increasing or decreasing the previous year(s) Registration Maintenance Fee (per mile). Revised Registration Maintenance Fees shall be effective upon passage.
 - (b) Timing. Registration Maintenance Fees shall be paid each calendar year in accordance with Section 901.07(a)(6). Registration Maintenance Fees shall be paid in full for the first year of the registration as a condition of the Certificate of Registration becoming effective. Fees may be prorated from the effective date of the Certificate of Registration to the end of the calendar year if less than one (1) full year.
 - (c) Taxes and Assessments. To the extent taxes or other assessments are imposed by any taxing authority or community authority on the use of City property as a result of a Provider's use or occupation of the Rights-of-Way, the Provider shall be responsible for payment of such taxes or assessments. Such payments shall be in addition to any other fees payable pursuant to this chapter and shall not be considered an offset to, or in lieu of, the fees and charges listed in this chapter. The Registration Maintenance Fee is not in lieu of any tax, fee, or other assessment except as specifically provided in this chapter, or as required by applicable Law.
 - (d) Interest on Late Payments. In the event that any Registration Maintenance Fee is not paid to the City by April 1, the Provider shall pay a monthly late charge of one percent (1%) of the unpaid balance for each month or any portion thereof for which payment is not made.
 - (e) No Accord and Satisfaction. No acceptance by the City of any Registration Maintenance Fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such Registration Maintenance Fee payment be construed as a release of any claim the City may have for additional sums payable.
(Ord. 13-19. Passed 9-9-19.)

901.08 OVERSIGHT AND REGULATION.

- (a) Reports. Upon reasonable request of the City, a Provider shall provide the City with a list of any and all material communications, public reports, petitions, or other filings, either received from or submitted to any municipal, county, state or federal agency or official (and any response thereto submitted by or received by a provider), and any other information or report reasonably related to a Provider's obligations under this chapter that in any way materially affects the operation of the system or a Provider's representations and warranties set forth herein, but not including tax returns or other filings which are confidential. Upon request, a Provider shall promptly, but in no case later than 30 business days following the request, deliver to the City a complete copy of any item on said list. Upon the request of the City, a Provider shall promptly submit to the City any information or report reasonably related to a Provider's obligations under this chapter, or its business and operations with respect to the System or its operation, in such form and containing such information as the City shall specify. Such information or report shall be accurate and complete and supplied within thirty (30) days of the City's request.
 - (b) Confidential/ Proprietary Information. All information submitted to the City that is considered confidential information, trade secret and/or proprietary information or information that upon public its disclosure would be highly likely to place critical portions of the Provider's System in real danger of vandalism, sabotage or an act of terrorism, must be clearly marked as such when submitted. The City shall endeavor to exercise all reasonable legal protections so as not to publicly disclose to any third party such information unless required by law. The City shall, following receipt of a request for public disclosure of clearly marked trade secret and/or proprietary information submitted by a Provider, endeavor to use reasonable Best Efforts to timely place the Provider's System Representative on notice that such a request for public disclosure has been made, at which point it will be the Provider's sole and exclusive responsibility to take whatever steps it deems necessary to protect such documents from disclosure.
 - (c) Provider's Expense. All reports and records required under this chapter shall be furnished at the sole expense of a Provider.
 - (d) Right of Inspection and Audit. The City's designated representatives shall have the right to inspect, examine, or audit during normal business hours and upon reasonable notice to a Provider under the circumstances, documents, records, or other information that pertain to a Provider's operation of a System within the City that are related to its obligations under this chapter. All such documents shall be made available within the City or in such other place that the City may agree upon in writing in order to facilitate said inspection, examination, or audit.
 - (e) Rules and Regulations. The City Engineer may propose and adopt (and from time to time amend) the rules and regulations regarding this chapter, Design Guidelines, construction standards and occupancy requirements of the Right-of-Way. Such rules and regulations shall not materially increase the obligation of any provider hereunder, provided however that none of the following shall in any way be considered a material increase in obligation; the adoption of rules and regulations increasing fees; the requiring of the placement of facilities in designated portions of the rights-of-way (underground or otherwise); the overbuilding of facilities; or the requiring of joint-builds. Prior to the adoption or amendment of the Rules and Regulations, the City Engineer shall provide written notice and a copy of the proposed language of such adoption or amendment, via regular U.S. Mail, to each Provider who holds a then current Certificate of Registration. Each Provider shall then have thirty (30) days following the date of the City's mailing to provide written comment regarding the proposed language to the City Engineer. At least forty-five (45) days, but not more than sixty (60) days following the date of the City's mailing, the City Engineer shall schedule and hold a meeting, to make available a forum at which all then current Providers may address any questions, concerns and make reasonable suggestions regarding the proposed new Rules and Regulations to the City Engineer. The City Engineer shall, following said meeting and the review of the Providers' comments and suggestions, adopt or amend the Rules and Regulations in a manner that best serves the City.
(Ord. 13-19. Passed 9-9-19.)

901.09 REGISTRATION TERM.

The term of each Certificate of Registration granted under this chapter shall be valid from the date of issuance until such time as it is revoked, terminated, has lapsed or is properly amended. (Ord. 13-19. Passed 9-9-19.)

901.10 SMALL CELL FACILITIES AND WIRELESS SUPPORT STRUCTURES.

- (a) In accordance with O.R.C. Chapter 4939, this Section establishes terms and conditions for the use of the Right-of-Way by an Operator to Collocate Small Cell Facilities and Construct, maintain, modify, operate, or replace Wireless Support Structures to distribute Wireless Service in the City.
- (b) The application procedures, permit fees, and auditing procedures outlined in this Section shall be applicable to applications to

establish Wireless Facilities. However, Wireless Facilities that are not Small Cell Facilities or Wireless Support Structures as defined in this chapter are not subject to this Section 901.10.

(c) In accordance with this chapter, and unless otherwise prohibited by Law, each Person who occupies, uses, or seeks to occupy or use the Rights-of-Way to operate a Small Cell Facility or Wireless Support Structure in the Right-of-Way, or who has, or seeks to have, a Small Cell Facility or Wireless Support Structure located in any Right-of-Way, shall apply for and obtain a Certificate of Registration for the System pursuant to this chapter.

(d) All Applications for the Construction or modification of a Small Cell Facility or Wireless Support Structure shall comply with the Construction Permit and Minor Maintenance Permit requirements set forth in this chapter and any other applicable Law.

(e) In addition to the requirements in subsections (c) and (d) of Section 901.10, a Micro Wireless Permit shall be submitted by any Person that seeks to Construct, modify, collocate, or replace a Small Cell Facility or Wireless Support Structure in any Right-of-Way. The City's consent shall not be required for the replacement of a Small Cell Facility and/ or Wireless Support Structure with a Small Cell Facility and/ or Wireless Support Structure, respectively, that is consistent with the City's Design Guidelines and is substantially similar to the existing Small Cell Facility and/ or Wireless Support Structure, or the same size or smaller than the existing Small Cell Facility and/ or Wireless Support Structure and complies with the requirements for Construction Permits as provided in this chapter.

- (1) For processing a Micro Wireless Permit, the City may charge a fee for each Small Cell Facility and/ or Wireless Support Structure in accordance with Law and as listed on the Micro Wireless Permit forms.
- (2) The City shall grant or deny a Micro Wireless Permit in accordance with any required timelines under Law.
 - A. If the City fails to approve or deny a Micro Wireless Permit within the required time period, provided that the time period is not otherwise tolled in accordance with the provisions of Section 901.10, the Micro Wireless Permit shall be deemed granted upon the requesting entity notifying the City that the time period for granting or denying the Request of Consent has lapsed.
- (3) Requests for Consent that do not meet the requirements listed on the Application or stated herein or in the City's Design Guidelines shall be deemed incomplete or shall otherwise be denied by the City.
 - A. If a Micro Wireless Permit is deemed incomplete, the City shall provide written notice to the Applicant that clearly and specifically delineates all missing documents or required information.
 1. Once the Applicant submits the documents or information in response to the City's notice of incompleteness, the City shall, within sixty (60) calendar days, grant, deny, or deem the Micro Wireless Permit to be incomplete due to not providing the information identified in the original notice of incompleteness.
 2. For a Micro Wireless Permit that is deemed incomplete for a second or subsequent time, the City shall continue to follow the process in Section 901.10(e)(3)A.1. until such time that a complete Application is received from the Applicant. At such time, the City shall, within sixty (60) calendar days, grant or deny the Micro Wireless Permit.
 - B. If a Micro Wireless Permit is denied, the City shall provide in writing its reasons for denying the request, supported by substantial, competent evidence, and such information at the Applicant may reasonably request to obtain consent.
 1. Except in the case of a public utility subject to the jurisdiction and recognized on the rolls of the public utilities commission or a cable operator possessing a valid franchise awarded pursuant to the "Cable Communications Policy Act of 1984," 98 Stat. 2779, 47 U.S.C.A. 541, the city, for good cause shown, may withhold, deny, or delay its consent to any person based upon the person's failure to possess the financial, technical, and managerial resources necessary to protect the public health, safety, and welfare.
- (4) The City shall permit a Person seeking to construct, modify, collocate, or replace more than one Small Cell Facility or more than one Wireless Support Structure within the Right-of-Way to file a consolidated Application for consent.
 - A. No more than thirty (30) Small Cell Facilities or thirty (30) Wireless Support Structures shall be proposed within a single Application to receive a single permit for the Construction, modification, Collocation, or replacement of Small Cell Facilities or Wireless Support Structures in the Right-of-Way.
 - B. A single Application may only address multiple Small Cell Facilities or Wireless Support Structures if they each involve substantially the same type of Small Cell Facility and/ or substantially the same type of Wireless Support Structure.
 - C. If an Applicant intends to submit five (5) or more Small Cell Facilities or Wireless Support Structures in a single Application, a pre-application meeting that includes the Applicant and the Service Department may be required by the City in order to help expedite the permitting process. This pre-application meeting may also include a site visit if so requested by the City.
 - D. The City Engineer may separately address Applications for which incomplete information has been received or which are denied.
- (5) If the number of Requests for Consent is likely to result in difficulty processing Applications within the time limits set forth by Law due to the lack of resources of the City, then the City may toll the time limits as follows:
 - A. The time period for the City to grant or deny a Micro Wireless Permit may be tolled for up to twenty-one (21) days for the first thirty (30) Requests for Consent for Small Cell Facilities or Wireless Support Structures received by the City above ninety (90) Small Cell Facility or Wireless Support Structure Requests for Consent within any consecutive thirty-day period.
 - B. For every additional thirty (30) Requests for Consent that the City receives above the threshold provided in Section 901.10(e)(5)A., the City may toll the time period to grant or deny its consent for up to fifteen (15) additional days.
 - C. In no instance shall the City toll the time period for any Small Cell Facility or Wireless Support Structure Micro Wireless Permit by more than ninety (90) consecutive days.
 - D. Upon request by the Applicant, the City shall provide written notice of the time limit for a Small Cell Facility or Wireless Support Structure Micro Wireless Permit.
- (f) The total annual charge to reimburse the City for Collocation of a Small Cell Facility by an Operator to a Wireless Support Structure owned by the City and located in the Right-of-Way shall be in accordance with Law.
- (g) The City's approval term of a Collocation to a Wireless Support Structure shall be for a period of not less than ten (10) years, with a presumption of renewal for successive five-year terms, unless otherwise terminated or not renewed for cause or by mutual agreement between the Operator and the City.
 - (1) An Operator may remove its Small Cell Facilities at any time subject to applicable Permit requirements and may stop paying annual charges or fees established by Law.
 - (2) In the event that use of a Small Cell Facility or Wireless Support Structure is discontinued, the owner shall submit written notice to the City to discontinue use and the date when the use shall be discontinued. If the Small Cell Facility or Wireless Support Structure is not removed within three hundred sixty-five (365) days of discontinued use, the Small Cell Facility or Wireless Support Structure shall be considered abandoned in accordance with O.R.C. Chapter 4939 and the City may remove the Small Cell Facility or Wireless Support Structure at the owner's expense.
- (h) The City Engineer is authorized to establish, implement, and amend, from time to time, Design Guidelines regarding, among other

things: (1) the location of any ground-mounted Small Cell Facilities; (2) the location of a Small Cell Facility on a Wireless Support Structure; (3) the appearance and concealment of Small Cell Facilities, including those relating to materials used for arranging, screening, or landscaping; and (4) the design and appearance of a Wireless Support Structure, including any height requirements adopted by the City.

- (1) The City, as opposed to the Construction of a new Wireless Support Structure in the Right-of-Way, shall prefer locating Small Cell Facilities on existing Wireless Support Structures without increasing the height of the Wireless Support Structure by more than five (5) feet, including the Antenna and any associated shroud or concealment material.
- (2) The City shall permit, consistent with Law and for the purpose of providing Wireless Service, Collocation of a Small Cell Facility by an Operator to a Wireless Support Structure owned by the City and located in the Right-of-Way, provided that the Operator comply with the Design Guidelines under Section 901.10(h) and any reasonable terms and conditions for such Collocation that are adopted by the City and consistent with the Design Guidelines and this chapter.
 - A. The City may condition approval of the Collocation on replacement or modification of the Wireless Support Structure at the Operator's cost if the City determines that replacement or modification is necessary for compliance with its construction or safety standards.
 - B. A replacement or modification of the Wireless Support Structure shall conform to the applicable Design Guidelines and the City's applicable specifications for the type of structure being replaced.
 - C. The City may retain ownership of a replacement Wireless Support Structure.
 - D. The City may require removal and relocation of a Small Cell Facility or Wireless Support Structure, at the Permittee's sole expense, in order to accommodate Construction of a public improvement project by the City.

(Ord. 13-19. Passed 9-9-19.)

901.11 INDEMNITY.

- (a) Indemnity Generally. All Persons using or occupying the Rights-of-Way shall protect, defend, indemnify and hold harmless the City as set forth above as a condition of their use and occupancy of the Rights-of-Way.
 - (b) Indemnity Required. Each Certificate of Registration issued pursuant to this chapter shall contain provisions whereby Providers agree to protect, defend, indemnify and hold the City and its agents, officers, elected officials, employees, volunteers, and subcontractors harmless from and against all damages, costs, losses or expenses:
 - (1) For the repair, replacement, or restoration of City property, equipment, materials, structures and Facilities which are damaged, destroyed or found to be defective as a result of such Provider's acts or omissions; and
 - (2) From and against any and all claims, demands, suits, causes of action, and judgments:
 - A. For damage to or loss of the property of any Person, and/or the death, bodily injury, illness, disease, workers' compensation, loss of services, or loss of income or wages to any Person;
 - B. Arising out of, incident to, concerning or resulting from the act or omissions of such Provider, its agents, employees, and/or subcontractors, in the performance of activities pursuant to such Certificate of Registration, no matter how, or to whom, such loss may occur.
 - (3) In any event, all Persons using or occupying the Rights-of-Way agree to defend, indemnify and hold harmless the City as set forth above as a condition of their use and occupancy of the Rights-of-Way, but such requirement to defend, indemnify and hold harmless shall not extend to the negligence of the City or its agents, elected officials, officers, employees, volunteers and subcontractors, to the extent that the existence of such negligence shall be proven to exist.
- (Ord. 13-19. Passed 9-9-19.)

901.12 CIVIL FORFEITURES.

In addition to any other penalties set forth in this chapter and the remedy of specific performance, which may be enforced in a court of competent jurisdiction, the City may assess an additional penalty of civil forfeiture for failure to comply with any provision of this chapter. Such penalty shall be a monetary sum, payable to the City, in the amount of five hundred dollars (US \$500.00) per twenty-four (24) hour day of violation and any subsequent portion of a day less than twenty-four (24) hours in length. Prior to assessing said penalty, the City will provide written notice to the Provider detailing the failure to comply with a specific provision of this chapter. Such notice shall also indicate that said penalty shall be assessed in fifteen (15) calendar days subsequent to the date of receipt if compliance is not achieved. If a Provider desires to challenge such penalty, Provider must request a hearing before the Service-Safety Director or the Service-Safety Director's designee within ten (10) days of service of the notice. Such hearing shall be held within thirty (30) days of the Provider's request. If Provider requests such hearing before the Service-Safety Director or the Service-Safety Director's designee, such penalty shall be temporarily suspended. However, if, after the hearing, the Service-Safety Director or the Service-Safety Director's designee determines that Provider failed to comply with the specific provision(s) of this chapter referenced in the notice, such penalty shall be assessed starting with the fifteen (15) calendar days after receipt of the notice referenced in this section and continuing each day thereafter until compliance is achieved. The determination of the Service-Safety Director or the Service-Safety Director's designee shall be final. The Provider may file an administrative appeal pursuant to O.R.C. Chapter 2506. The penalty shall continue to accrue during the appeal unless the Provider obtains a stay and posts a supersedeas bond pursuant to O.R.C. Section 2505.09 or the Provider comes into full compliance with this chapter. (Ord. 13-19. Passed 9-9-19.)

901.13 TERMINATION OF CERTIFICATE OF REGISTRATION.

- (a) Default Notice Provided. The City through its City Engineer shall give written notice of default to a Provider if the City, in its sole discretion, determines that a Provider has:
 - (1) Violated any provision or requirement of the issuance or acceptance of a certificate of registration, this chapter or any Law and failed to cure as may be required; or
 - (2) Evaded or attempted to evade any provision of the issuance of a Certificate of Registration or the acceptance of it; or
 - (3) Practiced any fraud or deceit upon the City; or
 - (4) Made a material misrepresentation of fact in the Application for a Certificate of Registration.
 - (b) Cure Required. If a Provider fails to cure a default within thirty (30) calendar days after such notice is served by the City then the City may exercise any remedies or rights it has at law or in equity to terminate the Certificate of Registration. If the City Engineer decides there is cause or reason to terminate the Certificate of Registration, the following procedure shall be followed:
 - (1) City shall serve a Provider with a written notice of the reason or cause for proposed termination of the Certificate of Registration and shall allow a Provider a minimum of ten (10) calendar days to cure.
 - (2) If the Provider fails to cure within ten (10) calendar days, the City Engineer may declare the Certificate of Registration terminated.
 - (3) The Provider shall have ten (10) calendar days to appeal the termination to the Service-Safety Director. All such appeals shall be in writing. If the Service-Safety Director determines there was not cause or reason to terminate the Certificate of Registration, then the Service-Safety Director shall overturn the decision of the City Engineer. Otherwise, the Service-Safety Director shall affirm the decision of the City Engineer to terminate the Certificate of Registration. The determination of the Service-Safety Director shall be final.
- (Ord. 13-19. Passed 9-9-19.)

901.14 UNAUTHORIZED USE OF PUBLIC RIGHTS-OF-WAY.

- (a) No Use Without Authorization. No Person shall use the Rights-of-Way to operate a System that has not been authorized by the City in accordance with the terms of this chapter and been issued a Certificate of Registration.
- (b) No Use Without Certificate of Registration. No Person shall place or have placed any Facilities in, on, above, within, over, below, under, or through the Rights-of-Way, unless allowed under this chapter or having been issued a Certificate of Registration.
- (c) Unauthorized Use a Violation & Distinct and Separate Offense. No Person shall fail to comply with the provisions of this chapter. Each and every unauthorized use shall be deemed to be a violation and a distinct and separate offense. Each and every day any violation of this chapter continues shall constitute a distinct and separate offense.
- (d) Penalty Assessed. The violation of any provision of this chapter shall be unlawful and a misdemeanor offense. The penalty for any violation of this chapter shall be as provided in Section 901.99. (Ord. 13-19. Passed 9-9-19.)

901.15 ASSIGNMENT OR TRANSFER OF OWNERSHIP AND RENEWAL.

- (a) Assignment or Transfer Approval Required. A Certificate of Registration shall not be assigned or transferred, either in whole or in part, other than to an Affiliate, without the prior written consent of the City, which consent shall not be unreasonably withheld. This includes an assignment or transfer by means of a fundamental corporate change or fundamental partnership change.
- (b) Procedure to Request Assignment or Transfer Approval. The parties to the assignment or transfer of a Certificate of Registration shall make a written request to the City for its consent in the form of the certificate of registration application. The city shall reply in writing within sixty (60) days of actual receipt of the request and shall indicate its approval of the request or its determination that a public hearing is necessary. City may conduct a public hearing on the request within thirty (30) days of such determination if it determines that a sale or transfer of the certificate of registration adversely affects the city.
- (c) Review by City. The City will review the qualifications (including, but not limited to legal, technical and financial where appropriate) of the proposed assignee or transferee and terms of the existing Certificate of Registration. Within one hundred and twenty (120) days of actual receipt of the request for assignment or transfer, the City shall approve or deny such assignment or transfer request in writing.
- (d) Fundamental Corporate Change. For purposes of this section, fundamental corporate change means the sale or transfer of a controlling interest in the stock of a corporation or the sale or transfer of all or a majority of a corporation's assets, merger (including a parent and its subsidiary corporation), consolidation or creation of a subsidiary corporation. For the purposes of this section, "fundamental partnership change means the sale or transfer of all or a majority of a partnership's assets, change of a general partner in a limited partnership, change from a limited to a general partnership, incorporation of a partnership, or change in the control of a partnership.
- (e) Certificate of Registration and Assignee/Transferee Replacement Issuance Required. In no event shall a transferee or assignee's use of the right of way be acceptable to the City without a transferee or assignee requesting and being issued a replacement Certificate of Registration.
- (f) Excluded Transfers. Notwithstanding anything to the contrary, no such consent or approval shall be required for a transfer or assignment to an Affiliate. However, notice of the transfer or assignment to an Affiliate shall be provided to the City within ninety (90) days of the transfer or assignment. (Ord. 13-19. Passed 9-9-19.)

901.16 CONSTRUCTION PERMITS.

- (a) Construction Permit Requirement. Except as otherwise provided in the Code or pursuant to other applicable Law, no Person shall be permitted to Construct in any Rights-of-Way without first having obtained a Construction Permit as set forth below. This requirement shall be in addition to any requirement set forth in the Code.
- (1) A Construction Permit allows the Permittee to Construct in that part of the Rights-of-Way described in such Construction Permit and to obstruct travel over the specified portion of the Rights-of-Way by placing Facilities described therein, to the extent and for the duration specified therein.
 - (2) A Construction Permit is valid only for the dates and the area of Rights-of-Way specified in the Construction Permit and, unless otherwise permitted by the City Engineer, shall in no event be valid for more than one hundred eighty (180) days from the construction start date.
 - (3) No Permittee may Construct in the Rights-of-Way beyond the date or dates specified in the Construction Permit unless such Permittee:
 - A. Submits a Supplementary Application for another Construction Permit before the expiration of the initial Construction Permit; and
 - B. Is granted a new Construction Permit or extension.
 - (4) Original Construction Permits issued pursuant to section shall, when possible, be conspicuously displayed at all times at the indicated work site and shall be available for inspection by inspectors and authorized City personnel. If the original Construction Permit involves work conducted simultaneously at multiple locations, each location shall display a photocopy of the original Construction Permit. If the original Construction Permit is not conspicuously displayed at the indicated work site, then upon request, the original Construction Permit must be produced within twelve (12) hours or the first earliest business hour, whichever is later. For purposes of this section, "business hour" shall mean the hours between 8:00 a.m. and 5:00 p.m. during a business day.
- (b) Construction Permit Applications.
- (1) Application for a Construction Permit, unless an Emergency, shall be made to the City Engineer no less than fourteen (14) business days prior to the requested start of Construction.
 - (2) All Construction Permit Applications shall contain, and will be considered complete only upon compliance with the requirements of the following provisions:
 - A. Credible evidence that the Applicant has been issued a Certificate of Registration (where required) or credible evidence that the Applicant has written authority to apply for a Construction Permit on behalf of a party that has been issued a Certificate of Registration; and
 - B. Submission of a completed Construction Permit Application in the form required by the City Engineer, including, but not limited to, all required attachments, and scaled, dated drawings showing the location and area of the proposed project, number and location of street crossings, and the location of all then-known existing and proposed Facilities of the Applicant or Provider within the proposed project area. All drawings, plans and specifications submitted with the Application shall comply with applicable technical codes, Rules and Regulations, and be certified as to being in such compliance by trained technical personnel acceptable to the City Engineer. The mapping data is required to be at the "Atlas" level of detail necessary for the City to reasonably determine the location of the Provider's facilities in the Rights-of-Way. The City reserves the right, in circumstances that the City Engineer considers unique, complex or unusual, to request that certain submitted drawings, plans and specifications be accompanied by the certification of a registered licensed professional engineer; and
 - C. A City-approved traffic control plan demonstrating the protective measures and devices that will be employed, consistent with applicable Law and the OMUTCD, to prevent injury or damage to Persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic; and
 - D. If the Applicant wants to install new Facilities, if requested by the City Engineer, evidence that the Right-of-Way is not Full

and evidence that the Applicant has received an appropriate Permit and is adhering to the City's laws and Rules and Regulations; and

- E. If Applicant is proposing an above ground installation on existing poles within the Rights-of-Way, the Applicant shall provide credible information satisfactory to the City to sufficiently detail and identify:
1. The size and height of the existing poles; and
 2. Based on the Facilities currently on the existing poles and, if requested by the City Engineer, the excess capacity currently available on such poles before installation of Applicant's Facilities; and
 3. Based on the Facilities currently on the existing poles and, if requested by the City Engineer, the excess capacity for like or similar Facilities that will exist on such poles after installation of Applicant's Facilities; and
- F. If the Applicant proposes to install new poles within the Rights-of-Way, the Applicant shall provide:
1. Credible evidence, if requested by the City Engineer satisfactory to the City that there is no excess capacity on existing poles or in existing underground systems; and
 2. Credible evidence to the City that it is not financially and/or technically practicable for the Applicant to make an underground installation or locate its facilities on existing poles; and
 3. The location, size, height, color, and material of the proposed poles; and
 4. Credible evidence satisfactory to the City that the Applicant will adhere to all the applicable laws concerning the installation of new poles.
- G. If Applicant is proposing an underground installation in existing ducts or conduits within the Rights-of-Way, the Applicant shall provide credible information satisfactory to the City to sufficiently detail and identify:
1. Based on the existing Facilities, the excess capacity for like or similar Facilities currently available in such ducts or conduits before installation of Applicant's Facilities; and
 2. Based on existing Facilities, the excess capacity for like or similar Facilities that will exist in such ducts or conduits after installation of Applicant's Facilities.
- H. If Applicant is proposing an underground installation within new ducts or conduits to be constructed within the Rights-of-Way, the Applicant must provide credible information satisfactory to the City to sufficiently detail and identify:
1. The location, depth, size, and quantity of proposed new ducts or conduits; and
 2. The excess capacity for like or similar equipment that will exist in such ducts or conduits after installation of Applicant's Facilities.
- I. A preliminary Construction schedule and completion date; and
- J. Payment of all money due to the City for:
1. Permit Fees;
 2. Any loss, damage, or expense suffered by the City as a result of Applicant's prior Construction in the Rights-of-Way or any Emergency actions taken by the City;
 3. Any Certificate of Registration issued to the Applicant/Person whose Facilities are being Constructed; and
 4. Any other money due to the City from the Applicant/Person whose Facilities are being Constructed.
- K. When a Construction Permit is requested for purposes of installing additional Systems or any part of a System, the posting of a Construction Bond and Removal Bond, acceptable to the City and subject to this chapter, for the additional Systems or any part of a System is required.
- L. Upon request, the City Engineer may modify or waive the information requirements if they are not necessary in evaluating the Construction Permit application. The City Engineer may request applicable and pertinent additional information if it is necessary in evaluating the Construction Permit Application.
- (c) Issuance of Permit; Conditions.
- (1) If the City determines that the Applicant has satisfied the requirements of this chapter and the Construction Permit process, the City Engineer shall issue a Construction Permit subject to the provisions of Section 901.16(c)(2).
 - (2) The City may impose reasonable conditions upon the issuance of the Construction Permit and the performance of the Permittee thereunder in order to protect the City's investment in the Right-of-Way, protect the public health, safety and welfare, to insure the structural integrity of the Rights-of-Way, to protect the property and safety of other users of the Rights-of-Way, or to minimize the disruption and inconvenience to the traveling public.
- (d) Construction Permit Fees.
- (1) Except as otherwise provided by Law, the City shall collect a Construction Permit Fee equal to the actual and direct cost incurred by the City that is associated with receiving, reviewing, processing and granting (or denying) the Construction Permit and any oversight of the Construction Permit or the Construction work associated therewith. Following completion of the Construction work for which a Construction Permit has been granted (or at the time of the denial of Construction Permit) the City shall calculate and assess all actual and direct costs involved in receiving, reviewing, processing and granting (or denying) the Construction Permit and any oversight of the Construction Permit or Construction Work associated therewith. Quarterly, the City will cause the Director of Finance to issue a written invoice to a Provider that lists and summarizes the costs for each Construction Permit issued to and/or completed by the Provider over the previous ninety (90) days. The Provider shall remit payment to the City for the original quarterly invoice within thirty (30) days after the Director of Finance issues such invoice. Any Applicant who fails to timely remit such invoiced Construction Permit Fee amounts shall be subject to the penalties of this chapter, the imposition of any other legal or equitable remedies available to the City and the immediate revocation of any Certificate of Registration or Construction Permit having been issued.
 - (2) The City may in addition to these direct and actual costs listed in subsection (d)(1) hereof include in the Construction Permit Fee the cost of the value of degradation and reduction in the useful life of the Rights-of-Way that will result from Construction that has taken place therein. "Degradation and the reduction in the useful life" for the purpose of this Section means the accelerated depreciation of the Rights-of-Way caused by Construction in or disturbance of the Rights-of-Way, resulting in the need to reconstruct or repair such Rights-of-Way earlier than would be required if the Construction did not occur.
 - (3) Except as otherwise provided herein, no future Construction Permits shall be issued to an Applicant without payment of all outstanding Construction Permit Fee invoices. The City shall be exempt from payment of Construction Permit Fees. Construction Permit Fees that were paid for a Permit that the City has revoked pursuant to this Chapter are not refundable.
- (e) Coordination of Applications. Applicants are encouraged to coordinate the submission of Applications for Construction Permits to work in the Rights-of-Way at the same place and time. Joint applicants shall have the ability to divide amongst themselves, in proportions the parties find appropriate, any applicable construction permit fees.
- (f) Exceptions to Permit Requirements.
- (1) The following shall be excluded from the requirements Section 901.16:
 - A. The repairing or improvement of streets or other public places under or by virtue of a contract with the City.
 - B. The maintenance, planting or removal of trees and shrubs from within the Right-of-Way.
(Ord. 13-19. Passed 9-9-19.)

901.17 CONSTRUCTION, RELOCATION AND RESTORATION.

(a) Utility Engineering Study Required.

- (1) Prior to commencement of any initial Construction, extension, or relocation of Facilities in the Rights-of-Way, except for repair, maintenance or replacement with like Facilities or relocations requested or caused by a third party (excluding the City) or another Permittee, a Permittee shall conduct a utility engineering study on the proposed route of Construction expansion or relocation if requested by the City Engineer. Where such Construction and/or relocation is requested or caused by a third party, every Permittee located within the Rights-of-Way at issue or involved with the work shall use all Best Efforts to cooperate and assist any other Permittee or person who is directed by the City to perform the required utility engineering study. A utility engineering study consists of, but is not limited to, completion of the following tasks:
 - A. Secure all available “as-built” plans, plats and other location data indicating the existence and approximate location of all Facilities along the proposed Construction route.
 - B. Visibly survey and record the location and dimensions of any Facilities along the proposed Construction route, including, but not limited to, manholes, valve boxes, utility boxes, posts and visible street cut repairs.
 - C. Determine and record the presence and precise location of all underground facilities the Applicant or Person on whose behalf the Permit was applied for owns or controls in the Rights-of-Way along the proposed System route. Upon request of the City Engineer, a Permittee shall also record and identify the general location of all other Facilities in the Rights-of-Way along the proposed System route. For the purposes of this section, “general location” shall mean the alignment of other Facilities in the Rights-of-Way, but shall not necessarily mean the depth of other Facilities in the Rights-of-Way.
 - D. Plot and incorporate the data obtained from completion of the tasks described in Section 901.17(a)(1)A. - C. on the Construction Permittee’s proposed System route maps, Construction plans, plan sheets or computer aided drafting and design (CADD) files, or other data files in a format compatible with that used by the City.
 - E. Where the proposed location of Facilities and the location of existing underground facilities appear to conflict on the plans drafted in accordance with Section 901.17(a)(1)D., Permittee has the option of either utilizing non-destructive digging methods, such as vacuum excavation, at the critical points identified to determine as precisely as possible, the horizontal, vertical and spatial position, composition, size and other specifications of the conflicting underground facilities, or re-designing the Construction plans to eliminate the apparent conflict. Unless waived by the City Engineer, a Permittee shall not excavate more than a three (3) feet by three (3) feet square hole in the Rights-of-Way to complete this task.
 - F. Based on all of the data collected upon completion of the tasks described in this section, adjust the proposed System design to avoid the need to relocate other Underground Facilities.

- (2) The City Engineer may modify the scope of the utility engineering study as necessary depending on the proposed Construction plans.

(b) Copy to City. Upon completion of the tasks described in Section 901.17(a), the Construction Permittee shall submit the proposed System route maps and Construction Plans, with the results of the utility engineering study, in the most advanced format (including, but not be limited to electronic and/or digital format) then currently being used by the Provider that is then currently capable of technologically being read (or readily converted to a readable form) by the City. The mapping data is required to be at the “Atlas” level of detail necessary for the City to reasonably determine the location of the Provider’s facilities in the Rights-of-Way. The Provider shall supply the mapping data on paper if the City Engineer determines that the format currently being used by the Provider is not capable of being read by the City.

(c) Qualified Firm. All utility engineering studies conducted pursuant to this section shall be performed by the Permittee if in the discretion of the City Engineer the Construction Permittee is qualified to complete the project itself; alternatively, utility engineering studies shall be performed by a firm specializing in utility engineering that is approved by the City.

(d) Cost of Study. The Permittee shall bear the cost of compliance with Section 901.17(a)-(c).

(e) Construction Schedule. Unless otherwise provided for in this Chapter or in the Rules and Regulations, or unless the City Engineer waives any of the requirements of this section due to unique or unusual circumstances, a Permittee shall be required to submit a written Construction schedule to the City fourteen (14) business days before commencing any work in or about the Rights-of-Way, and shall further notify the City not less than two (2) business days in advance of any excavation in the Rights-of-Way. This section shall apply to all situations with the exception of circumstances under Section 901.19 (Minor Maintenance) and Section 901.20(d) (Emergency Situations).

(f) Location of Facilities.

- (1) The placement of new Facilities and replacement of old Facilities, either above ground or underground, shall be completed in conformity with applicable Law and the City’s Rules and Regulations.
- (2) The City shall have the power to prohibit or limit the placement of new or additional Facilities within the Rights-of-Way if the Right-of-Way is full. In making such decisions, the City shall strive to the extent possible to accommodate all existing and potential users of the Rights-of-Way, but shall be guided primarily by considerations of the public health, safety and welfare, the condition of the Rights-of-Way, the time of year with respect to essential Utilities, the protection of existing Facilities in the Rights-of-Way, future City and County plans for public improvements, development projects which have been determined to be in the public interest and nondiscriminatory and competitively neutral treatment among Providers.

(g) Least Disruptive Technology. All Construction or maintenance of Facilities shall be accomplished in the manner resulting in the least amount of damage and disruption of the Rights-of-Way. Specifically, the City requires every Permittee when performing underground Construction to utilize Trenchless Technology, including, but not limited to, horizontal drilling, directional boring, and micro-tunneling. Should a Permittee believe that Trenchless Technology is technically and/or technologically infeasible and not economically reasonable for the underground Construction or maintenance being requested, the Permittee may request a determination by the City Engineer that methods other than Trenchless Technology be allowed. A Permittee may perform underground Construction or maintenance in the Rights-of-Way without using Trenchless Technology only following receipt of specific written approval by the City Engineer or his/her designee granting authority to perform, with any additional terms or conditions the City Engineer or his/her designee determine necessary, the non-Trenchless Technology work being requested. In addition, all cable, wire or fiber optic cable installed in the subsurface Rights-of-Way pursuant to this chapter may be required to be installed in conduit, and if so required, no cable, wire or fiber optic cable may be installed pursuant to this chapter using “direct bury” techniques.

(h) Special Exceptions.

- (1) The City may grant a special exception to the requirements of Sections 901.17(f) and 901.17(g) if a Permittee, upon application, demonstrates with written evidence that: the exception will not create any threat to the City’s investment or in the Rights-of-Way, the public health, safety or welfare; and
 - A. Permittee demonstrates that the increased economic burden and the potential adverse impact on the Permittee’s Construction schedule resulting from the strict enforcement of the requirement actually or effectively inhibits the ability of the Permittee to provide Services in the City; or
 - B. The Permittee demonstrates that the requirement unreasonably discriminates against the Permittee in favor of another Person; or
 - C. The requirements requested by the City herein create an unreasonable economic burden for the Permittee that outweighs any

potential benefit to the City.

(i) Relocation of Facilities.

- (1) A Provider shall as promptly as reasonably possible and at its own expense, permanently remove and relocate its Facilities in the Rights-of-Way whenever the City finds it necessary to request such removal and relocation. In instances where the City requests removal and/or relocation, the City may waive all applicable Construction Permit Fees. Upon removal and/or relocation, the Provider shall restore the Rights-of-Way to the same or better condition it was in prior to said removal or relocation. If existing poles are required to be removed and/or relocated, then the existing poles will be replaced with poles of the same size, substantially similar size, or smaller. In accordance with Law, the City Engineer may request relocation and/or removal in order to prevent unreasonable interference by the Provider's Facilities with:
 - A. A public improvement undertaken or approved by the City.
 - B. The City's investment in the Rights-of-Way.
 - C. When the public health, safety, and welfare requires it, or when necessary to prevent interference with the safety and convenience of ordinary travel over the Rights-of-Way.
 - D. The sale, conveyance, vacation, or narrowing of all or any part of a Right-of-Way.
- (2) Notwithstanding the foregoing, a Provider who has Facilities in the Rights-of-Way subject to a vacation or narrowing that is not required for the purposes of the City, shall have a permanent easement in such vacated portion or excess portion in conformity with O.R.C. Section 723.041.
- (3) If, in the reasonable judgment of the City, a Provider fails to commence removal and/or relocation of its Facilities, as designated by the City, within thirty (30) days after the City's removal order, or if a Provider fails to substantially complete such removal, including all associated repair of the Rights-of-Way of the City, within twelve (12) months thereafter, then, to the extent consistent with applicable law, the City shall have the right to:
 - A. Declare that all rights, title and interest to the Facilities belong to the City with all rights of ownership, including, but not limited to, the right to connect and use the Facilities or to effect a transfer of all right, title and interest in the Facilities to another Person for operation; or
 - B. Authorize removal of the Facilities installed by the Provider in, on, over, or under the Rights-of-Way of the City at Provider's cost and expense, by another Person; however, the City shall have no liability for any damage caused by such action and the Provider shall be liable to the City for all reasonable costs incurred by the City in such action; and
 - C. To the extent consistent with applicable Law, any portion of the Provider's Facilities in, on, over, or under the Rights-of-Way of the City designated by the City for removal and not timely removed by the Provider shall belong to and become the property of the City without payment to the Provider, and the Provider shall execute and deliver such documents, as the City shall request, in form and substance acceptable to the City, to evidence such ownership by the City.

(j) Pre-Excavation Facilities Location.

- (1) Before the start date of any Rights-of-Way excavation, each Provider who has Facilities located in the area to be excavated shall, to the best of its ability, mark the horizontal and approximate vertical placement of all its Facilities.
- (2) All Providers shall notify and work closely with the excavation contractor in an effort to establish the exact location of its Facilities and the best procedure for excavation.

(k) Rights-of-Way Restoration.

- (1) Unless otherwise agreed to by the City, the work to be done under the Permit and the Restoration of the Rights-of-Way as required herein, weather permitting, must be completed within the dates specified in the Permit. In addition to its own work, the Permittee must restore the general area of the work, and the surrounding areas, including trench backfill, paving and its foundations in accordance with the Code and City Rules and Regulations. If a Permittee is unable to timely complete the Restoration of Rights-of-Way due to unreasonable inclement weather conditions, the Permittee shall notify the City of the inability to complete the Restoration of the Rights-of-Way within the time specified in the Permit. As soon as weather conditions make it possible to do so, Permittee shall complete the Restoration and notify the City of said completion.
- (2) In approving an Application for a Construction Permit, the City may choose either to have the Permittee restore the Rights-of-Way or alternatively to restore the Rights-of-Way at the Permittee's cost, if the Permittee has in the past not abided by requirements of this Chapter.
- (3) If the city allows a permittee to restore the rights-of-way, the permittee may at the time of Application for a be required to post a Construction Bond in an amount determined by the City to be sufficient to cover the cost of restoring the Rights-of-Way to its approximate pre-excavation condition. If, twelve (12) months after completion of the Restoration of the Rights-of-Way, the City determines that the Rights-of-Way have been properly restored, the surety on the Construction Bond shall be released. The City may, in its sole discretion, waive the requirement of posting a Construction Bond upon demonstration of good cause shown.
- (4) The Permittee shall perform the work according to the standards and with the materials specified by the City. The City shall have the authority to prescribe the manner and extent of the Restoration, and may do so in written procedures of general application or on a case-by-case basis. The City in exercising this authority shall be guided by the following standards and considerations: the number, size, depth and duration of the excavations, disruptions or damage to the Rights-of-Way; the traffic volume carried by the Rights-of-Way; the character of the neighborhood surrounding the Rights-of-Way; the preexcavation condition of the Rights-of-Way; the remaining life-expectancy of the Rights-of-Way affected by the excavation; whether the relative cost of the method of Restoration to the Permittee is in reasonable balance with the prevention of an accelerated depreciation of the Rights-of-Way that would otherwise result from the excavation, disturbance or damage to the Rights-of-Way; and the likelihood that the particular method of Restoration would be effective in slowing the depreciation of the Rights-of-Way that would otherwise take place. Methods of Restoration may include, but are not limited to, patching the affected area, replacement of the Rights-of-Way base at the affected area, and in the most severe cases, milling, overlay and/or street reconstruction of the entire area of the Rights-of-Way affected by the work.
- (5) By restoring the Rights-of-Way itself, the Permittee guarantees its work and shall maintain it for twelve (12) months following its completion. During this twelve (12) month period, it shall, upon notification from the City Engineer, correct all Restoration work to the extent necessary using the method required by the City Engineer. Weather permitting, said work shall be completed within five (5) calendar days of the receipt of the notice from the City Engineer, unless otherwise extended by the City Engineer.
- (6) If the Permittee fails to restore the Rights-of-Way in the manner and to the condition required by the City, or fails to satisfactorily and timely complete all repairs required by the City, or Permittee has previously failed to restore a Right-of-Way in a satisfactory manner, the City, at its option, may do such work. In that event, the permittee shall pay to the City, within thirty (30) days of invoicing, the balance of the Restoration cost of restoring the Rights-of-Way and any other costs incurred by the City. Upon failure to pay, the City may call upon any bond or letter of credit posted by Permittee and/or pursue any and all legal and equitable remedies.

- (7) If the work to be done under the Permit is being done at the same location and the same period of time as work by the City and/or another Permittee(s), then the City Engineer may reasonably apportion the Restoration responsibility among the City, Providers and/or other Persons subject to bond deposit and payment requirements as set forth above.
- (l) Damage to Other Facilities.
- (1) In the case of an Emergency, and if possible after reasonable efforts to contact the Provider seeking a timely response, when the City performs work in the Rights-of-Way and finds it necessary, as may be allowed by Law, to maintain, support, or move a Provider's Facilities to protect those Facilities, the costs associated therewith will be billed to that Provider and shall be paid within thirty (30) days from the date of billing. Upon failure to pay, the City may call upon any bond or letter of credit posted by the Permittee and pursue any and all legal or equitable remedies.
 - (2) Each Provider shall be responsible for the cost of repairing any damage caused by its Facilities, either directly or indirectly, to the Facilities of another Provider.
 - (3) Each Provider shall be responsible for the cost of repairing any City owned Facilities in the Rights-of-Way that the Provider or its Facilities damage.
- (m) Rights-of-Way Vacation.
- (1) If the City sells or otherwise transfers a Right-of-Way that contains the Facilities of a Provider, such sale or transfer shall be subject to any existing easements of record and any easements required pursuant to O.R.C. Section 723.041.
- (n) Installation Requirements. The excavation, backfilling, Restoration, and all other work performed in the Rights-of-Way shall be performed in conformance with all applicable laws, City Rules and Regulations, and other standards as may be promulgated by the City Engineer.
- (o) Inspection. When the Construction under any Permit hereunder is completed, the Permittee shall notify the City Engineer.
- (1) The Permittee shall make the Construction site available to the Inspector and to all others as authorized by law for inspection at all reasonable times during the execution and upon completion of the Construction.
 - (2) At the time of inspection, the Inspector may order the immediate cessation of any work that poses a serious threat to the life, health, safety or well-being of the public, violates any law or that violates the term and conditions of the Permit and/or this chapter. The failure of the City to inspect the work does not alleviate the responsibility of the Permittee to complete the work in accordance with the approved Permit and the requirements of this chapter.
 - (3) The Inspector may issue an order to the Permittee for any work that does not conform to the Permit and/or applicable standards, conditions or codes. The order shall state that failure to correct the violation will be cause for revocation of the Permit. The order may be served on the Permittee as provided in Section 901.22(e). An order may be appealed to the City Engineer. The decision of the City Engineer may be appealed to the Safety-Service Director whose decision shall be final. If not appealed, within ten (10) days after issuance of the order, the Provider shall present proof to the City Engineer that the violation has been corrected. If such proof has not been presented within the required time, the City Engineer may revoke the Permit and take all other action permitted by law.
- (p) Other Obligations.
- (1) Obtaining a Construction Permit does not relieve Permittee of its duty to obtain all other necessary Permits, licenses, and authority and to pay all fees required by any other Law.
 - (2) Permittee shall comply with all requirements of all laws, including the OUPS.
 - (3) Permittee shall perform all work in conformance with all applicable laws and standards, and is responsible for all work done in the Rights-of-Way pursuant to its Permit, regardless of who performs the work.
 - (4) No Rights-of-Way obstruction or excavation may be performed when seasonally prohibited or when conditions are unreasonable for such work, except in the case of an Emergency as outlined in Section 901.19(d).
 - (5) Permittee shall not obstruct a Right-of-Way so as to interfere with the natural free and clear passage of water through the gutters or other waterways. The City Engineer may waive this requirement if it is technically or economically unreasonable in the circumstances.
 - (6) Private vehicles, other than necessary Construction vehicles, may not be parked within or adjacent to a Permit area. The loading or unloading of trucks adjacent to a Permit area is prohibited unless specifically authorized by the Permit.
 - (q) Undergrounding Required. Any owner of property abutting a street or alley where Service Facilities are now located underground and where the Service connection is at the property line, shall install or cause others to install underground any Service delivery infrastructure from the property line to the buildings or other structures on such property to which such Service is supplied. Where not otherwise required to be placed underground by this chapter, a Provider shall locate Facilities underground at the request of an adjacent property owner, provided that such placement of Facilities underground is consistent with the Provider's normal construction and operating standards and that the additional costs of such undergrounding over the normal aerial or above ground placement costs of identical Facilities are borne directly by the property owner making the request. A Provider, under any circumstance shall, upon the reasonable request of the City, always use Best Efforts to place Facilities underground. Where technically possible and not economically unreasonable or unsafe (based upon the technology employed and Facilities installed), all Facilities to be installed by a Provider under the Right-of-Way shall be installed in conduit.
- (Ord. 13-19. Passed 9-9-19.)

901.18 MINOR MAINTENANCE PERMIT.

- (a) Right-of-Way Minor Maintenance Permit Requirement. No Person shall perform minor maintenance of Facilities in the Rights-of-Way without first having obtained a Right-of-Way Minor Maintenance Permit as set forth in this chapter. Minor Maintenance means:
- (i) the routine repair or replacement of Facilities with like Facilities not involving Construction and not requiring traffic control for more than two (2) hours at any one location; or
 - (ii) the routine repair or replacement of Facilities with like Facilities not involving Construction and taking place on thoroughfares and arteries between the hours of 9:00 A.M. and 3:00 P.M.; or
 - (iii) the routine repair or replacement of Facilities with like Facilities not involving construction on all Rights-of-Ways, other than thoroughfares and arterials, that does not impede traffic and is for a period of less than eight (8) contiguous hours; or
 - (iv) Construction other than on thoroughfares and arterials that takes less than eight (8) contiguous hours to complete, does not impede traffic and does not involve a pavement cut; or
 - (v) minor and/or non-material vegetation management/tree pruning.. The City Engineer may adopt Rules and Regulations pursuant to Section 901.08(e) that clarify the definition of minor maintenance and/or provide a process for a Provider to determine whether particular activity constitutes minor maintenance.
- (1) A Right-of-Way Minor Maintenance Permit allows the Permittee to perform all minor maintenance in any part of the Rights-of-Way as required.
 - (2) A Right-of-Way Minor Maintenance Permit is valid from the date of issuance until revoked by the City Engineer.
 - (3) A Right-of-Way Minor Maintenance Permit must be displayed or upon request produced.
 - (4) A Right-of-Way Minor Maintenance Permit by itself shall under no circumstances provide a Permittee with the ability to cut pavement or excavate without seeking additional authority from the City Engineer.
- (b) Minor Maintenance Permit Applications. Applications for a Right-of-Way Minor Maintenance Permit shall be made to the City Engineer. In addition to any information required by the City Engineer, all Right-of-Way Minor Maintenance Permit Applications shall contain, and will only be considered complete upon compliance with the following provisions:
- (1) Confirmation that the Applicant has obtained a valid Certificate of Registration or proof that the Applicant has written authority

to apply for a Right-of-Way Minor Maintenance Permit on behalf of a party that has been issued a valid Certificate of Registration.

- (2) Submission of a completed Right-of-Way Minor Maintenance Permit Application in the form required by the City Engineer.
 - (3) A statement that the Applicant will employ protective measures and devices that, consistent with the OMUTCD, will prevent injury or damage to Persons or property and minimize disruptions to the efficient movement of pedestrian and vehicular traffic.
- (c) Issuance of Minor Maintenance Permits; Conditions.
- (1) If the City Engineer determines that the Applicant has satisfied the requirements of this Chapter and the Right-of-Way Minor Maintenance Permit process, the City Engineer shall issue a Minor Maintenance Permit subject to the provisions of this chapter.
 - (2) The City may impose reasonable conditions, in addition to Rules and Regulations enacted by the City Engineer, upon the issuance of the Minor Maintenance Permit and the performance of the Permittee thereunder in order to protect the public health, safety and welfare, to insure the structural integrity of the Rights-of-Way, to protect the property and safety of other users of the Rights-of-Way, and to minimize the disruption and inconvenience to the traveling public.
- (d) Minor Maintenance Permit Fees. The City Engineer shall not charge a fee for the issuance of the Minor Maintenance Permit but may revoke the Minor Maintenance Permit as any other permit may be revoked under this chapter.
(Ord. 13-19. Passed 9-9-19.)

901.19 ENFORCEMENT OF PERMIT OBLIGATION.

- (a) Mandatory Denial of Permit. Except in the case of an Emergency, no Permit will be granted:
- (1) To any Person who has not yet made an Application or who is occupying any Right-of-Way without a valid Certificate of Registration; or
 - (2) To any Person who has outstanding debt owed to the City unless payment in full has been placed in an escrow account approved by the City Director of Finance and the Law Director; or
 - (3) To any Person as to whom there exists grounds for the revocation of a Permit; or
 - (4) If, in the discretion of the City Engineer, the issuance of a Permit for the particular date and/or time would cause a conflict or interfere with an exhibition, celebration, festival, or any other event. The City Engineer, in exercising this discretion, shall be guided by the safety and convenience of ordinary travel of the public over the Rights-of-Way, and by considerations relating to the public health, safety and welfare.
- (b) Permissive Denial of Permit.
- (1) The City Engineer may deny a Permit in order to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the Rights-of-Way, or when necessary to protect the Rights-of-Way and its users. In exercising his/her discretion, the City Engineer may consider factors, including but not limited to:
 - A. The extent to which Rights-of-Way space where the Permit is sought is available; and/or
 - B. The competing demands for the particular space in the Rights-of-Way; and/or
 - C. The availability of other locations in the Rights-of-Way or in other Rights-of-Way for the proposed Facilities; and/or
 - D. The applicability of this chapter or other regulations of the Rights-of-Way that affect location of Facilities in the Rights-of-Way; and/or
 - E. The degree of compliance of the Provider with the terms and conditions of its Certificate of Registration, this chapter, and other applicable ordinances and regulations; and/or
 - F. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the Rights-of-Way; and/or
 - G. The condition and age of the Rights-of-Way, and whether and when it is scheduled for total or partial re-construction; and/or
 - H. The balancing of the costs of disruption to the public and damage to the Rights-of-Way, against the benefits to that part of the public served by the expansion into additional parts of the Rights-of-Way; and/or
 - I. Whether such Applicant or its agent has failed within the past three (3) years to comply, or is presently not in full compliance with, the requirements of this chapter, or, if applicable, any other law.
 - (2) Under no circumstances will open cutting take place on any street except where:
 - A. An Emergency situation requires that an open cut is necessary; and/or
 - B. Vital services to resident(s) or business(es) are needed or have been cut off and there is no reasonable alternative (such as jacking or boring) in supplying or restoring such services; and/or
 - C. The City Engineer determines it is in the best interests of the City that such an open cut take place.
- (c) Discretionary Issuance of Permit.
- (1) Notwithstanding the provisions of Sections 901.19(a)(1) and 901.19(a)(2), the City Engineer may issue a Permit in any case in which the Permit is necessary:
 - A. To prevent substantial economic hardship to a customer of the Permit Applicant, if established by credible evidence satisfactory to the City; or
 - B. To allow such customer to materially improve its Service; or
 - C. To allow a new economic development project to be granted a Permit under this section.
 - (2) To be granted a Permit under this section, the Permit Applicant must not have had knowledge of the hardship, the plans for improvement of Service, or the development project when it was required to submit its list of next year projects.
- (d) Work Done Without A Permit in Emergency Situations.
- (1) Each Provider shall, as soon as is practicable, immediately notify the City Engineer of any event regarding its Facilities which it considers to be an Emergency. The Provider may proceed to take whatever actions are necessary in order to respond to the Emergency. Within five (5) business days, unless otherwise extended by the City Engineer, after the occurrence or discovery of the Emergency (whichever is later), the Provider shall apply for the necessary Permits, pay the fees associated therewith or have those fees attributed to its quarterly invoice balance in accordance with Section 901.16(d) and fulfill the rest of the requirements necessary to bring itself into compliance with this chapter for any and all actions taken in response to the Emergency. In the event that the City becomes aware of an Emergency regarding a Provider's Facilities, the City may use Best Efforts to contact the Provider or the System Representative of each Provider affected, or potentially affected, by the Emergency. In any event, the City may take whatever action it deems necessary in order to respond to the Emergency, the cost of which shall be borne by the Provider whose Facilities caused the Emergency.
 - (2) Except in the case of an Emergency, any Provider who Constructs in, on, above, within, over, below or through a Rights-of-Way without a valid Permit must subsequently obtain a Permit, pay double the calculated fee for said Permit, pay double all the other fees required by the Code, reimburse the City for any and all costs it incurs as a result of the non-permitted Construction, deposit with the City the fees necessary to correct any damage to the Rights-of-Way and comply with all of the requirements of this chapter. In addition to the fees, costs, and penalties described and imposed in this section, the City retains any and all other rights, remedies, and/or causes of action available, either in law or equity, with respect to any Provider who constructs without a valid Permit.

(e) Revocation of Permits.

- (1) Permittees hold Permits issued pursuant to this chapter as a privilege and not as a right. The City reserves its right, as provided herein, to revoke any Permit, without refunding any fees, in the event of a failure of the Permittee to comply with the terms and conditions of any law, ordinance, rule or regulation, or any provision or condition of the Permit, including, but not limited to the following:
 - A. The violation of any provision or condition of the Permit; or
 - B. An evasion or attempt to evade any provision or condition of the Permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the City or its citizens; or
 - C. Any misrepresentation of fact in the Application for a Permit; or
 - D. The failure to maintain the required Construction or Removal Bonds and/or insurance; or
 - E. The failure to obtain and/or maintain, when required, a Certificate of Registration; or
 - F. The failure to complete the Construction in a timely manner; or
 - G. The failure to correct a condition of an order issued.
- (2) If the City Engineer determines that the Permittee has not complied with a term or condition of any law, ordinance, rule or regulation, or any condition of the Permit, the City Engineer shall serve a written demand upon the Permittee to remedy such violation. The demand shall state that continued violations may be cause for revocation of the Permit. The City Engineer may also, in his/ her discretion, place additional or revised conditions on the Permit.
- (3) By the close of the next business day following receipt of notification of the violation, Permittee shall contact the City Engineer with a plan, acceptable to the Service Safety, for its correction. Permittee's failure to submit an acceptable plan, or Permittee's failure to reasonably implement the approved plan, shall be cause for immediate revocation of the Permit.
- (4) If a Permittee commits a second substantial default as outlined above, Permittee's Permit will automatically be revoked and the Permittee will not be allowed further Permits for up to and including one (1) full year from the date that the Permit was revoked, except for Emergency repairs.
- (5) If a Permit is revoked, the Permittee shall also reimburse the City for the City's reasonable costs, including Restoration costs and the costs of collection and reasonable attorneys' fees incurred in connection with such revocation. (Ord. 13-19. Passed 9-9-19.)

901.20 PERFORMANCE SECURITY.

(a) Construction Bond. Prior to the commencement of any Construction, a Construction Permittee, excluding the County, shall deposit with the City Engineer an irrevocable, unconditional letter of credit and/ or surety bond in an amount determined by the City Engineer to be appropriate based upon fair and reasonable criteria. Unless a Construction default, a problem or deficiency involves an Emergency or endangers the safety of the general public, the City Engineer shall serve written notice to the Construction Permittee detailing the Construction default, problem, or deficiency. If the City Engineer determines that correction or repair of the Construction default, problem, or deficiency has not occurred or has not been substantially initiated within ten (10) calendar days after the date following service and notification and detailing the Construction default, problem or deficiency, then the City may attach the letter of credit or surety bond. Upon attachment, written notice shall be served on the Construction Permittee by the City Engineer.

(b) Removal Bond. Upon issuance of a Certificate of Registration and continuously thereafter, and until 120 days after a Provider's Facilities have been removed from the Rights-of-Way, (unless the City Engineer notifies the provider that a reasonably longer period shall apply), a Provider shall deposit with the City Engineer and maintain an irrevocable, unconditional letter of credit or surety bond in an amount equal to or greater than one hundred thousand dollars (US\$100,000.00). The City Engineer shall make all reasonable efforts to allow provider a period of five calendar days after serving notification in writing to correct or repair any default, problem or deficiency prior to the City Engineer's attachment of the letter of credit or surety bond.

(c) Blanket Bond. In lieu of the construction bond required by Section 901.20(a) and the removal bond required by Section 901.21(b), a Provider may deposit with the City Engineer an irrevocable, unconditional letter of credit and/or surety bond in the amount of five million dollars (US \$5,000,000.00). Unless a Construction default, problem or deficiency involves an Emergency or endangers the safety of the general public, the City Engineer shall make all reasonable effort to allow Permittee a period of five calendar days after sending notification in writing to correct or repair any default, problem or deficiency prior to City Engineer's attachment of the letter of credit or surety bond.

(d) Self-Bonding. In lieu of the construction bond required by Section 901.20(a), the removal bond required by Section 901.21(b), and the blanket bond required by Section 901.20(c), those Providers maintaining a book value in excess of fifty million dollars (US\$50,000,000.00) may submit a statement to the City Engineer requesting to self-bond. If approval to self-bond is granted, a Provider shall assure the City that such self-bonding shall provide the City with no less protection and security than would have been afforded to the City by a third party surety providing provider with the types and amounts of bonds detailed in the above named sections. This statement shall include:

- (1) Audited financial statements for the previous year; and
- (2) A description of the applicant's self-bonding program;
- (3) Other applicable and pertinent information as reasonably requested by the City Engineer.

(e) Purposes.

- (1) The letter of credit or surety bond required by this section shall serve as security for:
 - A. The faithful performance by the Permittee or Provider of all terms, conditions and obligations of this chapter; and
 - B. Any expenditure, damage, or loss incurred by the City occasioned by the Permittee or Provider's violation of this chapter or its failure to comply with all rules, regulations, orders, Permits and other directives of the City issued pursuant to this chapter; and
 - C. The payment of all compensation due to the City, including Permit Fees; and
 - D. The payment of premiums (if any) for the liability insurance required pursuant to this chapter; and
 - E. The removal of Facilities from the Rights-of-Way pursuant to this chapter; and
 - F. The payment to the City of any amounts for which the Permittee or Provider is liable that are not paid by its insurance or other surety; and
 - G. The payment of any other amounts which become due to the City pursuant to this chapter or Law.

(f) Form. The bond documents required by this section and any replacement bond documents shall contain the following endorsement: "It is hereby understood and agreed that this bond may not be canceled or not renewed by the surety nor the intention to cancel or not to renew be stated by the surety until ninety (90) days after completion of construction of the facilities and, notwithstanding the foregoing, shall in no case be canceled or not renewed by the surety until at least ninety (90) days' written notice to city of surety's intention to cancel or not renew this bond." (Ord. 13-19. Passed 9-9-19.)

901.21 INDEMNIFICATION AND LIABILITY.

(a) City Does Not Accept Liability.

- (1) By reason of the acceptance of an Application, the grant of a Permit or the issuance of a Certificate of Registration, the City does not assume any liability:
 - A. For injuries to Persons, damage to property, or loss of Service claims; or

B. For claims or penalties of any sort resulting from the installation, presence, maintenance or operation of Facilities.

(b) Indemnification.

- (1) By applying for and being issued a Certificate of Registration with the City a Provider is required, or by accepting a Permit a Permittee is required to defend, indemnify, and hold harmless the City's agents, elected officials, officers, employees, volunteers and subcontractors from all costs, liabilities, claims, and suits for damages of any kind arising out of the Construction, presence, installation, maintenance, repair or operation of its Facilities, or out of any activity undertaken in or near a Right-of-Way, whether any act or omission complained of is authorized, allowed, or prohibited by a Permit. Such requirement to defend, indemnify and hold harmless shall not extend to the negligence of the city or its agents, elected officials, officers, employees, volunteers and subcontractors, to the extent that the existence of such negligence shall be proven to exist. A Provider or Permittee shall not bring, nor cause to be brought, any action, suit or other proceeding claiming damages, or seeking any other relief against the City's agents, elected officials, officers, employees, volunteers, and subcontractors for any claim nor for any award arising out of the presence, installation, maintenance or operation of its Facilities, or any activity undertaken in or near a Right-of-Way, whether the act or omission complained of is authorized, allowed or prohibited by a Permit. This section is not, as to third parties, a waiver of any defense or immunity otherwise available to the Provider, Permittee or to the City; and the Provider or Permittee, in defending any action on behalf of the City, shall be entitled to assert in any action every defense or immunity that the City could assert in its own behalf. Any and all exercise of the above shall be consistent with, but not limited to, the following:
 - A. To the fullest extent permitted by law, all Providers and Permittees shall, at their sole cost and expense, fully indemnify, defend and hold harmless the City, its elected officials, agents, officers, employees, volunteers and subcontractors from and against any and all lawsuits, claims (including without limitation workers' compensation claims against the City or others), causes of actions, actions, liability, and judgments for injury or damages (including, but not limited to, expenses for reasonable legal fees, costs and expenses assumed by the City in connection therewith); and
 1. Persons or property, in any way arising out of or through the acts or omissions of Provider or Permittee, its subcontractors, agents or employees attributable to the occupation by the Provider or Permittee of the Rights-of-Way, to which Provider's or Permittee's negligence shall in any way contribute, and regardless of whether the City's negligence or the negligence of any other party shall have contributed to such claim, cause of action, judgment, injury or damage; and
 2. Arising out of any claim for invasion of the right of privacy, for defamation of person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent or any other right of any person, firm and corporation by the Provider, but excluding claims arising out of or related to the City's actions; and
 3. Arising out of Provider or Permittee's failure to comply with the provisions of law applicable to Provider or Permittee in its business hereunder.
 - (2) The foregoing indemnification is conditioned upon the City:
 - A. Giving Provider or Permittee prompt notice of any claim or the commencement of any action, suit or proceeding for which indemnification is sought; and
 - B. Affording the Provider or Permittee the opportunity to participate in any compromise, settlement, or other resolution or disposition of any claim or proceeding subject to indemnification; and
 - C. Cooperate in the defense of such claim and making available to the Provider or Permittee all pertinent information under the City's control.
 - (3) The City shall have the right to employ separate counsel in any such action or proceeding and to participate in the investigation and defense thereof, and the Provider or Permittee shall pay all reasonable fees and expenses of such separate counsel if employed.

(Ord. 13-19. Passed 9-9-19.)

901.22 GENERAL PROVISIONS.

(a) Non-exclusive Remedy. The remedies provided in this chapter are not exclusive or in lieu of other rights and remedies that the City may have at law or in equity. The City is hereby authorized at any time to seek legal and equitable relief for actual or threatened injury to the Rights-of-Way, including but not limited to damages to the Rights-of-Way, whether caused by a violation of any of the provisions of this chapter or other provisions of the Code.

(b) Severability. If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

(c) Revocability. If a regulatory body or a court of competent jurisdiction should determine by a final, non-appealable order that any Permit, right or any portions of this section are illegal or unenforceable, then any such Permit or right granted or deemed to exist hereunder shall be considered as a revocable Permit with a mutual right in either party to terminate without cause upon giving thirty (30) days written notice to the other. The requirements and conditions of such a revocable Permit shall be the same requirements and conditions as set forth in the Permit, right or registration, respectively, except for conditions relating to the term of the Permit and the right of termination. If a Permit or right shall be considered a revocable Permit as provided herein, the Permittee must acknowledge the authority of the City to issue such revocable Permit and the power to revoke it.

(d) Reservation of Regulatory and Police Powers. The City, by the granting of a Permit or by issuing a Certificate of Registration pursuant to this chapter, does not surrender or to any extent lose, waive, impair, or lessen the lawful powers and rights, which it has now or may be hereafter vested in the City under the Constitution and laws of the United States, and State of Ohio to regulate the use of the Rights-of-Way. The Permittee by its acceptance of a Permit, or Provider by applying for and being issued a Certificate of Registration, is deemed to acknowledge that all lawful powers and rights, regulatory power, or police power, or otherwise as now are or the same as may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time. A Permittee or Provider is deemed to acknowledge that its rights are subject to the regulatory and police powers of the City to adopt and enforce general ordinances necessary to the safety and welfare of the public and is deemed to agree to comply with all applicable general laws and ordinances enacted by the City pursuant to such powers.

(e) Method of Service. Any notice or order of the City Engineer or Service-Safety Director shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally; or
- (2) Successfully transmitted via facsimile transmission to the last known fax number of the person to be served; or
- (3) Successfully transmitted via electronic mail to the last known e-mail address of the person to be served; or
- (4) Left at the usual place of business of the person to whom it is to be served upon and with someone who is eighteen (18) years of age or older; or
- (5) Sent by certified, pre-posted U.S. Mail to the last known address; or
- (6) If the notice is attempted to be served by certified, pre-posted U.S. Mail and then returned showing that the letter was not

delivered, or the certified letter is not returned within fourteen (14) days after the date of mailing, then notice may be sent by regular, pre-posted, first-class U.S. Mail; or

- (7) If the notice is attempted to be served by regular, first class U.S. Mail, postage prepaid, and the letter is then returned showing that the letter was not delivered, or is not returned within fourteen (14) days after the date of mailing, then notice shall be posted in a conspicuous place in or about the structure, building, premises or property affected by such notice.

(f) Requests for Information. In the event that the City receives a request from a third party for the disclosure of information a Provider has clearly marked as “confidential/proprietary information” then the City shall respond in accordance with O.R.C. Chapter 149. However, the City shall endeavor to use reasonable Best Efforts to timely place the Provider’s System Representative on notice that such a request for public disclosure has been made, at which point it will be the Provider’s sole and exclusive responsibility to take whatever steps it deems necessary to protect such documents from disclosure.

(g) Applies to All Providers. This chapter shall apply to all Providers and all Permittees unless expressly exempted.

(h) Police Powers. All Persons’ rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. All persons shall comply with all applicable laws enacted by the City pursuant to its police powers. In particular, unless otherwise required by Law, all persons shall comply with City zoning and other land use requirements pertaining to the placement and specifications of Facilities.

(i) Compliance. No Person shall be relieved of its obligation to comply with any of the provisions of this chapter by reason of any failure of the City to enforce prompt compliance.

(j) Foreclosure and Receivership.

(1) Upon the filing of any voluntary or involuntary petition under the Bankruptcy Code by or against any Provider and/or Permittee, or any action for foreclosure or other judicial sale of the Provider and/or Permittee Facilities located within the Rights-of- Way, the Provider and/or Permittee shall so notify the City Engineer within fourteen (14) calendar days thereof and the Provider and/or Permittee’s Certificate of Registration or Permit (as applicable) shall be deemed void and of no further force and effect.

(2) The City shall have the right to revoke, pursuant to the provisions of the code, any Certificate of Registration or Permit granted pursuant to this chapter, subject to any applicable provisions of law, including the Bankruptcy Code, one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of the Provider and/or Permittee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days or unless:

A. Within one hundred and twenty (120) days after election or appointment, such receiver or trustee shall have fully complied with all the provisions of the relevant Certificate of Registration, any outstanding Permit, this chapter, and remedied all defaults thereunder; and

B. Said receiver or trustee, within said one hundred and twenty (120) days, shall have executed an agreement, duly approved by a court having jurisdiction over the Facilities, whereby such receiver or trustee assumes and agrees to be bound by each and every provisions of the relevant Certificate of Registration, Permit and this chapter.

(k) Choice of Law and Forum. This chapter and the terms and conditions of any Certificate of Registration or Permit shall be construed and enforced in accordance with the substantive laws of the City, State of Ohio and United States, in that order. As a condition of the grant of any Permit or issuance of any Certificate of Registration all disputes shall be resolved in a court of competent jurisdiction in Fairfield County, Ohio.

(l) Force Majeure. In the event any Person’s performance of any of the terms, conditions or obligations required by this chapter is prevented by a cause or event not within such Person’s control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this section, causes or events not within the control of a Person shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires.

(m) No Warranty. The City makes no representation or warranty regarding its right to authorize the Construction of Facilities on any particular Rights-of-Way. The burden and responsibility for making such determination shall be upon the Person installing Facilities in the Rights-of-Way.

(n) Continuing Obligation and Holdover. In the event a Provider or Permittee continues to operate all or any part of the Facilities after the termination, lapse, or revocation of a Certificate of Registration, such Provider or Permittee shall continue to comply with all applicable provisions of this chapter and other laws throughout the period of such continued operation, provided that any such continued operation shall in no way be construed as a renewal or other extension of the Certificate of Registration, nor as a limitation on the remedies, if any, available to the City as a result of such continued operation after the term, including, but not limited to, damages and restitution. Any conflict between the issuance of a Certificate of Registration or of a Permit and any other present or future lawful exercise of the City’s regulatory or police powers shall be resolved in favor of the latter.

(o) Appeals. All appeals provided for by this chapter and any notification to the City required by this chapter shall be in writing and sent via certified U.S. Mail to the City Engineer or City Engineer as specified in this chapter.

(p) City Facilities. As part of City required standards, wherever Rights-of-Way are under Construction, if deemed advisable and practicable by the City Engineer, the City may install all such Facilities deemed necessary to accommodate future Provider needs. Any such installed Facilities shall be City property and may be conveyed to any Person under such terms and conditions as are deemed advisable by the City.

(q) Section Headings. Section headings are for convenience only and shall not be used to interpret any portion of this chapter.

(Ord. 13-19. Passed 9-9-19.)

901.99 PENALTY.

(a) In addition to any other penalties set forth in this chapter and the remedy of specific performance which may be enforced in a court of competent jurisdiction, the following penalties shall apply:

(1) Whoever violates any provision of this chapter shall be guilty of a Misdemeanor in the First Degree and in addition to any period of incarceration permitted by law, shall be subject to a maximum fine of one thousand dollars (US \$1,000.00) per violation if the violator is an individual, or five thousand dollars (US \$5,000.00) per violation if the violator is an organization as defined in O.R.C. Section 2901.23. For purposes of this section, each day in which this chapter is violated shall constitute a separate violation.

(2) In addition, for failure to timely comply with a notice by the City Engineer to remove or rearrange Facilities pursuant to Section 901.05(e)(3), an additional civil forfeiture equal to any costs incurred by the City as a result of such failure, including but not limited to any penalties or liquidated damages charged the City by its contractors occasioned thereby, shall be imposed.

(Ord. 13-19. Passed 9-9-19.)

CHAPTER 902

Supplemental Right-of-Way Controls

902.01 Steel roadway plates.

- 902.02 Dumpsters/containers.
- 902.03 Haul routes.
- 902.04 Oversized loads and overweight loads.
- 902.05 Special duty police officers.
- 902.06 Placing injurious material or obstruction in street.
- 902.07 Pavement protection during unloading.
- 902.08 Littering of streets, alleys or public grounds.
- 902.09 Littering of streets by contractors.
- 902.10 Removal of traffic control devices and/or warning barricades.
- 902.11 Stop work order.
- 902.99 Penalty.

902.01 STEEL ROADWAY PLATES.

The City requires that all companies, corporations, or individuals placing steel roadway plates in the right-of-way of any street, alley, or public right-of-way notify the Lancaster Department of Transportation upon placement and removal of any plate. The contractor name, employee contact name with a 24-hour emergency telephone number, location and number and size of plates, and the approximate number of days planned for placement shall be submitted by telephone during business hours 7:30 a.m. - 4:00 p.m. Any plates set outside of business hours must be reported to the Lancaster Police Department. All plates over open excavations shall be held in place by the use of four pins or placement of bituminous asphalt continuously on all four edges, and must be marked by signage per the OMUTCD. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.02 DUMPSTERS/CONTAINERS.

All dumpsters or containers placed within the public right-of-way must have an a limited occupancy permit. This regulation does not apply to the trash containers placed or approved by the Sanitation Division. Limited Occupancy permits for dumpsters or containers may be issued to the vendor who supplies them or the permittee requesting the use of one. The vendor shall be responsible for providing a dumpster or container in compliance with current City of Lancaster regulations when placed in a roadway. Each dumpster container shall be equipped with reflectorized hi-intensity barricade tape (minimum 8 inches wide, strand orange and silver). A minimum of two bands each are required for dumpsters or containers less than four feet in height and three bands for dumpsters and containers over four feet in height. Each band shall be spaced evenly around the perimeter of the dumpster or container. In lieu of reflectorized tape, traffic control barrels with reflectorized tape may be used at 4-foot maximum spacing around the entire dumpster. The company's name and a 24-hour telephone number shall be placed on each side so that it is clearly visible. A weatherproof 9" x 12" plastic envelope shall be affixed to the dumpster or container or provide a means of posting the permit. The permittee shall be responsible for the placement of advance warning traffic control devices. The requirement of such shall be evaluated at the time of permit application or when a hazard develops. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.03 HAUL ROUTES.

The permit holder shall at the time of filing a permit to excavate in the Right-of-Way or use the Right-of Way as a haul route shall submit a haul route map/plan for approval. A haul route shall be identified for the delivery or removal of building site materials as well as oversized equipment requiring special transport for a project. All approved maps/plan shall show ingress and egress of the excavation site both loaded and unloaded. The person or contractor that has been issued a permit shall be responsible for any excessive degradation or injury due to activities as described in the permit. Said repairs to the Right-of-Way shall be made in accordance with Section 901.04 and at the expense of the permittee. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.04 OVERSIZED LOADS AND OVERWEIGHT LOADS.

(a) No person, corporation or other entity shall operate a vehicle in excess of the maximum permitted weights established under 5577.04 Revised Code or in excess of the maximum overall dimensions established under 5577.05 Revised Code on any City street without first obtaining a permit to do so from the Service Safety Director or his designee. Application to operate said overweight or said oversized vehicle on City streets shall be made on the forms provided by the Service Safety Director and shall be submitted no less than five business days before the aforesaid travel date is to occur.

These restrictions shall not apply to those vehicles specifically exempted under 5577.05 Revised Code or 4511.04 Revised Code. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.05 SPECIAL DUTY POLICE OFFICERS.

When required by the permit, or if required by the Service-Safety Director or designee, the permittee shall be responsible for hiring and paying for the services of Uniformed Special Duty Police Officers. Applicants shall be contacted prior to permit approval to discuss the necessity of the use of police officers. The City of Lancaster will determine the number of officers required. City of Lancaster officers are to be utilized when available, as their familiarity with local traffic patterns, issues and other City personnel will be beneficial to the project. An officer may be requested by calling the Lancaster City Police. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.06 PLACING INJURIOUS MATERIAL OR OBSTRUCTION IN STREET.

(a) No person shall place or knowingly drop upon any part of a street, highway or alley any tacks, bottles, wire, glass, nails or other articles which may damage or injure any person, vehicle or animal traveling along or upon such street, except such substances that may be placed upon the roadway by proper authority for the repair or construction thereof.

(b) Any person who drops or permits to be dropped or thrown upon any street any noxious, destructive or injurious material shall immediately remove the same.

(c) Any person authorized to remove a wrecked or damaged vehicle from a street shall remove any glass or other injurious substance dropped upon the street from such vehicle.

(d) No person shall place any obstruction in or upon a street without proper authority.

- (1) Except as otherwise provided in this subsection, whoever violates any provision of subsections (a) to (d) is guilty of a minor misdemeanor. If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one predicate motor vehicle or traffic offense, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the fourth degree. If, within one year of the offense, the offender previously has been convicted of two or more predicate motor vehicle or traffic offenses, whoever violates any provision of subsections (a) to (d) of this section is guilty of a misdemeanor of the third degree.

- (2) Whoever violates this section is guilty of a misdemeanor of the first degree. (Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.07 PAVEMENT PROTECTION DURING UNLOADING.

No person shall unload any heavy material in the City by throwing or letting the same fall upon the pavement of any street, sidewalk,

or other public way, without first placing some sufficient protection over the pavement.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.08 LITTERING OF STREETS, ALLEYS OR PUBLIC GROUNDS.

No person shall throw, deposit or cause to be thrown or deposited any dirt, paper, sweepings of any store, house or office, ashes, shavings, offal, straw, wood, stones, gravel, earth, yard waste, leaves, manure, refuse matter, rubbish of any kind, and any material of any kind, whatever upon any street, alley or public ground.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.09 LITTERING OF STREETS BY CONTRACTORS.

No person doing excavating or hauling of material of any kind or any person, having a contract for excavating or hauling materials of any kind, shall litter or permit the littering of streets, alleys or sidewalks with dirt, sand, gravel, stones or any kind of material.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.10 REMOVAL OF TRAFFIC CONTROL DEVICES AND OR WARNING BARRICADES.

No unauthorized person shall remove any traffic control devices, barricades or other means placed on the streets or sidewalks and on construction projects, public or private, in the City as a warning or protection for the public, or willfully, carelessly or negligently destroy such devices or barricades.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.11 STOP WORK ORDER.

The City may issue a Stop Work Order under this Chapter for violations of sections within this Chapter in addition to any other penalties. A Stop Work Order shall require person or agency to immediately cease work until the Stop Work Order is terminated in writing by the City.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

902.99 PENALTY.

Any person, firm or corporation, failing to comply with any section thereof, shall be guilty of a misdemeanor of the first degree, and upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both. The imposition of the penalties herein described shall not prevent the Director of Law from instituting appropriate action: to prevent an unlawful construction or restrain, correct or abate a violation; or to prevent illegal occupancy of the street; or to stop an illegal act, conduct of business or use of a public street. Each day a violation continues constitutes a new offense.
(Ord. 8-13. Passed 4-8-13; Ord. 13-19. Passed 9-9-19.)

CHAPTER 903

Sidewalks

903.01 **Sidewalks responsibility of the property owner.**

903.02 **Encumbering streets or sidewalks.**

903.03 **Sidewalks to be cleaned of ice and snow.**

903.04 **Riding on sidewalks.**

903.05 **Sidewalks construction specifications.**

903.06 **Duty to keep sidewalks in repair.**

903.07 **Notice of violation.**

903.08 **Right to appeal.**

903.09 **Enforcement.**

903.10 **Remedies not exclusive.**

903.99 **Criminal penalty.**

CROSS REFERENCES

Construction or repair at owner's expense - see Ohio R. C. 729.01 et seq.

Notice to construct or repair - see Ohio R. C. 729.03 et seq.

903.01 SIDEWALKS RESPONSIBILITY OF THE PROPERTY OWNER.

(a) The owner of any lot or land abutting upon any street shall be responsible for the maintenance, repair, and if necessary replacement of the sidewalk in front of such lot or land; provided, however, that such owner shall not be responsible for the maintenance, repair or replacement of any existing curb ramp or curb ramp structure required for crossing streets and alleys, including the inclined ramp, detectable warnings, landing area and transition section of sidewalk.

(b) The maintenance, repair or replacement of sidewalk in the public right of way shall require a permit in accordance with Chapter 901.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.02 ENCUMBERING STREETS OR SIDEWALKS.

(a) No person shall encumber any street or sidewalk, nor shall the owner, occupant or person having care or control of any building or lot of land bordering on any street or sidewalk permit the same to be encumbered, either temporarily or permanently so as to cause an obstruction of the travel path measured thirty-six inches (36") wide by eighty inches (80") high.

(b) Any person or entity wishing to use or occupy any portion of the sidewalk within the public right of way for the placement of amenities, including but not limited to artwork, seating or dining, removable railings, flower boxes, movable planters, benches, temporary signage or other barricades must comply with the requirements of Chapter 901.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.03 SIDEWALKS TO BE CLEANED OF ICE AND SNOW.

It shall be the duty of the owner of each and every parcel of real estate in the City abutting upon any sidewalk to keep such sidewalk abutting his or her premises free and clear of snow and ice, and to remove therefrom all snow and ice accumulated thereon within a reasonable time, which will ordinarily not exceed twelve hours after the abatement of any storm from which such snow and ice may have accumulated.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.04 RIDING ON SIDEWALKS.

- (a) No person shall ride a bicycle or skateboard upon a sidewalk within a Commercial District.
 - (b) Whenever a person is riding a bicycle or skateboard upon the sidewalk, such person shall yield the right of way to any pedestrian and shall give an audible signal before attempting to overtake and pass any pedestrian.
- (Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.05 SIDEWALK CONSTRUCTION SPECIFICATIONS.

All public and private sidewalks, curbing and handicap ramps shall be designed and constructed in conformance with the standards adopted by the City Engineer, and shall furthermore be in conformance with the guidelines set forth in the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.06 DUTY TO KEEP SIDEWALKS IN REPAIR.

(a) No owner of any lot or land abutting upon any street shall refuse, fail or neglect to repair or keep in repair the sidewalk in front of such land or lot. The following criteria shall be used to determine whether a sidewalk is in a state of repair:

- (1) Adjoining sections or parts thereof whose edges differ vertically by more than one-half inch (1/2");
- (2) Adjoining sections with open joints greater than five-eighths of an inch (5/8") in width;
- (3) Sections that are cracked so that pieces are missing or loose;
- (4) Sections sloping away from the street unless so constructed by design;
- (5) Sections with cross slopes exceeding three-fourths of an inch (3/4") vertical per one foot (1') horizontal;
- (6) Sections that cause an abrupt change in the longitudinal grade of the sidewalk;
- (7) Sections with deteriorating surfaces presenting loose aggregate;
- (8) Sections containing structures such as cellar doors, grates, water boxes, meter pits or hatches, which protrude above the sidewalk more than one-half inch (1/2") so that they present a tripping hazard; and
- (9) Sidewalks constructed without the approval of the City.

(b) All bushes, hedges and trees located on private property shall be kept trimmed by the owner or occupant of that property so as to prevent interference with the normal use of the sidewalks abutting that property.

(c) Structures including but not limited to retaining walls, fences, light fixtures, or planters shall be kept in repair by the owner or occupant of that property, so as to prevent injury and allow for the normal and unobstructed use of the sidewalks abutting the property.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.07 NOTICE OF VIOLATION.

The Service-Safety Director or his authorized designee, upon finding that a person has violated any section of this Chapter, may order compliance by written notice of violation as set forth in Section 1303.12. Any notice issued under this section shall allow the property owner a reasonable period of time, and in any event not less than thirty (30) days, in which to abate the violation.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.08 RIGHT TO APPEAL.

Any person effected by a decision of the Service-Safety Director or his authorized designee with respect to this Chapter shall have the right to appeal to the Structural Board of Appeals as set forth in Section 1303.06. Any appeal must be made, in writing, within thirty (30) days following service of the decision, notice or order upon which the appeal is being made.

(Ord. 9-19. Passed 4-22-19; Ord. 13-19. Passed 9-9-19.)

903.09 ENFORCEMENT.

(a) Upon the failure or refusal of a property owner to remedy or abate any violation within the time period set forth in the notice of violation or, in the case of an appeal, within 30 days of the decision of the Board upholding the decision of the Service-Safety Director or his authorized designee, the Service-Safety Director or his authorized designee may institute appropriate proceedings in law or equity to restrain, correct or abate the violation, and may assess the costs of those proceedings to the property owner, including any administrative processing fees.

(b) Whenever charges for correction or abatement remain unpaid for sixty (60) days after a statement of costs has been mailed to the property owner, Council may by resolution certify the charges to the County Auditor to be placed on the tax duplicate, to be collected in the same manner as other taxes and returned to the City. Such charges for correction or abatement expenses shall be a lien on the property from the date of entry upon the tax duplicate.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.10 REMEDIES NOT EXCLUSIVE.

The remedies listed in this Chapter are not exclusive of any other remedies available under any applicable federal, state or local law, and it is within the discretion of the Service-Safety Director or his authorized designee to seek cumulative remedies.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

903.99 CRIMINAL PENALTY.

(a) Whoever violates any provision of this Chapter is guilty of a misdemeanor of the third degree. Every day the violation continues constitutes a new offense.

(Ord. 4-16. Passed 2-22-16; Ord. 13-19. Passed 9-9-19.)

CHAPTER 905

Curbs and Driveways

905.01 Curb cut or driveway permit required.

905.02 Permit fee.

905.03 Driveway construction materials.

905.04 Drive access onto City right of way.

905.05 Right to appeal.

905.99 Penalty.

CROSS REFERENCES

Restoration after excavation - see S.U. & P. S. 901.04

Curbs in subdivisions - see P. & Z. 1109.02(d)

905.01 CURB CUT OR DRIVEWAY PERMIT REQUIRED.

No person shall construct, remove, cut, widen, change, or eliminate any curb, driveway or access point along any public right of way within the City without first obtaining a curb cut and/or driveway permit and approval from the City Engineering Department or Certified Building Department. Plans/drawings shall be submitted that depict the exact location, size and layout of the curb cut and/or driveway.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.02 PERMIT FEE.

The fee associated with this permit shall be published in the current: "City of Lancaster - Certified Building Department - Condensed Fee/Construction Permit Schedule" as established by the City Administration.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.03 DRIVEWAY CONSTRUCTION MATERIALS.

All curbs, driveways, and sidewalks integrated within the driveway access point shall be constructed in accordance with the current: "City of Lancaster - Standard Construction Drawings". (Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.04 DRIVE ACCESS ONTO CITY RIGHT OF WAY.

At the discretion of the City Engineer, curb cuts and/or driveway access points may need additional review. The City Engineer shall utilize the current "Access Management Guidelines" when reviewing the access point being constructed, changed or removed.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.05 RIGHT TO APPEAL.

If the applicant does not agree with City Engineer's decision on the access permit, the applicant may appeal to the Staff Safety Committee. The appeal should be made within forty- five (45) calendar days from the date of receipt of the City Engineer's decision. Staff Safety Committee will review all appeals that are made at least five (5) working days before their scheduled meeting. Staff Safety Committee will make a recommendation to the City Planning Commission for the final decision.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

905.99 PENALTY.

Whoever violates any provision of this chapter shall be deemed guilty of a misdemeanor of the first degree. Each day the violation continues shall constitute a separate offense.

(Ord. 19-18. Passed 10-22-18; Ord. 13-19. Passed 9-9-19.)

TITLE THREE - Public Utilities.

Chap. 910. Potable Water Supply Well Code.

Chap. 911. Water.

Chap. 912. Use of Public and Private Sewers.

Chap. 913. Drainage Generally.

Chap. 914. Trucked Wastes.

Chap. 915. Sewer Rates.

Chap. 916. Wastewater Pretreatment.

Chap. 917. Natural Gas Service.

Chap. 918. Storm Water Utility Program.

Chap. 919. Storm Water Sediment and Soil Erosion Protection.

Chap. 920. Electricity.

Chap. 921. Utilities Installation in Developments.

CHAPTER 910

Potable Water Supply Well Code

910.01 **Title; scope.**

910.02 **Definitions.**

910.03 **Water supplies.**

910.04 **Duty or standard; notice; order.**

910.99 **Penalty.**

910.01 TITLE; SCOPE.

(a) This chapter shall be known and cited as the Lancaster Potable Water Supply Well Code.

(b) This chapter restricts the installation of any newpotable water supply well within the incorporated limits of the City, at (i) any location within the "Urban Setting Designation Area" defined in this Chapter and recognized by Resolution 44-03.

(c) This Chapter requires all potable water systems within the Urban Setting Designation Area to connect to the City Municipal Water System. Preexisting wells within the Urban Setting Designation Area may not be used for potable purposes and the installation of any potable use wells is prohibited. (Ord. 47-08. Passed 11-10-08.)

910.02 DEFINITIONS.

(a) "Potable water" means any water that is used for drinking, personal or culinary use.

(b) "City" means property located within the corporation limits of the City of Lancaster.

(c) "Urban Setting Designation Area" means the area of the City within a one-half mile radius of the designated industrial property in

the Lancaster East Side Development Corridor. A figure of the area I entitled "Urban Setting Designation ½ Mile Boundary" which is incorporated by reference herein and available from the City as a public record.
(Ord. 47-08. Passed 11-10-08.)

910.03 WATER SUPPLIES.

(a) All potable water systems supplied by wells located within the Urban Setting Designation Area are hereby required to connect to the City Municipal Water System and receive from the City a new meter. Any preexisting wells shall either be: abandoned or disconnected from the potable water system. The wells may be used for non-potable purposes, as determined by the Administrative Regulator of the Water Department.

(b) The installation or use of potable use wells in the Urban Setting Designation Area is prohibited. This prohibition does not extend to non-potable use wells that are installed and maintained pursuant to applicable law. (Ord. 47-08. Passed 11-10-08.)

910.04 DUTY OR STANDARD; NOTICE; ORDER.

(a) Any person or entity that installs, constructs, operates, maintains or modifies a potable water supply well within the City of Lancaster and that is connected to the City Municipal Water System shall comply and abide by this Chapter within 120 days of issuance.

(b) Any person or entity that violates or fails to comply with this Chapter or the provisions of this Chapter shall be given written notice of violation or the failure to comply and an order to correct within a specified time period.

(Ord. 47-08. Passed 11-10-08.)

910.99 PENALTY.

Any person or entity that installs, constructs, operates, maintains or modifies a potable water supply well within the City of Lancaster or who is connected to the City Municipal Water System and fails or refuses to comply with this Chapter is guilty of a misdemeanor of the first degree. Each and every day the violation or noncompliance is found to exist shall be a separate offense. (Ord. 47-08. Passed 11-10-08.)

CHAPTER 911

Water

EDITOR'S NOTE: Ohio R.C. 743.02 provides that the Director of Public Service may make such bylaws and regulations as he deems necessary for the safe, economical and efficient management and protection of the City water works. Such bylaws and regulations shall have the same validity as ordinances when not repugnant thereto or to the Constitution or laws of the State of Ohio. The Director of Public Service, pursuant to Ohio R.C. 743.03, shall manage, conduct and control the City water works, furnish supplies of water and collect water rents. The Director may assess and collect a water rent of sufficient amount and in such manner as he deems most equitable from all tenements and premises supplied with water, as provided by Ohio R.C. 743.04.

911.01 Free water to parks.

911.02 Device to protect system from contaminants due to backflow.

911.03 Unlawful connections.

911.04 Surveys and investigations of properties served.

911.05 Right of entry.

911.06 Service discontinuance and restoration.

911.07 Capacity charge for water.

911.07.1 Payment for persons with qualified incomes.

911.07.2 Hearing Board.

911.07.3 Validity.

911.07.4 Penalty.

CROSS REFERENCES

Power to provide and regulate water system - see Ohio R. C. 715.08, 717.01, 743.01

Water pollution - see Ohio R. C. 715.08, 743.24 et seq.

Compulsory water connections - see Ohio R.C. 729.06, 743.23

Rate assessment by Service Director - see Ohio R. C. 743.04

Free use of municipally owned utilities - see Ohio R. C. 743.27

Tampering with water hydrants, pipes or meters; unauthorized connections - see Ohio R. C. 4933.22

Water tap fees outside City - see ADM. 137.04

911.01 FREE WATER TO PARKS.

The Safety-Service Director is authorized and directed to furnish to each and every public park in the City the necessary and sufficient supply of water for all proper and incidental purposes within such parks free of charge.

(1939 R.O., 12:09)

911.02 DEVICE TO PROTECT SYSTEM FROM CONTAMINANTS DUE TO BACKFLOW.

(a) If in the judgment of the Superintendent of Water, an approved backflow prevention device is necessary for the safety of the public water system, the Superintendent of Water will give notice to the water consumer to install such an approved device. The water consumer shall, at his own expense, install such an approved device at the location(s) and in a manner approved by the Superintendent of Water and shall have inspections and tests made of such approved devices as required by the Superintendent of Water.

(b) No person, firm or corporation shall establish or permit to be established or maintain or permit to be maintained any connection whereby a private, auxiliary or emergency water supply other than the regular public water supply of Lancaster may enter the supply or distributing system of said municipality, unless such private, auxiliary or emergency water supply shall have been approved by the Superintendent of Water of Lancaster and by the Ohio Environmental Protection Agency.

(c) It shall be the duty of the Superintendent of Water to cause surveys and investigations to be made of industrial and other properties served by the public water supply where actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Superintendent of Water shall deem necessary.

(d) The Superintendent of Water of Lancaster or his or its duly authorized representative shall have the right to enter at any reasonable time any property served by a connection to the public water supply or distribution system of Lancaster for the purpose of inspecting the piping system or systems thereof. On demand the owner, lessees or occupants of any property so served shall furnish to the Superintendent of Water any information which he may request regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Superintendent of Water, be deemed evidence of the presence of improper connections as provided in this section.

(e) The Superintendent of Water of Lancaster is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this ordinance is known to exist, and take such other precautionary measures as he/she may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions shall have been eliminated or corrected in compliance with the provisions of this section.

(f) The Superintendent of Water of Lancaster is hereby authorized and directed to adopt rules and regulations for the Division of Water for Backflow Prevention and Cross- Connection Control consistent with the Ohio Administrative Code 3745-95 or its successor. (Ord. 1-99. Passed 1-11-99.)

911.03 UNLAWFUL CONNECTIONS.

No person, firm or corporation shall establish, or permit to be established, or maintain, or permit to be maintained, any connection whereby a private, auxiliary or emergency water supply, other than the regular public water supply of Lancaster, may enter the supply or distributing system of the City, unless such private, auxiliary or emergency water supply and the method of connection and use of such supply shall have been approved by the Superintendent of Water and by the Ohio Environmental Protection Agency. (Ord. 30-94. Passed 10-10-94.)

911.04 SURVEYS AND INVESTIGATIONS OF PROPERTIES SERVED.

It shall be the duty of the Superintendent of Water to cause surveys and investigations to be made of industrial and other properties served by the public water supply, where actual or potential hazards to the public water supply may exist. Such surveys and investigations shall be made a matter of public record and shall be repeated as often as the Superintendent of Water shall deem necessary. (Ord. 30-94. Passed 10-10-94.)

911.05 RIGHT OF ENTRY.

The Superintendent of Water shall have the right to enter at any reasonable time, any property served by a connection to the public water supply or distributing system of Lancaster for the purpose of inspecting the piping system or systems thereof. On demand, the owner, lessees or occupants of any property so served, shall furnish to the Superintendent of Water any information which he may request, regarding the piping system or systems or water use on such property. The refusal of such information, when demanded, shall, within the discretion of the Superintendent of Water, be deemed evidence of the presence of improper connections, as provided in this chapter.

(Ord. 30-94. Passed 10-10-94.)

911.06 SERVICE DISCONTINUANCE AND RESTORATION.

The Superintendent of Water is hereby authorized and directed to discontinue, after reasonable notice to the occupant thereof, the water service to any property wherein any connection in violation of the provisions of this chapter is known to exist, and to take such other precautionary measures as he may deem necessary to eliminate any danger of contamination of the public water supply distribution mains. Water service to such property shall not be restored until such conditions shall have been eliminated or corrected, in compliance with the provision of chapter.

(Ord. 30-94. Passed 10-10-94.)

911.07 CAPACITY CHARGE FOR WATER.

(a) The City Engineer is hereby authorized and directed to collect a water system capacity charge whenever application is made for the issuance of a water tap permit to provide water service to a structure, whenever such property is either inside or outside the corporate limits of the City and as provided elsewhere in the City code.

(b) When City forces do not perform actual installation of the main water line or a service connection, the City Engineer is hereby authorized and directed to collect a water system capacity charge whenever an application is made for the issuance of a sewer permit to provide sanitary sewer service to a structure, whenever such property is or will be tributary, directly or indirectly, to any trunk sewer built by the City, either inside or outside the corporate limits of the City and as provided elsewhere in the City codes.

(c) When City forces do not perform actual installation of the main water line or a service connection, or applicant does not apply for a sewer permit, the City Engineer is hereby authorized to collect a water system capacity charge when an application for a building permit is approved by the City Engineering Department.

(d) The charge shall be determined in accordance with the following:

TABLE 1

(1) PROPERTY INSIDE CORPORATE LIMITS

DOMESTIC USE ONLY

Water Meter Size	Capacity Fee
5/8 or 3/4 inch	\$ 3,690
1 inch	6,149
1 1/2 inch	12,299

2 inch	19,678
4 inch	61,493
6 inch	112,986
8 inch	221,375
10 inch	356,660
12 inch	528,840

Fees for meters larger than 12 inch will be determined on an individual basis.
(Ord. 47-04. Passed 8-23-04.)

TABLE 2

(2) PROPERTY INSIDE CORPORATE LIMITS

FIRE PURPOSES ONLY-NO WATER METER

Tap Size	Capacity Fee
1 inch	\$ 778
1 1/2 inch	1,750
2 inch	3,111
4 inch	12,445
6 inch	28,000
8 inch	49,750

Fees for taps larger than 8 inch will be determined on an individual contract basis. If domestic line is used also with fire line, Section (3) is also applicable.

The capacity charge for water, for fire purposes only, may be waived by the Service-Safety Director for existing structures located in a Historic District, listed on the National Register of Historic Places, designated as a Designated Landmark, or within the Downtown Lancaster Special Improvement District when a sprinkler system is added on each floor as an incentive to preserve existing structures from the threat of fire by the addition of fire suppression. The approval of the sprinkler plans and completion of the plans are conditions of the waiver. (Ord. 18-17. Passed 5- 8-17.)

(3) PROPERTY INSIDE CORPORATE LIMITS

FIRE LINE WITH DOMESTIC METER

When customer requests a fire line, one large line capable of providing the required fire flow be installed from the distribution system and that the domestic service be tapped off the fire line inside the structure where a meter is installed to record domestic flow for billing purposes. The charges shall be determined in accordance with the following.

Customer to be charged the scheduled meter size for the domestic line found in TABLE 1 plus the fee located in TABLE 2.

TABLE 3

(4) PROPERTY OUTSIDE CORPORATE LIMITS CONNECTING TO AN EXISTING LINE FOR DOMESTIC USE ONLY

Water Meter Size	Capacity Fee
5/8 or 3/4 inch	\$ 5,535
1 inch	9,224
1 1/2 inch	18,449
2 inch	29,517
4 inch	92,240
6 inch	184,479
8 inch	332,063
10 inch	534,990
12 inch	793,260

Fees for taps larger than 12 inch will be determined on an individual basis.
(Ord. 47-04. Passed 8-23-04.)

TABLE 4

(5) PROPERTY OUTSIDE CORPORATE LIMITS CONNECTING TO EXISTING LINE FOR FIRE PURPOSE ONLY

Tap Size	Capacity Fee
1 inch	\$ 1,167
1 1/2 inch	2,625
2 inch	4,647
4 inch	18,670
6 inch	42,000

8 inch	74,500
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Fees for taps larger than 8 inch will be determined on an individual contract basis. If domestic line is used also with fire line, Section (6) is also applicable.

(6) PROPERTY OUTSIDE CORPORATE LIMITS CONNECTING TO AN EXISTING LINE FOR FIRE LINE WITH DOMESTIC METER

When a customer requests a fire line, one large line capable of providing the required fire flows be installed from the distribution system and that the domestic service be tapped off the fire line inside the structure where a meter is installed to record domestic flows for billing purposes. The charges shall be determined in accordance with the following:

Customers to be charged the scheduled meter size for domestic line found in TABLE 3 plus the fee located in TABLE 4.

(e) Credit for Existing Tap. In the event of an existing lot having service and the owner would like to increase the size of the tap/meter, a one time credit would be given. Credit would be determined by subtracting the price of the existing tap/meter from the price of the increased tap/meter. The owner then would be responsible for the difference of the two. This fee would then have to be paid when tap application is filed with the Division of Water.

(f) Property Outside Corporate Limits That Does Not Have An Existing City Maintained Line. The Superintendent of Water along with the City Engineer, Mayor, and or Service Director and Law Director may negotiate with areas outside corporate limits of Lancaster. Negotiated contract must be approved by a simple majority of City Council.
(Ord. 47-04. Passed 8-23-04.)

911.07.1 PAYMENT FOR PERSONS WITH QUALIFIED INCOMES.

(a) People or families with a qualified income as set forth in subsection (b) hereof may elect to pay the water capacity charge and or tapping fee over a five year period.

(b) "Qualified income" or this section means a gross income of the family unit less than twenty thousand dollars (\$20,000.00) in the year application is made to defer such charges and fees. Such application shall be made in affidavit form to the Superintendent of Water whenever application is made for the issuance of a water tap. After certification to Council, such charges and fees shall be certified in ordinance form to the County Auditor to be placed upon tax duplicate and collected in the same manner as other taxes and assessments over such five year period.

(c) All funds received as herein authorized shall be deposited with the City Treasurer and credited to the special fund described in Section 911.07 (b).
(Ord. 47-04. Passed 8-23-04.)

911.07.2 HEARING BOARD.

(a) A Hearing Board shall be appointed by the Mayor as needed for arbitration of differences between the Superintendent of Water and the water users on matters concerning interpretation and execution of the provision of this chapter. The cost of the arbitration will be divided equally between the City and the water user.

(b) One member of the board shall be a registered professional engineer; one member shall be a representative of an industry or manufacturing enterprise; one member shall be a lawyer and one member shall be selected at large for his/her interest in accomplishing the objectives of this chapter.

(Ord. 15-99. Passed 3-22-99.)

911.07.3 VALIDITY.

(a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.
(b) The validity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(Ord. 15-99. Passed 3-22-99.)

911.07.4 PENALTY.

(a) Whoever violates any provision of this chapter, shall be served by the Service- Safety Director with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.

(b) Whoever continues any violation beyond the time limit provided for in subsection (a) hereof shall be guilty of an unclassified misdemeanor with a fine of up to one hundred dollars (\$100.00) for each day a violation continues.

(c) Whoever violates any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(d) The City shall enforce by mandamus, injunction or other legal remedy these rules and regulations, and shall remove any harmful or improper construction or obstruction or shall close any opening or connection made improperly or in violation of these rules and regulations, under authority provided in the code.

(e) The City shall have full power to invoke any authorized legal, equitable or special remedy for the enforcement of this chapter.

(Ord. 15-99. Passed 3-22-99.)

CHAPTER 912

Use of Public and Private Sewers

- 912.01 Definitions.**
- 912.02 Use of public sewers required.**
- 912.03 Private sewage disposal; permit and fee.**
- 912.04 Building sewer installation and connections; tapping fees.**

- 912.05 Capacity charge for trunk sanitary sewer benefit.**
- 912.06 Waiver of fees for persons with qualified incomes.**
- 912.07 Use of the public sewers regulated.**
- 912.08 Damage or destruction of sewage works.**
- 912.09 Operating upsets.**
- 912.10 Powers and authority of City Engineer and Superintendent.**
- 912.11 Hearing Board.**
- 912.12 Validity.**
- 912.99 Penalty.**

CROSS REFERENCES

Power to regulate water closets and privies - see Ohio R.C. 715.40
 Compulsory sewer connections - see Ohio R.C. 729.06
 Regulations to control house sewers and connections - see Ohio R.C. 729.51
 Untreated sewage - see Ohio R.C. 3701.59
 Sewerage and drainage generally - see S.U. & P.S. Ch. 913
 Sewer rates - see S.U. & P.S. Ch. 915
 Wastewater pretreatment - see S.U. & P.S. Ch. 916

912.01 DEFINITIONS.

(a) Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

- (1) "BOD (Biochemical Oxygen Demand)" means the same as defined in Section 915.02 (a)(1).

(Ord. 7-86. Passed 2-10-86.)

- (1.5) "CBOD (Carbonaceous Biochemical Oxygen Demand)" means the same as defined in Section 915.02(a)(1.5).

(Ord. 27-94. Passed 8-22-94.)

- (2) "Building (or house) drain" means that part of the lowest horizontal piping of a building drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the buildings and conveys it to a point approximately three feet outside the foundation wall of the building.
- (3) "Building (or house) sewer" means the pipe which is connected to the building (or house) drain at a point approximately three feet outside the foundation wall of the building and which conveys the building's discharge from that point to the public sewer, septic tank or other place of disposal.
- (4) "Chemical Oxygen Demand" (or COD) of sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in the latest edition of Standard Methods.
- (5) "City" means the City of Lancaster, Ohio.
- (6) "City Engineer" means the City Engineer of the City or his authorized deputy, agent or representative.
- (7) "Combined sewer" means a sewer intended to receive both wastewater and storm or surface water.
- (8) "Compatible pollutant" means biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, plus pollutants identified in the NPDES permit if the treatment works were designed to treat such pollutants, and in fact, does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of eighty percent (80%) or greater. Minor incidental removals in the order of ten to thirty percent (10% to 30%) are not considered substantial. Examples of the additional pollutants which may be considered compatible include: A. Chemical oxygen demand; B. Total organic carbon; C. Phosphorus and phosphorus compounds; D. Nitrogen and nitrogen compounds; and E. Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).
- (9) "Debt service costs" means the same as defined in Section 915.02(a)(2).
- (10) "Effluent" means the water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.
- (11) "EPA" means the Environmental Protection Agency.
- (12) "Fecal coliform" means any of a number of organisms common to the intestinal tract of humans and animals, whose presence in sanitary sewage is an indicator of pollution.
- (13) "Floatable oil" means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- (14) "Garbage" means any solid wastes from the preparation, cooking or dispensing of food and from the handling, storage or sale of produce.
- (15) "Hydrogen ion concentration" means the same as defined in subsection (a)(29) hereof.
- (16) "Incompatible pollutant" means any pollutant that is not defined as a compatible pollutant, including nonbiodegradable dissolved solids.
- (17) "Industrial waste" means the same as defined in Sections 915.02(a)(4) and 916.02(a)(25).
- (18) "Infiltration" means the water entering a sewer system including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. (Infiltration does not include and is distinguished from inflow).
- (19) "Inflow" means the water discharged into a sewer system including building drains and sewers, from such sources as, but not limited to: roof leaders, cellar, yard and area drain, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and combined sewers,

catch basins, storm water surface run-off, street wash water or drainage. (Inflow does not include, and is distinguished from infiltration.)

- (20) "Infiltration/inflow" means the total quantity of water from both infiltration and inflow without distinguishing the source.
- (21) "Inspector" means the person or persons duly authorized by the City, to inspect and approve the installation of building sewers and their connection to the public sewer system.
- (22) "Major contributor" means the same as defined in Section 916.02(a)(29).
- (23) "NH₃-N" means the same as ammonia nitrogen measured as nitrogen. The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of Standard Methods.
- (24) "Normal domestic sewage" means the same as defined in Section 915.02(a)(7).
- (25) "NPDES permit" means the same as defined in Section 915.02(a)(6).
- (26) "Operation and maintenance cost" means the same as defined in Section 915.02(a)(9).
- (27) "Outlet" means any outlet, natural or constructed, which is the point of final discharge of sewage or of treatment plant effluent into any watercourse, pond, ditch, lake or other body of surface or ground water.
- (28) "Person" means the same as defined in Section 915.02(a)(11).
- (29) "pH" means the logarithm (to the base of ten) of the reciprocal of the hydrogen ion concentration of a solution expressed in gram-atoms per liter of solutions.
- (30) "Pretreatment" means the same as defined in Section 916.02(a)(43).
- (31) "Properly shredded garbage" means the waste from the preparation, cooking and dispensing of food that has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- (32) "Receiving stream" means the watercourse, stream or body of water receiving the waters finally discharged from the sewage treatment plant.
- (33) "Replacement" means the same as defined in Section 915.02(a)(12).
- (34) "Residential user" means the same as defined in Section 915.02(a)(19)A.
- (35) "Sanitary sewage" means sewage discharged from the sanitary conveniences of dwellings (including apartment houses, hotels and motels), office buildings, factories or institutions and free from storm water, surface water and industrial wastes.
- (36) "Sewage" means the water-carried wastes from residences, business buildings, institutions and industrial establishments singular or in any combination, together with such ground, surface and storm waters as may be present.
- (37) "Sewage treatment plant" means the arrangement of devices, structures and equipment used for treatment and disposing of sewage and sludge.
- (38) "Sewage works" means the organization and all facilities for collecting, transporting, pumping, treating and disposing of sewage and sludge, namely the sewerage system and the sewage treatment plant.
- (39) "Sewer" means a pipe or conduit for carrying sewage or other waste liquids.
 - A. "Private sewer" means a sewer which is not owned by a public authority.
 - B. "Public sewer" means a sewer in which all owners of abutting property have equal rights and which is controlled by public authority.
 - C. "Sanitary sewer" means a sewer which carries sewage and to which storm, surface and ground waters and unpolluted industrial waste waters are not intentionally admitted.
 - D. "Storm sewer" means a sewer which carries storm and surface water drainage but excludes sewage and industrial wastes, other than unpolluted cooling water.
- (40) "Sewerage system or sewage system" means the network of sewers and appurtenances used for collecting, transporting and pumping sewage to the sewage treatment plant.
- (41) "Shall" is mandatory; "may" is permissible.
- (42) "Slug" means any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen minutes more than five times the average twenty-four hour concentration or flows during normal operation.
- (43) "Standard Methods" means the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater", prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation and "Guidelines Establishing Test Procedures for Analysis of Pollutants", Regulation 40 CFR Part 136, published in the Federal Register on October 16, 1975.
- (44) "Superintendent" means the same as defined in Section 916.02(a)(55).
- (45) "Surcharge" means the same as defined in Section 915.02(a)(3).
- (46) "SS (Suspended Solids)" means the same as defined in Section 915.02(a)(13).
- (47) "Tonal revenue" means that revenue obtained from monthly billing for the use of and service rendered by the sewage works and does not include user capacity charge, permit or inspection fees or other charges.
- (48) "Total solids" means the sum of suspended and dissolved solids.
- (49) "Toxic amount" means concentrations of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to Section 307 (a) of PL 92-500.
- (50) "Unpolluted water" means water of a quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (51) "User charge" means the same as defined in Section 915.02(a)(18).
- (52) "User capacity charge" means the connection fee when new customers are connected to the sewer system.
- (53) "Volatile organic matter" means the material in the sewage solids transformed to gases or vapors when heated at 550 degrees Centigrade for fifteen to twenty minutes.

(54) "Watercourse" means a channel in which a flow of water occurs either continuously or intermittently.

(Ord. 7-86. Passed 2-10-86.)

912.02 USE OF PUBLIC SEWERS REQUIRED.

(a) No person shall deposit or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of the City, any human or animal excrement, garbage or other objectionable waste.

(b) No person shall discharge to any natural outlet within the City or in any area under the jurisdiction of the City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

(c) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the City, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this chapter and NPDES permit.

(d) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facilities intended or used for the disposal of sewage.

(e) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right of way in which there is now located or may in the future be located a public sanitary or combined sewer, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter within ninety days after the date of official notice to do so, provided that such public sewer is within 100 feet of the property line.

(Ord. 7-86. Passed 2-10-86.)

912.03 PRIVATE SEWAGE DISPOSAL, PERMIT AND FEE.

(a) Where a public sanitary or combined sewer is not available under the provisions of Section 912.02(e), the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(b) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the City Health Department. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any plans, specifications and other information as deemed necessary by the City Health Department. A permit fee of one hundred dollars (\$100.00) shall be paid to the City at the time application is filed. A layout fee of fifty dollars (\$50.00) shall be paid at the time of inspection.

(c) A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the City Health Department. The Director or his/her designee shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the City Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within seventy-two hours of the receipt of notice by the City Health Department.

(d) The type, capacities, location, and layout of a private sewage disposal system shall be approved and shall comply with all recommendations of the City Department of Health. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

(e) At such time as a public sewer becomes available to a property served by the private sewage disposal system, as provided in Section 912.02(e) hereof, a direct connection from the user side of the septic tank shall be made to the public sewer in compliance with this chapter within ninety days, and any septic tanks, cesspools, and similar private sewage disposal facilities shall be cleaned of sludge, demolished, and filled with clean bank-run gravel or dirt, as approved by the City Health Department.

(f) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.

(g) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the City, County, or State health office with legal jurisdiction.

(h) Where subdivisions were platted prior to the effective date of all City ordinances prescribing lot size for sewage disposal systems, such subdivisions with lot sizes smaller than those required by present ordinances shall be approved for septic tank and sewage disposal systems under ordinances or rules and regulations of the Health Department, in effect at the time such subdivisions were platted.

(Ord. 52-97. Passed 8-11-97.)

912.04 BUILDING SEWER INSTALLATION AND CONNECTIONS; TAPPING FEES.

(a) All persons making a connection to the sanitary sewerage collecting system or altering or changing the use of the land served where there is an existing connection as contemplated hereinafter, shall pay to the City, in addition to the inspection fee, the following fees:

- (1) For single dwelling units for which a sewer permit is needed, the charge shall be twenty-five dollars (\$25.00).
- (2) For multiple family dwelling structures for which a sewer permit is needed, the charge shall be fifty dollars (\$50.00) for the first unit, and ten dollars (\$10.00) for every unit thereafter.
- (3) For any structure intended partially or wholly for commercial purposes, for which a sewer permit is needed, the charge shall be fifty dollars (\$50.00) for the first commercial unit proposed for the structure plus fifty dollars (\$50.00) per unit for each additional unit proposed. Dwelling units in commercial structures (such as apartments over a store) shall be charged as in subsection (a)(2) hereof. Commercial is defined as an establishment whose principal activity is to provide merchandise or services to those who need them. A commercial unit shall consist of a structure or part thereof having 15,000 square feet or less.
- (4) For any structure intended partially or wholly for industrial purposes for which a sewer permit is needed, the charge shall be fifty dollars (\$50.00) for each industrial unit proposed for the structure. Commercial units in industrial structures will be charged as in subsection (a)(3) hereof. Industry is defined as any activity where materials are received, are altered by one or more internal operations and then dispatched in the altered form. An industrial unit shall consist of a structure or part thereof having 40,000 square feet or less.
- (5) All municipal, county, state, and federal activities shall be classed as commercial providing services.
- (6) All churches, schools, hospitals, nursing and rest homes and other service organizations, shall be classed as commercial

providing services.

(7) Regardless of the fees herein before mentioned, it is provided that a charge of one hundred dollars (\$100.00) shall be made for a permit to tap into a trunk or interceptor sewer. All fees herein before mentioned are for main lines.

(b) In all cases, the owner or his agent shall make application on a special permit form furnished by the City. The permit application shall be supplemented by any plans, specification or other information considered pertinent in the judgment of the City Engineer. The City Engineer shall administer the collection of this fee, and he is hereby granted authority as may be necessary to collect the same, including the right to withhold issuance of a permit until plans are approved and until such fee is paid.

(c) All tapping and inspection fees shall be credited to a separate fund called "The Sanitary Sewer Improvement and Extension Fund".

(d) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner or the person installing the building sewer for such owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by such installation.

(e) (1) A separate and independent sewer lateral shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard or driveway, the sewer lateral from the front building may be extended to the rear building and the whole considered as one sewer lateral. In these cases, the tapping fee appropriate to the building being served shall be paid the same as though the sewer was being connected directly to the main sewer system.

(2) Old sewer laterals may be used in connection with new buildings only when they are found, on examination and test by the City Engineer, to meet all requirements of this chapter, including the payment of an inspection fee. The charge for the examination and test by the City Engineer shall be fifty dollars (\$50.00) regardless of the result of the inspection.

(f) The size and slope of the building sewer shall be subject to the approval of the Superintendent, but in no event shall the diameter be less than six inches for all uses. The slope of such pipe shall be not less than one percent (1%) or of sufficient slope to maintain a two feet per second velocity in the sewer.

(g) No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Changes in direction shall be made only with properly curved pipes and fittings.

(h) Whenever possible, the sewer lateral shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a means approved by the City Engineer and discharged to the sewer lateral. No water operated sewage ejector shall be used.

(i) No person shall make connection of roof downspouts, foundation drains, areaway drains or other sources of surface runoff or ground water to a sewer lateral or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

(j) All connections of sewer laterals to sanitary sewer mains of less than fifteen inches diameter shall be done in the following manner: the complete joint where the connection is to be made shall be removed and replaced with a "Y" for such connections. In pipes fifteen inches and over, an opening may be cut into the pipe and a short hub installed in this opening. This hub shall be protected with either cement mortar or concrete of proper mixture.

(k) The applicant for the lateral sewer permit shall notify the City Engineer when the lateral sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the City Engineer or his representative.

(l) All excavations for lateral sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Street, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner approved by the City Engineer.

(m) The materials for building sewers (laterals) shall be as listed herein. Any reference to any standard shall mean the latest revision of that standard.

(1) Pipe.

A. Vitrified clay pipe, extra strength meeting the standards of ASTM-C700.

B. Type PSM Poly (Vinyl Chloride) PVC sewer pipe meeting the standards of ASTM D3034 SDR 35.

(2) Joints.

A. All joints in vitrified clay pipe shall be made with ASTM C 425 type joints. Joints between clay pipe and pipe of other materials shall be made with approved adapter fittings or prefabricated elastomeric sealing rings or sleeves.

B. All joints in PVC pipe shall be made with either molded rubber, elastomeric gasketed or rubber-ring type meeting standards of ASTM D3034. Solvent cement joints shall not be permitted.

C. Repair joints shall be made using rubber transitional couplings with stainless steel adjustable bands at both ends when installing a "Y" branch fitting or making a repair to all sanitary sewer mains and laterals.

(n) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the City Engineer. Pipe laying and backfill shall be performed in accordance with ASTM specifications except that no backfill shall be placed until the work has been inspected by the City Engineer or his representative.

(o) No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenances thereof or install any building sewer (lateral) without first obtaining a written permit from the City Engineer. Before a permit may be issued for a building sewer in any public street, way or alley, or private property, the person applying for such permit shall have executed unto the City and deposited with the Service Safety Director a corporate surety in the sum of two thousand dollars (\$2,000) conditioned that he shall perform faithfully all work with due care and skill, and in accordance with the laws, rules and regulations established under the authority or any regulation of the City pertaining to plumbing. This bond shall state that the person shall indemnify and save harmless the City and the owner of the premises against all damages, costs, City expenses, outlays and claims of every nature and kind arising out of unskillfulness or negligence on his part in connection with plumbing or excavating for plumbing as prescribed in this section. Such bond shall remain in force and shall be executed for a period of one year except that on such expiration, it shall remain in force as to all penalties, claims and demand that may have accrued thereunder prior to such expiration.

(Ord. 7-86. Passed 2-10-86.)

912.05 CAPACITY CHARGE FOR TRUNK SANITARY SEWER BENEFIT.

(a) The City Engineer is hereby authorized and directed to collect a sanitary sewer system capacity charge whenever application is

made for the issuance of a sewer permit to provide sanitary sewer to a structure, whenever such property is or will be tributary, directly or indirectly to any trunk sanitary sewer built by the City, either inside or outside the corporate limits of the City and as provided elsewhere in the City Codes.

(b) The charge shall be determined in accordance with the following:

(1) **PROPERTY INSIDE CORPORATE LIMITS**

TABLE 1

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$2,050.00
1 inch	4,000.00
1 ½ inch	9,700.00
2 inch	16,900.00
4 inch	36,400.00
6 inch	61,200.00
8 inch	137,700.00

Fees for meters larger than 8 inch will be determined on an individual basis.

(2) **PROPERTY OUTSIDE CORPORATE LIMITS**

TABLE 2

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$2,812.50
1 inch	5,512.50
1 ½ inch	13,387.50
2 inch	23,287.50
4 inch	50,175.00
6 inch	84,375.00
8 inch	189,900.00

Fees for meters larger than 8 inch will be determined on an individual basis.

Effective January 1, 2008

(1) **PROPERTY INSIDE CORPORATE LIMITS**

TABLE 1

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$4,844.00
1 inch	9,452.00
1 ½ inch	22,920.00
2 inch	39,933.00
4 inch	86,010.00
6 inch	144,611.00
8 inch	325,374.00

Fees for meters larger than 8 inch will be determined on an individual basis

(2) **PROPERTY OUTSIDE CORPORATE LIMITS**

TABLE 2

WATER METER SIZE	CAPACITY FEE
5/8 or 3/4 inch	\$7,266.00
1 inch	14,178.00
1 ½ inch	34,381.00
2 inch	59,900.00
4 inch	129,016.00
6 inch	216,916.00
8 inch	488,062.00

Fees for meters larger than 8 inch will be determined on an individual basis.

(c) A deduction may be made from the trunk sewer capacity charge herein imposed whenever, and to the extent that, the owner of the property concerned can show that a special assessment has been paid for such or similar trunk sewer benefit, provided that such deduction shall be limited to the amount of such original payment.

(d) Capacity Charge for Trunk Sewer Benefit. An exemption of the capacity charge shall be made where a structure of a classified use is replaced by a structure of a higher use, the capacity charge fee shall be the difference of the lower use fee from the higher use fee. The City Engineer or his agent shall have the final discretion to approve or reject the existing lateral.

(e) The capacity charge due for existing residential structures required to connect to the City's sanitary system by Lancaster Codified Ordinance 912.02 may be paid through the following methods:

(1) A ten year assessment to the real property tax without interest so long as the payments are received within 30 days of the due

- date.
- (2) A five year assessment to the real property tax without interest so long as the payments are received within 30 days of the due date.
- (3) Payment in full.

(Ord. 50-07. Passed 11-19-07.)

912.06 WAIVER OF FEES FOR PERSONS WITH QUALIFIED INCOMES.

- (a) People or families with a qualified income set forth in subsection (b) hereof shall have the sewer capacity charge, tapping, and inspection fees waived.
- (b) "Qualified Income" for this section means a gross income of the family unit less than twenty thousand dollars (\$20,000) in the year application is made to have such charges and fees waived. Such application shall be made in affidavit form to the City Engineer whenever application is made for the issuance of a sewer tap application.
- (c) All funds received as herein authorized shall be deposited with the Wastewater Revenue Fund.

(Ord. 47-04. Passed 8-23-04.)

912.07 USE OF THE PUBLIC SEWERS REGULATED.

- (a) No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer.
- (b) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the City Engineer. Industrial cooling water or unpolluted process waters may be discharged, on approval of the City Engineer, to a storm sewer, combined sewer or natural outlet.
- (c) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
- (1) Any gasoline, benzene, naphtha, fuel oil, motor oil or other flammable or explosive liquid, solid or gas;
 - (2) Any water or wastes containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance or create any hazard in the receiving waters of the water pollution control plant;
 - (3) Any water or wastes having a pH less than 5.5 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works; or
 - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshing, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.
- (d) No person shall discharge or cause to be discharged the following described substances, materials, waters or wastes if it appears likely in the opinion of the City Engineer or Superintendent, that such wastes can harm either the sewers, sewage treatment process or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the City Engineer or Superintendent will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the water pollution control plant, degree of treatability of wastes in the water pollution control plant, and other pertinent factors. The substances prohibited include but are not limited to:
- (1) Any liquid or vapor having a temperature higher than 104 degrees Fahrenheit, at the introduction into the public sewer;
 - (2) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of 100mg/l, or containing substances which may solidify or become viscous at temperatures between thirty-two and 150 degrees Fahrenheit;
 - (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths horse power or greater, shall be subject to the review and approval of the City Engineer;
 - (4) Any waters or wastes containing strong acid iron pickling wastes or concentrated plating solutions, whether neutralized or not;
 - (5) Any waters or wastes containing iron, chromium, copper, zinc and similar objectionable or toxic substances, in excess of the limits set in Section 916.05 or wastes exerting an excessive chlorine requirement . to such degree that any such material received in the composite sewage at the water pollution control plant exceeds the limits established by the Superintendent for such materials;
 - (6) Any water or wastes containing phenols or other taste or odor-producing substances in such concentrations exceeding limits which may be established by the Superintendent as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal or other public agencies of jurisdiction for such discharge to the receiving waters;
 - (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations;
 - (8) Materials which exert or cause:
 - A. Unusual concentrations of inert suspended solids such as but not limited to Fuller's earth, lime slurries and lime residues, or of dissolved solids such as but not limited to sodium chloride and sodium sulfate;
 - B. Excessive discoloration such as but not limited to dye wastes and vegetable tanning solutions;
 - C. Unusual BOD, chemical oxygen demand or chlorine requirements in such quantities as to constitute a significant load on the water pollution control plant; or
 - D. Unusual volume of flow or concentration of wastes constituting "slugs", as defined herein; or
 - (9) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such a degree that the water pollution control plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (e) If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters contain the substances or possess the characteristics enumerated in subsection (d) hereof, and which, in the judgment of the City Engineer or Superintendent,

may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the City Engineer or Superintendent may:

- (1) Require new industries or industries with significant increase in discharge to submit information on waste-water characteristics and obtain prior approval for discharges, in accordance with Chapter 916;
- (2) Require other methods of disposal; and/or
- (3) Require pretreatment to an acceptable condition for discharge to the public sewers; in accordance with Chapter 916; and/or
- (4) Require control over the quantities, rates and times of discharge; and/or
- (5) Require facilities to prevent accidental discharge of any unacceptable wastes; and
- (6) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this section or other City ordinances.

If the City Engineer permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the City Engineer and Superintendent, and subject to the requirements of all applicable codes, ordinances and laws.

(f) Grease, oil and sand interceptors shall be provided when, in the opinion of the City Engineer or Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the City Engineer and shall be located as to be readily and easily accessible for cleaning and inspection. Provided however, that approval of any such interceptors by the City Engineer or Superintendent shall not relieve any person of the responsibility of complying with the discharge requirements of this section.

(g) Fats, grease, oil and sand interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(h) Where installed, all fats, grease, oil and sand interceptors shall be maintained by the owner, at his expense, in continuously efficient operation at all times.

- (i) (1) The admission into the public sewers, of any waters or wastes having:
 - A. A five day BOD greater than 200 mg/l by weight; or
 - B. Containing more than 300 mg/l by weight of suspended solids; or
 - C. Containing any quantity of substances having the characteristics described in Section 912.07(d)(8); or
 - D. Having an average daily flow greater than five percent (5%) of the average daily sewage flow of the water pollution control plant; or
 - E. Having NH₃-N (Ammonia Nitrogen) greater than twenty mg/l by weight;

Shall be subject to the review and approval of the City Engineer or Superintendent.

- (2) Where necessary in the opinion of the Superintendent, the owner shall provide at his expense such preliminary treatment as may be necessary to:
 - A. Reduce BOD to 200 mg/l, the suspended solids to 300 mg/l by weight and the ammonia nitrogen to 20 mg/l; or
 - B. Reduce the objectionable characteristics or constituents to within the maximum limits provided in Section 912.07(d)(8); or
 - C. Control the quantities and rates of discharge of such waters or wastes; or
 - D. Be subject to surcharge.

(j) Where preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

(k) When required by the City Engineer or Superintendent, the owner of any property serviced by a sewer lateral carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the sewer lateral to facilitate observations, sampling and measurement of the wastes. Such manhole, when required, shall be accessible and safely located, and shall be constructed in accordance with plans approved by the City Engineer. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times. See Chapter 916, Municipal Pretreatment.

(l) All measurements, tests and analysis of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the latest edition of "Standard Methods for Examination of Water and Wastewater", published by the American Public Health Association, and shall be determined at the control manhole provided or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the sewer lateral is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property. (The particular analysis involved will determine whether a twenty-four hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, BOD and suspended solids analysis are obtained from the twenty-four hour composites of all outfalls, whereas pHs are determined from periodic grab samples.)

(m) No statement contained in this section shall be construed as preventing any special agreement or arrangements between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor by the industrial concern, and in accordance with Chapter 916.

(Ord. 7-86. Passed 2-10-86.)

912.08 DAMAGE OR DESTRUCTION OF SEWAGE WORKS.

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

(Ord. 7-86. Passed 2-10-86.)

912.09 OPERATING UPSETS.

Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this

chapter or a wastewater discharge permit issued pursuant hereto shall inform the City thereof within twenty-four hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the City within five days. The report shall specify:

- (a) Description of the upset, the cause thereof and the upset's impact on a discharger's compliance status;
- (b) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur; and
- (c) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

A documented and verified bonafide operation upset shall be an affirmative defense to any enforcement action brought by the City against a discharger for any noncompliance with this chapter or any wastewater discharge permit issued pursuant hereto which arises out of violations alleged to have occurred during the period of the upset.

(Ord. 7-86. Passed 2-10-86.)

912.10 POWERS AND AUTHORITY OF CITY ENGINEER AND SUPERINTENDENT.

(a) The City Engineer, Superintendent or other duly authorized employees of the City bearing proper credentials and identifications shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The City Engineer or his representative shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper or other industries beyond that point having a direct bearing on the kind and sources of discharge to the sewers or waterways or facilities for waste treatment.

(b) While performing the necessary work on private properties referred to in subsection (a) hereof, the City Engineer or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to the City employees, and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 912.07(k).

(c) The City Engineer and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of but not limited to inspection, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within such easement. All entry and subsequent work, if any on such easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

(Ord. 7-86. Passed 2-10-86.)

912.11 HEARING BOARD.

(a) A Hearing Board shall be appointed by the Mayor as needed for arbitration of differences between the City Engineer and sewer users on matters concerning interpretation and execution of the provisions of this chapter. The cost of the arbitration will be divided equally between the City and the sewer user.

(b) One member of the Board shall be a registered professional engineer; one member shall be a representative of an industry or manufacturing enterprise; one member shall be a lawyer and one member shall be selected at large for his interest in accomplishing the objectives of this chapter.

(Ord. 7-86. Passed 2-10-86.)

912.12 VALIDITY.

(a) All ordinances or parts of ordinances in conflict herewith are hereby repealed.

(b) The validity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(Ord. 7-86. Passed 2-10-86.)

912.99 PENALTY.

(a) Whoever violates any provision of this chapter, shall be served by the Service- Safety Director with a written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall within the period of time stated in such notice, permanently cease all violations.

(b) Whoever continues any violation beyond the time limit provided for in subsection (a) hereof shall be fined not more than one hundred dollars (\$100.00) for each violation. Each day in which any such violation continues shall be deemed a separate offense.

(c) Whoever violates any of the provisions of this chapter shall become liable to the City for any expense, loss or damage occasioned the City by reason of such violation.

(d) The City shall enforce by mandamus, injunction or other legal remedy these rules and regulations, and shall remove any harmful or improper construction or obstruction or shall close any opening or connection made improperly or in violation of these rules and regulations, under authority provided in the Code.

(e) The City shall have full power to invoke any authorized legal, equitable or special remedy for the enforcement of this chapter.

(Ord. 7-86. Passed 2-10-86.)

CHAPTER 913

Drainage Generally

913.01 Purpose.

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- 913.06 Sewer map; restriction on tap permit issuance.
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- 913.18 Requirement to prevent, control, and reduce storm water pollutants by the use of Best Management Practices.
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- 913.27 Violations deemed a public nuisance.
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- 913.99 Criminal penalty.

CROSS REFERENCES

- Power to license sewer tappers - see Ohio R.C. 715.27
- Power to regulate water closets and privies - see Ohio R. C. 715.40
- Compulsory sewer connections - see Ohio R. C. 729.06
- Management and control of sewerage system - see Ohio R. C. 729.50
- Regulations to control house sewers and connections - see Ohio R. C. 729.51
- Untreated sewage - see Ohio R. C. 3701.59
- Interference with sewage flow - see Ohio R. C. 4933.24
- Sewer rates - see S.U. & P. S. Ch. 915
- Subdivision improvements - see P. & Z. 1109.02

913.01 PURPOSE.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Lancaster, Ohio through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This ordinance establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this ordinance are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user
 - (b) To prohibit Illicit Connections and Discharges to the municipal separate storm sewer system
 - (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this ordinance
- (Ord. 5-14. Passed 4-14-14.)

913.02 DEFINITIONS.

For the purposes of this ordinance, the following shall mean:

- (a) Service Safety Director or his authorized designee: employees or designees of the Service-Safety Directory designated to enforce this ordinance.
- (b) Best Management Practices (BMPs): schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (c) Clean Water Act. The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
- (d) Construction Activity. Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of 1 acres or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (e) Hazardous Materials. Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored,

transported, disposed of, or otherwise managed.

- (f) **Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 913.13(d)(l) of this ordinance.
- (g) **Illicit Connections.** An illicit connection is defined as either of the following:
 - (1) Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Service Safety Director or his authorized designee or,
 - (2) Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by an Service Safety Director or his authorized designee.
- (h) **Industrial Activity.** Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).
- (i) **MS4-Municipal Separate Storm Sewer System-Storm Drainage System**
- (j) **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** means a permit issued by EPA (or by a State under authority delegated pursuant to 33 USC§ 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- (k) **Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water.
- (l) **Person:** means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (m) **Pollutant.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (n) **Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (o) **Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.
- (p) **Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (q) **Stormwater Pollution Prevention Plan:** A document which describes the Best Management Practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to Stormwater, Stormwater Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable.
- (r) **Wastewater** means any water or other liquid, other than uncontaminated storm water, discharged from a facility.
(Ord. 5-14. Passed 4-14-14.)

913.03 APPLICABILITY.

This chapter shall apply to all water entering the storm drainage system generated on any developed and undeveloped lands unless explicitly exempted by an Service Safety Director or his authorized designee.

(Ord. 5-14. Passed 4-14-14.)

913.04 NOT USED.

913.05 RESPONSIBILITY FOR ADMINISTRATION.

The Service Safety Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the Service Safety Director may be delegated in writing by the Service Safety Director to persons or entities acting in the beneficial interest of or in the employ of the agency. (Ord. 5-14. Passed 4-14-14.)

913.06 SEWER MAP; RESTRICTION ON TAP PERMIT ISSUANCE.

A map of all sanitary and storm sewers and openings numbered shall be provided and kept in the office of the City Engineer. Permits may be issued to tap the sewers at a location approved by the City Engineer. (Ord. 5-14. Passed 4-14-14.)

913.07 SEWER TAP PERMIT AND FEE.

The sewers shall be in the charge of the Safety-Service Safety Director. No person shall tap any sewer without the consent and by the direction of the Director, and without written permit from the City Engineer, who shall keep a record of the same. The applicant shall, before receiving a permit, pay into the City Treasury the applicable tap fee, to be credited to the appropriate fund.

(Ord. 5-14. Passed 4-14-14.)

913.08 SEWER CONSTRUCTION OR CONNECTION SPECIFICATIONS.

The written permit to construct a house sewer or to make a connection to a public sewer shall specify the permissible use of such house sewer and connection, and such specifications shall be governed by the requirements of this chapter.

(Ord. 5-14. Passed 4-14-14.)

913.09 OBSTRUCTING SEWERS AND UNLAWFUL TAPS PROHIBITED.

No person shall throw any debris in any catch basin, inlet or manhole or tap any of the City sewers by breaking holes in the sewer pipes. (Ord. 5-14. Passed 4-14-14.)

913.10 TAPPING STORMWATER SEWERS.

An inspection shall be performed upon 72 hour notification by the contractor and a record of the location and material used for each location shall be kept on file by the City Engineer's office. (Ord. 5-14. Passed 4-14-14.)

913.11 SEVERABILITY.

The provisions of this chapter are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this chapter or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this chapter. (Ord. 5-14. Passed 4-14-14.)

913.12 ULTIMATE RESPONSIBILITY.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants. (Ord. 5-14. Passed 4-14-14.)

913.13 DISCHARGE PROHIBITIONS.

(a) Prohibition of Illegal Discharges to Sanitary Sewer. Surface water, rainwater from roofs, subsoil drainage, building foundations drainage, cistern overflow, clean water from condensers, waste water from water motors and elevators, and any other clean and unobjectionable waste water shall be discharged into street gutters or into a stormwater sewer or combined sewer, but in no case into a sanitary sewer.

(b) Prohibition of Downspouts or Drains Emptying on Sidewalks. No person owning property which abuts or bounds upon a sidewalk shall cause, allow, or permit downspouts, drains or sewers to empty or discharge water or drainage upon any of the sidewalks of the City.

(c) Prohibition of New Sump Pump Connections to Gutter. For all building permits issued after the effective date of this ordinance shall provide for the connection of all sump discharge lines directly to the nearest approved outlet.

(d) Prohibition of Illegal Discharges to Stormwater System. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water. The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

- (1) The following discharges are exempt from discharge prohibitions established by this ordinance: water line flushing or other potable water sources. landscape irrigation or lawn watering. diverted stream flows. rising ground water. ground water infiltration to storm drains. uncontaminated pumped ground water. foundation or footing drains (not including active groundwater dewatering systems). crawl space pumps. air conditioning condensation springs. non-commercial washing of vehicles. natural riparian habitat or wet-land flows. swimming pools (if dechlorinated -typically less than one PPM chlorine). fire fighting activities. and any other water source not containing Pollutants.
- (2) Discharges specified in writing by the Service Safety Director or his authorized designee as being necessary to protect public health and safety.
- (3) Dye testing by government agencies having jurisdiction within the municipality is an allowable discharge, but requires a verbal notification to the Service Safety Director prior to the time of the test.
- (4) The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency, provided that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

(e) Prohibition of Illicit Connections. The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection was permissible under law or practices applicable or prevailing at the time of connection. A person is considered to be in violation of this ordinance if the person connects a line conveying sewage to the MS4, or allows such a connection to continue. (Ord. 5-14. Passed 4-14-14.)

913.14 PROHIBITION OF DISCHARGES TO THE PUBLIC RIGHT-OF-WAY.

No owner of real property in the City shall be permitted to discharge storm water or rain water or other types of clear water discharges upon or adjacent to the public right-of-way in such a manner that the discharge creates or tends to create a safety hazard for pedestrians and vehicular traffic on the public right-of-way whether such hazard is created in the area immediately bound by the owner property or at a distance from the owner's property.

- (a) The Service Safety Director is herewith charged with the responsibility of periodically surveying the city to determine those areas in which rain and other water discharges upon the public right-of-way have in the past and are likely to in the future create ice hazards during the winter season upon the public right-of- way in the City.
- (b) The Service Safety Director is also herewith charged with the responsibility of investigating complaints of discharge upon the public right-of-way causing a safety hazard to pedestrian or vehicular traffic on the public right-of-way and where, in their judgment, such discharge creates a safety hazard, to order the owner of the property causing such discharge, whether that property owner be the one immediately adjacent to the hazard or at a distance therefrom, to eliminate the water causing such hazard in conformity with the following provisions.
- (c) The Service Safety Director in conjunction with the City Engineer shall determine the source of such water creating such ice hazard and determine the most efficient and economical means of elimination of such hazard and issue such orders as are necessary to achievement of such elimination.
- (d) Such orders shall be served upon the property owner and shall provide for the remedial action to be taken within a definite period of time and shall identify with reasonable specificity the means by which such remedial action shall be taken. (Ord. 5-14. Passed 4-14-14.)

913.15 SUSPENSION OF MS4 ACCESS.

(a) Suspension Due to Illicit Discharges in Emergency Situations. The Service Safety Director or his authorized designee may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Service Safety Director or his authorized designee may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

(b) Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Service Safety Director or his authorized designee will notify a violator of the proposed termination of its MS4 access.

(c) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the Service Safety Director or his authorized designee.

(Ord. 5-14. Passed 4-14-14.)

913.16 INDUSTRIAL OR CONSTRUCTION ACTIVITY DISCHARGES.

Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the City Engineer prior to the allowing of discharges to the MS4. (Ord. 5-14. Passed 4-14-14.)

913.17 MONITORING OF DISCHARGES.

(a) Applicability. This section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

(b) Access to Facilities. The Service Safety Director or his authorized designee shall be permitted to enter and inspect facilities subject to regulation under this ordinance as often as may be necessary to determine compliance with this ordinance. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Service Safety Director or his authorized designee.

- (1) Facility operators shall allow the Service Safety Director or his authorized designee ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.
- (2) The Service Safety Director or his authorized designee shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Service Safety Director or his authorized designee to conduct monitoring and/or sampling of the facility's storm water discharge.
- (3) The Service Safety Director or his authorized or his designee has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure stormwater flow and quality shall be calibrated to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Service Safety Director or his authorized designee and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (5) Unreasonable delays in allowing the Service Safety Director or his authorized designee access to a permitted facility is a violation of a storm water discharge permit and of this ordinance. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Service Safety Director or his authorized designee reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this ordinance.
- (6) If the Service Safety Director or his authorized designee has been refused access to any part of the premises from which stormwater is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the Service Safety Director or his authorized designee may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 5-14. Passed 4-14-14.)

913.18 REQUIREMENT TO PREVENT, CONTROL, AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The City Engineer will adopt requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the U.S. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPPP) as necessary for compliance with requirements of the NPDES permit. (Ord. 5-14. Passed 4-14-14.)

913.19 WATERCOURSE PROTECTION.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity

of the watercourse. (Ord. 5-14. Passed 4-14-14.)

913.20 NOTIFICATION OF SPILLS.

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the U.S. said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Service Safety Director or his authorized designee in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Service Safety Director within three business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. (Ord. 5-14. Passed 4-14-14.)

913.21 ENFORCEMENT.

Whenever the Service Safety Director or his authorized designee finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the Service Safety Director or his authorized designee may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
 - (b) The elimination of illicit connections or discharges;
 - (c) That violating discharges, practices, or operations shall cease and desist;
 - (d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
 - (e) Payment of a fine to cover administrative and remediation costs; and
 - (f) The implementation of source control or treatment BMPs. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be assessed to the property taxes.
- (Ord. 5-14. Passed 4-14-14.)

913.22 APPEAL OF NOTICE OF VIOLATION.

(a) Right to Appeal. Any person affected by a decision of the Service Safety Director or his authorized designee or a notice or order issued under this Chapter shall have the right to appeal to the Hearing Board established under Section 918.08, provided that a written application for appeal is filed within twenty days after the day the decision, notice or order was served.

(b) Limitation of Authority. An application for appeal shall be based on a claim that the true intent of the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not apply, or the requirements of this code are adequately satisfied by other means. (Ord. 5-14. Passed 4-14-14.)

913.23 ENFORCEMENT MEASURES AFTER APPEAL.

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the Board upholding the decision of the Service Safety Director or his authorized designee, then the Service Safety Director or his authorized designee shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 5-14. Passed 4-14-14.)

913.24 COST OF ABATEMENT OF THE VIOLATION.

(a) Within 45 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written appeal of the amount of the assessment within 20 days. If the amount due is not paid within a timely manner as determined by the decision Service Safety Director or his authorized designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(b) Any person violating any of the provisions of this article shall become liable to the city by reason of such violation.
(Ord. 5-14. Passed 4-14-14.)

913.25 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this ordinance, the Service Safety Director or his authorized designee may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. 5-14. Passed 4-14-14.)

913.26 NOT USED.

913.27 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken. (Ord. 5-14. Passed 4-14-14.)

913.28 RIGHT TO REIMBURSEMENT.

The Service Safety Director or his authorized designee may recover all attorney's fees court costs and other expenses associated with

enforcement of this ordinance, including sampling and monitoring expenses. (Ord. 5-14. Passed 4-14-14.)

913.29 REMEDIES NOT EXCLUSIVE.

The remedies listed in this ordinance are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the Service Safety Director or his authorized designee to seek cumulative remedies.
(Ord. 5-14. Passed 4-14-14.)

913.30 ADOPTION OF CHAPTER.

This chapter shall be in full force and effect immediately after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this chapter are hereby repealed. (Ord. 5-14. Passed 4-14-14.)

913.99 CRIMINAL PENALTY.

Any person that has violated or continues to violate this chapter shall be liable to criminal prosecution to the fullest extent of the law, and shall be deemed guilty of an unclassified misdemeanor subject to thirty days jail and a maximum fine of one thousand dollars (\$1,000.00). (Ord. 5-14. Passed 4-14-14.)

CHAPTER 914

Trucked Wastes

914.01 **Permits.**

914.02 **Trucked waste operator's license.**

914.03 **Revocation.**

914.04 **Suspension.**

914.05 **Regulations.**

914.06 **Restrictions and prohibitions.**

914.07 **Prohibited activities.**

914.08 **Enforceability.**

914.01 PERMITS.

(a) A trucked waste discharge permit from the Superintendent shall be required for each vehicle which is to be used for delivery of waste materials to the Lancaster Septage Receiving Station. A trucked waste discharge permit may be issued to an applicant who complies with the terms and conditions of this chapter. The Superintendent may deny an applicant a permit where the applicant has falsified or omitted required information, is delinquent in paying sewer use fees and charges, or is a previous violator of waste disposal regulations.

(b) An application for a trucked waste discharge permit shall be submitted to the Superintendent on an approved form, and shall contain the following information:

- (1) Vehicle owner's name, address and phone number;
- (2) Vehicle operator's name, address and phone number (if not same as the owner);
- (3) If the vehicle owner or operator is a corporation or partnership, the names, addresses and phone numbers of all corporate officers or partners;
- (4) Motor vehicle serial number and valid, permanent Ohio vehicle license number;
- (5) Make and year of vehicle and tank capacity;
- (6) A listing of all other governmental licenses and permits issued to the vehicle or for use of the vehicle;
- (7) Color photographs at least three and one-half (3-1/2) inches by five and one-half (5-1/2) inches in size and clearly showing rear and passenger side views of the vehicle;
- (8) Any other information as shall be required by the Superintendent.

(c) An application fee of twenty-five dollars (\$25.00) shall be submitted with each application along with evidence of a five thousand dollar (\$5,000.00) surety bond for each vehicle for which a permit is requested. Application fee shall be submitted by check or money order made payable to "Lancaster City Treasurer."

(d) Any applicant denied a trucked waste discharge permit will be sent written notice of the reason for the denial within thirty (30) days after submission of the application. Any applicant who is denied a trucked waste discharge permit may appeal to the Service-Safety Director in writing within ten (10) days after receipt of the written notice. Failure on the part of an applicant to file a written appeal within the allotted ten (10) day period shall be deemed as acceptance of the denial of permit on the part of the applicant, and they shall not be eligible for further administrative appeal.

(e) A trucked waste discharge permit shall be valid for one (1) year from its date of issuance unless otherwise suspended or revoked.

(f) Trucked waste discharge permits are not transferable to other vehicles, operators, or owners.

(g) Permit Reissuance. The holder of a trucked waste discharge permit shall apply for permit reissuance by submitting a completed permit application on a form approved by the Superintendent minimum of sixty (60) days prior to the expiration of the hauler's existing permit. (Ord. 15-12. Passed 10-29-12.)

914.02 TRUCKED WASTE OPERATOR'S LICENSE.

(a) Any individual wishing to operate any vehicle which is permitted to discharge trucked waste into the Lancaster sewer system shall obtain a trucked waste operator's license from the Superintendent. No individual shall discharge, or assist in discharging, any trucked waste to the sewer system without having a valid trucked waste operator's license. A trucked waste operator's license may be issued to an applicant who complies with the terms and conditions of this chapter. The Superintendent may deny an applicant a license where the applicant has falsified or omitted required information or is delinquent in paying sewer use fees and charges, or is a previous violator of waste disposal regulations.

(b) All individuals requesting a trucked waste operator's license shall submit an application to the Superintendent on an approved form, which shall include the following information:

- (1) Applicant's name, home address and home phone number;
- (2) Present employer (if other than applicant);
- (3) Name and address of all employers for the previous five (5) years;
- (4) A listing of all criminal convictions, including misdemeanors, and Court of Record for same within the previous five (5) years;
- (5) Any and all civil and/or administrative actions taken against the applicant for violation of any waste disposal regulations in the last five (5) years;
- (6) Any other information as shall be required by the Superintendent.

(c) A nonrefundable application fee of ten dollars (\$10.00) shall be submitted with each application. Application fee shall be

submitted by check or money order made payable to "Lancaster City Treasurer, Sewer Fund."

(d) Any applicant denied a trucked waste operator's license shall be sent written notice of the reason for the denial within thirty (30) days after submission of the application. Any applicant who denied a trucked waste operator's license may appeal the denial to the Service-Safety Director in writing within ten (10) days after receipt of the written notice. Failure on the part of an applicant to file a written appeal within the allotted ten (10) day period shall be deemed as acceptance of the denial the license on the part of the applicant, and they shall not be eligible for further administrative appeal.

(e) Each trucked waste operator's license shall be valid for two (2) years from its date of issuance unless otherwise suspended or revoked. A licensee must reapply for a new license at least sixty (60) days prior to the expiration of their current license. Applications shall be made on a form approved by the Superintendent.

(f) Any individual changing employers during the term of their trucked waste operator's license must notify the Superintendent, in writing, of the change.

(Ord. 15-12. Passed 10-29-12.)

914.03 REVOCATION.

Noncompliance with any part of this section, or subsequent regulations or orders as issued by the Superintendent, or other sections of this chapter or sections of other applicable City codified ordinance chapters shall subject the licensee and/or permit holder to revocation of the license and/or permit to utilize the services of the City sewer system for the disposal of trucked wastes. The permit and/or license holder shall be provided written notice of any revocation. The permit and/or license holder may appeal the revocation to the Service-Safety Director in writing, within ten (10) days of receipt of the notice of revocation. Failure to appeal revocation within ten (10) days of notification of the revocation shall be deemed agreement upon the part of the licensee or permit holder to the revocation of that license or permit. Reissuance of any license or permit, after revocation, shall be at the discretion of the Superintendent, and may be made subject to such conditions as the Superintendent deems appropriate. (Ord. 15-12. Passed 10-29-12.)

914.04 SUSPENSION.

(a) In lieu of revocation of any license or permit, the Superintendent may, at his discretion, suspend any license or permit for noncompliance with any part of this section, or pursuant regulations or orders, for a period not to exceed sixty (60) days. The permit and/or license holder shall be provided with written notification of the suspension. The permit and/or license holder may appeal the suspension to the Service-Safety Director in writing within ten (10) days of receipt of the notice of the suspension. Failure on the part of the license or permit holder to appeal the suspension within ten (10) days of receipt of the notice of the suspension shall be deemed agreement on the part of the license or permit holder to the conditions of the suspension.

(b) No person shall use any truck under a permit suspension to discharge waste to the Lancaster sewer system during the period of the suspension, even if the truck is sold or leased to another party during the period of the suspension.

(c) No trucked waste operator shall operate any vehicle discharging waste to the Lancaster sewer system while under suspension even if the trucked waste operator changes employer and/or applies for a new trucked waste operator's license.

(Ord. 15-12. Passed 10-29-12.)

914.05 REGULATIONS.

The Superintendent may establish such regulations as he deems necessary to control the discharge of trucked wastes to the Lancaster sewer system. The Superintendent may restrict, or prohibit, the discharge of trucked wastes to the Lancaster sewer system which originate from sources outside the municipal jurisdiction of the City of Lancaster. These regulations may include, but are not limited to:

- (a) Provisions requiring the display of vehicle permit number and tank capacity in gallons;
- (b) Minimum equipment and maintenance standards for permitted vehicles;
- (c) Standards and procedures for use of the City's trucked waste discharge facilities;
- (d) Training requirements for license holders.

(Ord. 15-12. Passed 10-29-12.)

914.06 RESTRICTIONS AND PROHIBITIONS.

The Superintendent may restrict or prohibit discharge of any trucked waste to the Lancaster sewer system at his discretion. No trucked waste may be discharged to the Lancaster sewer system without the express, written permission of the Superintendent, or his designee, on a manifest form approved by the Superintendent. The discharge of trucked wastes shall be permitted only at location and during such hours, as shall be established by the Superintendent. Discharge of trucked waste to the sewer system at any other location, or at any other time, is a violation of this chapter. No trucked waste shall be discharged to the sewer system which has any of the following components:

- (a) Material not readily biodegradable or not known to be compatible with the treatment processes utilized in the POTW;
- (b) Material deleterious to treatment plant operations, or plant operators such as oils and grease of a mineral origin, gasoline, toxic materials, flammables, solvents, paint materials, sand, or other materials capable of causing physical damage to the POTW;
- (c) Materials which would cause unusual expense in handling and/or treatment, unless prior arrangements have been made at the discretion of the Superintendent for payment of additional cost of services;
- (d) Any material regulated under a Federal Categorical Pretreatment Standard, or any sludges or wastes resulting from treatment of materials under Federal Categorical Pretreatment Standards;
- (e) Any materials which violate, or could violate any prohibitive or restrictive provisions of Lancaster Codified Ordinances, Chapters 912 and 916, or which violates any federal or state industrial discharge standards, regulations, or laws.
- (f) No material other than those from household sources origin may be discharged to the City POTW as a trucked waste unless prior approval has been received by the hauler from the Superintendent. Application for such approval, called a "special waste evaluation request", shall be made on a form approved by the Superintendent.

(Ord. 15-12. Passed 10-29-12.)

914.07 PROHIBITED ACTIVITIES.

No trucked waste hauler shall access the sewer system or POTW for any activity including discharge or withdrawal of material, except at locations and at times as designated by the Superintendent. Any removal of manhole lids, or other access to the sewer system at times and/or places other than those designated by the Superintendent, or without express permission of the Superintendent shall be considered

a violation of the conditions of this section, and subject the violator to revocation of his trucked waste discharge permit and/or operator's license, and/or other enforcement activity as indicated in this chapter and in other applicable City Code chapters. (Ord. 15-12. Passed 10-29-12.)

914.08 ENFORCEABILITY.

Any and all conditions in any permit or license issued pursuant to this section are specifically and independently enforceable regardless of whether they are expressly required by or set out in this chapter.
(Ord. 15-12. Passed 10-29-12.)

CHAPTER 915

Sewer Rates

- 915.01 Declaration of necessity.**
- 915.02 Definitions.**
- 915.03 User classes.**
- 915.04 User rates and charges.**
- 915.05 Strength surcharges.**
- 915.06 Collection and enforcement duties.**
- 915.07 Charges a lien.**
- 915.08 Rates to apply to future connections.**
- 915.09 Use of Sanitary Sewer Fund.**
- 915.10 Periodic review of sewer rates.**
- 915.11 Validity.**
- 915.12 Effective date.**
- 915.13 Application of rates.**

CROSS REFERENCES

Sewerage rates - see Ohio R.C. 729.49

Weekly deposit of sewer rentals collected - see Ohio R.C. 729.52

Sewerage and drainage generally - see S.U. & P.S. Ch. 913

915.01 DECLARATION OF NECESSITY.

It is determined and declared to be necessary and conducive to the preservation of the public health, safety, welfare and convenience of the City of Lancaster (City) to levy and collect a service charge or rental to be paid to the City by every person whose lots, lands and premises are served by a connection to the City's sanitary sewerage system, intercepting sewers, sewage pumping works and sewage treatment or disposal works, or part thereof. The proceeds of such charges or rentals shall be for the use of the sewerage system and the pumping, treatment and disposal works of the City, to pay the principal and interest on outstanding and future bonds and notes in accordance with the applicable ordinances and to pay the amounts, if any, provided for in an agreement pursuant to Ohio R.C. 6121.13.
(Ord. 6-86. Passed 2-10-86.)

915.02 DEFINITIONS.

- (a) Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:
- (1) "BOD" (Biochemical Oxygen Demand) of sewage, sewage effluent, polluted waters or industrial wastes means the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory determination which shall be made in accordance with procedures set forth in "Standard Methods".

(Ord. 6-86. Passed 2-10-86.)

- (1.5) "CBOD (Carbonaceous Biochemical Oxygen Demand)" of sewage, sewage effluent, polluted waters or industrial wastes means the quantity of dissolved oxygen in milligrams per liter, excluding that required for nitrogenous oxygen demand, required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five (5) days at twenty (20) degrees Centigrade. The Laboratory determination shall be made in accordance with procedures set forth in the most recent edition of "Standard Methods".

(Ord. 27-94. Passed 8-22-94.)

- (2) "Debt service costs" means the average annual principal and interest payments on all outstanding bonds or other comparable long-term capital obligations.
- (3) "Excessive strength surcharges" means an additional charge which is billed to users for treating sewage wastes with an average strength in excess of "normal domestic sewage".
- (4) "Industrial waste" means solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.
- (5) "NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the USEPA or the State of Ohio.
- (6) "NPDES permit" means the National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500.

(Ord. 6-86. Passed 2-10-86.)

- (7) "Normal domestic sewage" means sewage having an average daily suspended solids concentration of not more than 300 mg/l, and/or an average daily CBOD concentration of not more than 200 mg/l.

(Ord. 27-94. Passed 8-22-94.)

- (8) "Operation and maintenance" means those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and operating the treatment works in a manner for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
- (9) "Operation and maintenance costs" includes all costs, direct and indirect, necessary to provide adequate wastewater collection, transport and treatment on a continuing basis and produce discharges to receiving waters that conform with all related Federal, State and local requirements including replacement costs.
- (10) "Other service charges" means tap charges, connection charges, area charges and other identifiable charges, other than user charges, debt service charges and excessive strength surcharges.
- (11) "Person" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, State of Ohio, the United States of America or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural where indicated by the context.
- (12) "Replacement costs" means the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (13) "SS (suspended solids)" means solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in "Standard Methods".
- (14) "Sewage" means water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.
- (15) "Shall" is mandatory and "may" is permissive.
- (16) "Treatment works" means any devices and systems for the storage, treatment, recycling and reclamation of municipal sewage, domestic sewage or liquid industrial wastes. These include intercepting sewers, outfall sewers, sewage collection systems, pumping, power and other equipment and their appurtenances; extensions improvement, remodeling additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment (including land for the storage of treated wastewater in land treatment system before land application); or any other method or system, for preventing, abating, reducing, storing, treating, separating or disposing of municipal waste or industrial waste, including waste in combined storm water and sanitary sewer systems.
- (17) "Useful life" means the estimated period during which a treatment works will be operated.
- (18) "User charge" means that portion of the total wastewater service charge which is levied in a proportional and adequate manner for the cost of operation, maintenance and replacement of the wastewater treatment works.
- (19) "User class" means the division of wastewater treatment customers by source, function, waste characteristics and process or discharge similarities such as residential, commercial, industrial and institutional/ governmental in the user charge system.
 - A. "Residential user" means any contributor to the City's treatment works whose lot, parcel or real estate, or building is used for domestic dwelling purposes only.
 - B. "Commercial user" means any establishment involved in a commercial enterprise, business or service which discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
 - C. "Industrial user" means any industrial or commercial establishment, manufacturing or processing facility that discharges industrial waste to a publicly-owned treatment works.
 - D. "Governmental/institutional user" means any establishment used by any Federal, State or local government, any establishment involved in any educational function which discharges primarily segregated domestic wastes or wastes from sanitary conveniences, and any establishment involved in a social, charitable and/or religious function which discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
- (20) "Water meter" means a water volume measuring and recording device furnished and installed on the user's premises by the City at the user's expense.

(Ord. 6-86. Passed 2-10-86.)

- (21) "Base rate" means that portion of the sewer rate which is allocated to cover costs which are proportional to the number of customers served such as billing and other administrative costs.
- (22) "Sewer service charge" means that the total charge levied against users of the sewage system for sewer service. The charge shall include operation, maintenance and replacement charges, plus debt service, capital improvements, and extra strength surcharges.

(Ord. 7-95. Passed 2-27-95.)

915.03 USER CLASSES.

Every person whose premises are served by the treatment works shall be charged for the services provided. These charges are established for each user class, as defined, in order that the treatment works shall recover, from each user and user class, revenue which is proportional to its use of the treatment works in terms of volume and load. User charges are levied to defray the cost of operation and maintenance (including replacement) of the treatment works and to provide funds to pay debt service costs. User rates shall be uniform within a user class.

- (a) User charges are subject to the rules and regulations adopted by the United States Environmental Protection Agency, published in the Federal Register May 12, 1983, (40 CFR Part 35). Replacement costs, which are recovered through the system of user charges, shall be based upon the expected service life of the sewage works equipment.

(b) The various classes of users of the treatment works for the purposes of this chapter, shall be as follows:

- Class 1 - Residential
 - Class 2 - Commercial
 - Class 3 - Industrial
 - Class 4 - Governmental/Institutional.
- (Ord. 6-86. Passed 2 -10-86.)

915.04 USER RATES AND CHARGES.

(a) For the use of and the service rendered by the treatment works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the City sanitary system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly into the sanitary sewerage system of the City. Such rates and charges include user charges, debt service costs, excessive strength surcharges and other service charges, which rates shall be payable as hereinafter provided and shall be in an amount determinable as follows:

(1) The sewer rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges, as the same is measured by the water meter there in use, plus a base charge, except as herein otherwise provided. For the purpose of billing and collecting the charges for sewage service, the water meters shall be read monthly and the users shall be billed each month. The water usage schedule on which the amount of such rates and charges shall be determined shall be as follows:

RESIDENTIAL/COMMERCIAL:

	User Charge	Debt Service	Total
Base Rate	\$6.54	\$10.24	\$16.78
Treatment	\$4.00/100cf	\$1.79/100cf	\$5.79/100cf
Effective January 1, 2015:			
Base Rate	\$6.81	\$10.67	\$17.48
Treatment	\$4.17/100cf	\$1.86/100cf	\$6.03/100cf
Effective January 1, 2016:			
Base Rate	\$7.09	\$11.12	\$18.21
Treatment	\$4.34/100cf	\$1.94/100cf	\$6.28/100cf
Effective January 1, 2017:			
Base Rate	\$7.39	\$11.59	\$18.98
Treatment	\$4.52/100cf	\$2.02/100cf	\$6.54/100cf

(2) For residential users of the sewage works that are not metered water users or from whom accurate meter readings are not available, the monthly charge shall be as follows:

	User Charge	Debt Service	Total
Base Rate	\$6.54	\$10.24	\$16.78
Treatment (Based upon 800 Cf per mo. average Residential usage)	\$32.00	\$14.32	\$46.32
Total	\$38.54	\$24.56	\$63.10
Effective January 1, 2015:			
Base Rate	\$6.81	\$10.67	\$17.48
Treatment Rate (based upon 800 c.f. per mo. Average residential usage)	\$33.36	\$14.88	\$48.24
Total	\$40.17	\$25.55	\$65.72
Effective January 1, 2016:			
Base Rate	\$7.09	\$11.12	\$18.21
Treatment Rate (based upon 800 c.f. per mo. Average residential usage)	\$34.72	\$15.52	\$50.24
Total	\$41.81	\$26.64	\$68.45
Effective January 1, 2017:			
Base Rate	\$7.39	\$11.59	\$18.98
Treatment Rate (based upon 800 c.f. per mo. Average residential usage)	\$36.16	\$16.16	\$52.32
Total	\$43.55	\$27.75	\$71.30

INDUSTRIAL:

Effective January 1, 2015:		
TIER 1	0-100ccf	\$6.03

TIER 2	101-250ccf	\$5.21
TIER 3	251-2500ccf	\$4.04
TIER 4	>2501ccf	\$3.79
Monthly Customer Charge		\$17.48

Effective January 1, 2016:		
TIER 1	0-100ccf	\$6.28
TIER 2	101-250ccf	\$5.42
TIER 3	251-2500ccf	\$4.21
TIER 4	>2501ccf	\$3.95
Monthly Customer Charge		\$18.21

Effective January 1, 2017:		
TIER 1	0-100ccf	\$6.54
TIER 2	101-250ccf	\$5.65
TIER 3	251-2500ccf	\$4.39
TIER 4	>2501ccf	\$4.12
Monthly Customer Charge		\$18.98

(3) For the service rendered to the City, the City shall be subject to the same rates and charges hereinabove provided or to charges and rates established in harmony therewith. (Ord. 24-14. Passed 12-8-14.)

(b) The quantity of water discharged into the sanitary sewer system and obtained from sources other than the City shall be determined by the City in such a manner as the City shall reasonably elect, and the sewage service shall be billed at the above appropriate rates; further, as is hereinafter provided in this section, the City may make proper allowances in determining the sewage bill for quantities of water shown on the records to be consumed, but which are also shown to the satisfaction of the City that such quantities do not enter the sanitary sewerage system.

- (1) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the City's sanitary sewerage system, either directly or indirectly, is not a user of water supplied by the City, the water used thereon or therein is not measured by a water meter or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City. In order to ascertain the rate or charge provided in this chapter the owner or other interested party shall, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.
- (2) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial wastes, water or other liquids into the City sanitary sewerage system, either directly or indirectly, is a user of water supplied by the City, and in addition, is a user of water from another source which is not measured by a water meter or is measured by a water meter not acceptable to the City then the amount of water used shall be otherwise measured or determined by the City. In order to ascertain the rates or charges, the owner or other interested parties shall, at his expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.
- (3) In the event two or more residential lots, parcels of real estate, or buildings discharging sanitary sewage, water or other liquids into the City sanitary sewerage system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in each such case, for billing purposes, the quantity of water used shall be averaged for each user and the base charge and the flow rates and charges shall apply to each of the number of residential lots, parcels of real estate or buildings served through the single water meter.
- (4) In the event a lot, parcel of real estate or building discharges sanitary sewage, industrial waste, water or other liquids into the City's sanitary sewerage system either directly or indirectly, and uses water in excess of 1000 cubic feet per month, and it can be shown to the satisfaction of the City that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewer system, then the owner or other interested party shall, at his own expense, install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of sewage discharge.

(Ord. 6-86. Passed 2-10-86.)

- (5) In order that the residential users discharging sanitary sewage not be penalized for sprinkling lawns, washing cars, watering gardens, etc., during the months May, June, July, August, September and October, the billing for sanitary sewer services for residential users for the months of May, June, July, August, September and October (summer average) of a particular year shall be based upon that user's average monthly water usage billed during the months January, February, March, April, November and December (winter average). Residential sanitary sewer services applicable to the Summer Average shall apply to each lot, parcel of real estate, or building which is occupied and used as a residence. The Summer Average shall not apply to any premises which are partially used for commercial or industrial purposes.

The Winter Average shall be determined by the customer's actual usage using the previous months November thru April. When the average is calculated, the high and low readings will be discarded. If a customer has less than six (6) readings, the number shall be defaulted to a value of eight hundred (800) cubic feet. For billing purposes, a minimum of three (300) hundred cubic feet shall be set and the lesser of the actual/average (default if used) will be charged.

(Ord. 18-06. Passed 4-24-06.)

915.05 STRENGTH SURCHARGES.

In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the City shall base its charges not only on the volume, but also on strength and character of the stronger-than-normal domestic sewage and wastes which it is required to treat and dispose of. The City shall require the user to determine the strength and content of all sewage and wastes discharged, either directly or indirectly into the sanitary sewer system, in such manner and by such method as the City may deem practicable in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the City at all times.

- (a) Normal sewage domestic waste strength should not exceed a carbonaceous biochemical oxygen demand of 200 milligrams per liter of fluid or suspended solids in excess of 300 milligrams per liter fluid. Additional charges for treating stronger-than-normal domestic waste shall be made on the following basis:
 - (1) Rate surcharge based upon CBOD. There shall be an additional charge of twenty-eight dollars and ninety-nine cents (\$28.99) per 100 pounds of carbonaceous biochemical demand for CBOD received in excess of 200 milligrams per liter of fluid. The rate shall increase to thirty dollars and forty-four cents (\$30.44) per 100 pounds on January 1, 2008.
 - (2) Rate surcharge based upon suspended solids. There shall be an additional charge of seventeen dollars and sixty-seven cents (\$17.67) per 100 pounds of suspended solids for suspended solids received in excess of 300 milligrams per liter of fluid. The rate shall increase to eighteen dollars and fifty-five cents (\$18.55) per 100 pounds on January 1, 2008.

(Ord. 50-07. Passed 11-19-07.)

- (b) The determination of suspended solids and five-day biochemical oxygen demand contained in the waste shall be in accordance with the latest copy of "Standard Methods for the Examination of Water and Wastewater", as written by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, and in conformance with "Methods for Chemical Analysis of Water and Wastes", U.S. EPA-600/4-79-020.

(Ord. 6-86. Passed 2-10-86.)

915.06 COLLECTION AND ENFORCEMENT DUTIES.

The charge or rentals levied pursuant to this chapter shall be collected by the Safety- Service Department, and the Safety-Service Director shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the City sewerage system and the sewage pumping, treatment and disposal works, for the construction and use of the sewers and connections to the sewerage system, and for the regulation, collection, rebating and refunding of such charge or rentals.

The Director is hereby authorized to prohibit dumping of wastes into the City sewage system, which, at his discretion, are deemed harmful to the operation of the sewage treatment works of the City, or to require methods affecting pretreatment of such wastes to comply with the pretreatment standards included in the National Pollution Discharge Elimination System (NPDES) permit issued to the sewage works and Chapter 916.

- (a) The rates and charges for all users shall be prepared and billed monthly.
- (b) The rates and charges may be billed to the tenant or tenants occupying the properties served, unless otherwise requested in writing by the owner, but such billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owners of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.
- (c) Each user shall be notified, on an annual basis, and in conjunction with the regular bill, of the user rate and that portion of the rate which is attributable to wastewater treatment services.

(Ord. 6-86. Passed 2-10-86.)

- (d) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of five percent (5%) of the amount of the rates or charges due shall be attached thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill.

(Ord. 64-05. Passed 10-17-05.)

915.07 CHARGES A LIEN.

Each charge or rental levied by or pursuant to this chapter is made a lien upon the corresponding lot, land or premises served by a connection to the sanitary sewerage system of the City, and if the same is not paid within thirty days after it shall become due and payable, it shall be certified to the County Auditor who shall place the same on the tax duplicate of the County with the interest and penalties allowed by law and shall be collected the same as other taxes are collected.

(Ord. 6-86. Passed 2-10-86.)

915.08 RATES TO APPLY TO FUTURE CONNECTIONS.

For any lots, lands, buildings or premises from which connection is made with the City sanitary sewerage system or which begins to discharge sewage, industrial waste, water or other liquids into the City sanitary sewerage system, either directly or indirectly, after the effective date of this chapter charges shall be made pursuant to this chapter.

(Ord. 6-86. Passed 2-10-86.)

915.09 USE OF SANITARY SEWER FUND.

The funds received from the collection of the charges or rentals authorized by this chapter, shall be deposited with the City Treasurer and shall be accounted for and be known as the Sanitary Sewer Fund and, when appropriated by Council, shall be available for the payment of the cost and expense of the management, maintenance, operation and repair of the City sewerage system and the sewage pumping, treatment and disposal works. Any surplus in the Operation, Maintenance and Replacement (OM & R) segment of the Sanitary Sewer Fund must be used for OM & R purposes and as provided by law. Any surplus in the Capital Improvements or Debt Retirement segment of the Sanitary Sewer Fund may be used for any purpose other than OM & R, and as provided by law.

(Ord. 7-95. Passed 2-27-95.)

915.10 PERIODIC REVIEW OF SEWER RATES.

(a) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the City shall cause a study to be made within a reasonable period of time following the first year of operation, after completion of construction. Such study shall include, but not be limited to, an analysis of the costs associated with the treatment of excessive strength effluents from industrial users, volume and delivery flow rate characteristics attributed to the various users or user classes, the financial position of the treatment works and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the treatment works.

(b) Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the City shall cause a similar study to be made for the purpose of reviewing the fairness and equity of the rates and charges for sewage services on a continuing basis. Such studies shall be conducted by officials or employees of the City, or by a firm of certified public accountants, or a firm of consulting engineers which firms shall have experience in such studies, or by such combination of officials, employees, certified public accountants or engineers as the City shall determine to be best under the circumstances.

(c) Further, the results of such study shall be used as a basis for any rate adjustments necessary to maintain sufficiency of revenue and/or proportionality between classes.

(Ord. 6-86. Passed 2-10-86.)

915.11 VALIDITY.

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(Ord. 6-86. Passed 2-10-86.)

915.12 EFFECTIVE DATE.

The rates and charges as herein set forth shall become effective on the first full billing period occurring after the effective date of this section.

(Ord. 6-86. Passed 2-10-86.)

915.13 APPLICATION OF RATES.

The user charge rates established in this chapter apply to all users of the City treatment works.

(Ord. 6-86. Passed 2-10-86.)

CHAPTER 916

Wastewater Pretreatment

916.01 Purpose and policy.

916.02 Definitions.

916.03 Abbreviations.

916.04 Substance discharge prohibitions.

916.05 Limitations on wastewater strength.

916.06 Accidental discharges.

916.07 Fees.

916.08 Strength surcharge.

916.09 Wastewater discharge permits.

916.10 Reporting requirements for discharger.

916.11 Emergency suspension of service and discharge permits.

916.12 Revocation of permit.

916.13 Notification of violation; administrative adjustment.

916.14 Show cause hearing.

916.15 Judicial proceedings.

916.16 Enforcement actions; annual publication.

916.17 Right of appeal.

916.18 Operating upsets.

916.19 Records retention.

916.20 Severability and conflict.

916.21 Special agreements.

916.99 Penalty.

CROSS REFERENCES

Use of public and private sewers - see S.U. & P.S. Ch. 912

Sewerage generally - see S.U. & P.S. Ch. 913

916.01 PURPOSE AND POLICY.

- (a) This chapter sets forth uniform requirements for dischargers into the wastewater collection and treatment systems of the City of Lancaster, and enables the City to protect public health in conformity with all applicable local, State and Federal laws relating thereto.
- (b) The objectives of this chapter are:
- (1) To prevent the introduction of pollutants into the City wastewater system which will interfere with the normal operation of the system or contaminate the resulting municipal sludge;
 - (2) To prevent the introduction of pollutants into the City wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
 - (3) To improve the opportunity to recycle and reclaim wastewater and sludge from the system.
- (c) This chapter provides for the regulation of discharges into the City wastewater system through the issuance of permits. This chapter does not provide for the recovery of operations, maintenance or replacement costs of the POTW or the costs associated with the construction of collection and treatment systems used by industrial dischargers, in proportion to their use of the POTW which are the subject of separate enactments.
- (d) This chapter shall apply to the City of Lancaster and to persons outside the City who are, by contract or agreement with the City, users of the City POTW. Except as otherwise provided herein, the Superintendent of the City POTW shall administer, implement and enforce the provisions of this chapter.

(Ord. 16-15. Passed 11-23-15.)

916.02 DEFINITIONS.

- (a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:
- (1) "Act or the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
 - (2) "Applicable pretreatment standard" means any pretreatment limit or prohibitive standard, whether Federal and/or local which is contained in this chapter and deemed to be the most restrictive which nondomestic users will be required to comply with.
 - (3) "Approval authority" means the Director in an NPDES state with an approved State pretreatment program and the Administrator of the EPA in a non-NPDES state or NPDES state without an approved State pretreatment program.
 - (4) "Authorized representative of industrial user" means either:
 - A. A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
 - B. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
 - C. A duly authorized representative of the individual designated above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.
 - (5) "Average monthly discharge limitation" means the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.
 - (6) "Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges, measured during a calendar week divided by the number of daily discharges measured during that week.
 - (7) "Beneficial uses" mean uses which include, but are not limited to, domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by State or Federal law.
 - (8) "Best Management Practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in rule 3745-3-04 of the Administrative Code. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. The POTW may develop BMPs and such BMPs shall be considered local limits and pretreatment standards for the purpose of this rule.
 - (9) "Building sewer" means a sewer conveying wastewater from the premises of a user to the POTW.
 - (10) "Categorical pretreatment standards" mean National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a POTW by specific industrial discharges.
 - (11) "City" means the City of Lancaster, Ohio, or the Council of Lancaster, Ohio.
 - (12) "Composite sample" means a composite sample should contain a minimum of eight discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period. More than the minimum number of discrete samples shall be required where the wastewater loading is highly variable.
 - (13) "Cooling water" means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
 - (14) "Control authority" means the approval authority, as defined hereinabove, or the Superintendent if the City has an approved pretreatment program under the provisions of 40 CFR, 403.11.
 - (15) "Daily discharge" means the discharge of a pollutant measured during a calendar day or any twenty-four hour period that reasonably represents the calendar for purposes of sampling.
 - (16) "Direct discharge" means the discharge of treated or untreated wastewater directly to the waters of the State of Ohio.
 - (17) (EDITOR'S NOTE: This subsection was repealed by Ordinance 26-91, passed June 10, 1991.)
 - (18) "Easement" means an acquired legal right of the specific use of land owned by others.

- (19) "Environmental Protection Agency or EPA" means the U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the administrator or other duly authorized official of such agency.
- (20) "Garbage" means any solid wastes from the preparation, cooking or dispensing of food and from handling, storage or sale of produce.
- (21) "Ground or shredded garbage" means garbage that is shredded to such a degree that all particles are carried freely in suspension under the conditions normally prevailing in the sewerage system, with no particle being greater than one-half inch in dimension.
- (22) "Grab sample" means a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- (23) "Holding tank waste" means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum- pump tank trucks.
- (24) "Indirect discharge" means the discharge or the introduction of nondomestic pollutants from any source regulated under Section 307 (b) or (c) of the Act, (33 U.S.C. 1317), into the POTW, including holding tank waste discharged into the system.
- (25) "Industrial user" means any industrial or commercial establishment manufacturing or processing facility that discharges industrial waste to a publicly-owned treatment works.
- (26) "Industrial waste" means solid, liquid or gaseous waste resulting from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources.
- (27) "Industrial waste permit" means a permit to deposit or discharge industrial waste into any sanitary sewer as issued by the POTW.
- (28) "Effluent" means the water, together with any waste that may be present, flowing into a drain, sewer, receptacle or outlet.
- (29) "Interference" means the inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the City's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the Act, (33 U. S. C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria, including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA, applicable to the method of disposal or use employed by the POTW.
- (30) "Maximum daily discharge limitation" means highest allowable daily discharge.
- (31) "May" indicates a discretionary condition.
- (32) "National categorical pretreatment standard or pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.
- (33) "National prohibitive discharge standard or prohibitive discharge standard" means any regulation developed under the authority of Section 307 (b) of the Act and 40 CFR, Section 403.5.
- (34) "New source" means any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307 (c) (33 U.S.C. 1317) categorical pretreatment standard which will be applicable to such source, if such standard is thereafter promulgated within 120 days of proposal in the Federal Register. Where the standard is promulgated later than 120 days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.
- (35) "Normal sewage" means sewage having an average daily suspended solids concentration of not more than 300 mg/l, and/or an average daily BOD of not more than 200 mg/l.
- (36) "NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the USEPA or the State of Ohio.
- (37) "NPDES permit" means the National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500.
- (38) "Other wastes" mean decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.
- (39) "Pass through" means a discharge that exits the POTW into waters of the state in quantities or concentrations that alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).
- (40) "Person" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, copartnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, the State of Ohio, the United States of America, or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural, where indicated by the context.
- (41) "Pollution" means an alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial uses or facilities which serve such beneficial uses. The man-made or man induced alteration of the chemical, physical, biological and radiological integrity of water.
- (42) "Pollutant" means any substance discharged into a POTW or its collection system, listed in this chapter and the list of priority pollutants or any substance which upon exposure to or assimilation into any organism will cause adverse effects such as cancer, genetic mutations or physiological manifestations as defined in standards issued pursuant to Section 307 (a) of the Act.
- (43) "Pollutant parameters" include the following:
 - A. "Biological Oxygen Demand (BOD)" of sewage, sewage effluent, polluted waters or industrial wastes means the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five days at twenty degrees Centigrade. The laboratory determination shall be made in accordance with procedures set forth in

Standard Methods.

- B. "Chemical Oxygen Demand (COD)" of sewage, sewage effluent, polluted waters or industrial wastes means a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in Standard Methods.
- C. "Fecal coliform" means any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.
 - D. "Floatable oil" means oil, fat or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- (44) A. "Grease and oil" means a group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of their determination in accordance with Standard Methods.
 - B. "Grease and oil of animal and vegetable origin" means substances that are of a less readily biodegradable nature such as are discharged by meatpacking, vegetable oil and fat industries, food processors, canneries and restaurants.
 - C. "Grease and oil of mineral origin" means substances that are less readily biodegradable than grease and oil of animal and vegetable origin; and are derived from a petroleum source. Such substances include machinery lubricating oil, gasoline station wastes, petroleum refinery wastes, storage depot wastes.
 - D. "pH" means the logarithm to the base 10 of the reciprocal of the hydrogen ion concentration of a solution expressed in gram atoms per liter of solution.
 - E. "Suspended solids" means solids which either float on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in Standard Methods.
 - F. "Total solids" means the sum of suspended and dissolved solids.
 - G. "Volatile organic matter" means the material in the sewage solids transformed to gases or vapors when heated at 550 degrees Centigrade for 15 to 20 minutes.
 - H. Any other pollutant parameter deemed appropriate.
- (45) "POTW" means any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the City.
- (46) "Pretreatment or treatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes, or other means except as prohibited by 40 CFR Section 403.6(d).
- (47) "Pretreatment requirements" mean any substantive or procedural requirement related to pretreatment, other than a National pretreatment standard imposed on an industrial user.
- (48) "Receiving stream" means the watercourse, stream or body of water receiving the waters finally discharged from the wastewater treatment plant.
- (49) "Sewage" means water-carried human wastes or a combination of water carried wastes from residence, business, buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.
- (50) "Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage or storm water from the generating source.
- (51) " Shall" is mandatory.
- (52) "Significant Industrial User" means a contributor that:
 - A. Is subject to categorical pretreatment standards under 40 CFR 403.6
 - B. Or applies to the following criteria:
 - i. Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (process wastewater excludes sanitary, non-contact cooling and boiler blowdown wastewaters);
 - ii. Has in its waste a toxic pollutant in toxic amounts as defined in Section 307 of the Federal Act;
 - iii. Has a flow greater than five percent (5%) of the flow carried by the City system receiving the waste;
 - iv. Has in its wastes toxic pollutants as defined pursuant to Section 307 of the Act or State statutes and rules; or
 - v. Is found by the City, State or Federal EPA to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system.
- (53) "Sludge" means any solid, semi-solid or liquid waste generated from a Municipal, commercial or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under Section 402, 405 of the Federal Act and in the applicable requirements under Sections 3001, 3004 and 4004 of the Solid Waste Disposal Act PL 94-580.
- (54) "Slugload" or "slug discharge" is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge that has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions. means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.
- (55) "State" means the State of Ohio.
- (56) "Standard Industrial Classification (SIC)" means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (57) "Standard Methods" mean the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation.

- (58) "Storm water" means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (59) "Superintendent" means the person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative.
- (60) "Toxic amount" means concentrations of any pollutant or combination of pollutants which upon exposure to or assimilation into any organism will cause adverse effects such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to Section 307 (a) of PL 92-599.
- (61) "Toxic pollutant" means those substances referred to in Section 307 (a) of the Act as well as any other known potential substances capable of producing toxic affects.
- (62) "Unpolluted water" means water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to sanitary sewers and wastewater treatment facilities provided.
- (63) "Upset" means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this chapter due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.
- (64) "User" means any person who contributes, causes or permits the contribution of wastewater into the City's POTW.
- (65) "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any ground water, surface water or storm water that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (66) "Wastewater constituents and characteristics" mean the individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and such other parameters that serve to define, classify or measure the contents, quality and strength of wastewater.
- (67) "Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently.
- (68) "Waters of the State" mean all streams, lakes, ponds, marshes, water courses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof. (Ord. 16-15. Passed 11-23-15.)

916.03 ABBREVIATIONS.

The following abbreviations shall have the designated meanings:

- BOD Biochemical Oxygen Demand.
 BMP Best Management Practices.
 CFR Code of Federal Regulations.
 COD Chemical Oxygen Demand.
 EPA Environmental Protection Agency.
 l liter.
 mg milligrams.
 mg/l milligrams per liter.
 NPDES National Pollutant Discharge Elimination System.
 POTW Publicly Owned Treatment Works.
 SIC Standard Industrial Classification.
 SWDA Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
 USC United States Code.
 TSS total suspended solids.
 (Ord. 16-15. Passed 11-23-15.)

916.04 SUBSTANCE DISCHARGE PROHIBITIONS.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all users of a POTW whether or not the user is subject to National categorical pretreatment standards or any other National, State or local pretreatment standards or requirements. A user may not contribute the following substances to any public sewer:

- (a) Pollutants which create a fire or explosion hazard in the POTW, including but not limited to, wastestream with a closed cup flashpoint of less than 140° Fahrenheit or 60° Centigrade, using the test method specified in 40 CFR 261.21.
- (b) Solid or viscous substances which may cause obstruction to the flow in a sewer or cause interference or pass through at the wastewater treatment facilities, such as, but not limited to grease, garbage with particles greater than one-half inch in any dimensions, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, tar, asphalt residues, mud, petroleum, oil, nonbiodegradable cutting oil, or products of mineral oil origin or glass grinding or polishing wastes.
- (c) Any wastewater having a pH less than 5.5 or higher than 10.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the system.
- (d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in this chapter or a categorical pretreatment standard. A toxic pollutant includes but is not limited to any pollutant identified pursuant to Section 307 (a) of the Act.
- (e) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (f) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations

developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

- (g) Any substance which will cause the POTW to violate its NPDES and/or State disposal system permit or the receiving water quality standards.
- (h) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40° C. (104° F.).
- (j) Any slugload, which means any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW.
- (k) Any unpolluted water including, but not limited to noncontact cooling water unless the POTW is designated as a combined sewer.
- (l) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the City in compliance with applicable State or Federal regulations.
- (m) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (n) Hauled septic or industrial wastes, except at locations and at times as designated by the Superintendent. Any removal of manhole lids, or other access to the sewer system for the purpose of discharging wastes at times and/or locations other than those designated by the Superintendent, or without the expressed permission of the Superintendent, shall be considered a violation and shall be subject to enforcement action, including fines and penalties allowed under this chapter.

(Ord. 16-15. Passed 11-23-15.)

916.05 LIMITATIONS ON WASTEWATER STRENGTH.

(a) Federal Categorical Pretreatment Standards. Upon the promulgation of the Federal categorical pretreatment standards for a particular industrial subcategory, the Federal standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.

(b) Modification of Federal Standards. Where the City's wastewater treatment system achieves consistent removal of pollutants limited by Federal pretreatment standards, the City may apply to the approval authority for modification of specific limits in the Federal pretreatment standards. "Consistent removal" means reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five percent (95%) of the samples taken when measured according to the procedures set forth in Section 403.7 (c) (2) of Title 40 of the Code of Federal Regulations, Part 403 "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The City may then modify pollutant discharge limits in the Federal pretreatment standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained.

(c) State Requirements. State requirements and limitations on discharges to the POTW shall be met by all dischargers which are subject to such standards in any instance in which they are more stringent than Federal requirements and limitations or those in this chapter or any other applicable ordinance.

(d) Right of Revision. The City reserves the right to amend this chapter to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Section 916.01.

(e) Dilution. No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.

(f) Supplementary Limitations. No discharger shall discharge wastewater containing concentrations of the following enumerated materials, exceeding the following values:

MATERIALS	INDUSTRIAL EFFLUENT LIMITATIONS MAX/DAY (mg/l)
Arsenic	0.043
Mercury	0.0002
Silver	0.021
Oil and Grease	100

Any other pollutants of concern shall be controlled in the industrial users control document (permit) based on mass proportioning of these pollutants. Annual review and proportioning shall occur by the City, with written notification to the user.

(Ord. 16-15. Passed 11-23-15.)

916.06 ACCIDENTAL DISCHARGES.

(a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility. All existing users shall complete such a plan within ninety days of the effective date of this section. No user who commences contribution to the POTW after the effective date of this section shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this chapter. In the case of an accidental discharge or the occurrence of a slugload, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) At least once during the term of each significant industrial user's control mechanism or within one year of being identified as a significant industrial user, the City will evaluate the need for a plan, device or structure to control potential slug control discharges.

(c) Written Notice. Within five days following an accidental discharge or the occurrence of a slugload, the user shall submit to the Superintendent a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil or criminal penalties, or other liability which may be imposed by this chapter or other applicable law.

(d) All industrial users shall promptly notify the POTW at least 30 days in advance of any substantial change in the volume or character of pollutants in their discharge. Significant industrial users shall notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

(e) Notice of Employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.
(Ord. 16-15. Passed 11-23-15.)

916.07 FEES.

(a) Cost Purpose. It is the purpose of this chapter to provide for the recovery of costs from users of the City's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the City's schedule of charges and fees.

(b) Charges and Fees. The City may adopt charges and fees which may include:

- (1) Fees for reimbursement of costs of setting up and operating the City's pretreatment program;
- (2) Fees for monitoring, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications;
- (5) Fees for filing appeals;
- (6) Fees for consistent removal by the City of pollutants otherwise subject to Federal pretreatment standards;
- (7) Other fees as the City may deem necessary to carry out the requirements contained herein.

(c) Separate Fees. These fees relate solely to the matters covered by this chapter and are separate from all other fees chargeable by the City.

(Ord. 16-15. Passed 11-23-15.)

916.08 STRENGTH SURCHARGE.

(a) Every person, firm or corporation whose premises are served by a sewer connection which discharges sanitary sewage, industrial wastes, water or other liquids, other than normal sewage, either directly or indirectly into the sewerage system under the jurisdiction of the City, shall be charged and shall pay a sewage surcharge in addition to the sewerage service charge for normal domestic sewage.

(b) The basis of the surcharge shall be determined on the following constituents of the water or wastes that are in excess of "normal sewage":

- (1) Total suspended solids;
- (2) C.B.O.D., five days at 20 degrees Centigrade;

When any or all of the total suspended solids or C.B.O.D. of a water or waste accepted for admission to the City sewage works exceeds the values of these constituents for normal domestic sewage, payment of the treatment surcharge will be computed as the cost of treating the excess quantities of waste based upon the weight in units of 100 pounds.

(c) Strength surcharges are hereby established as follows:

<u>Pollutant Parameters</u>	<u>Cost Per 100 Pounds</u>
Carbonaceous Biochemical Oxygen Demand	\$28.99
Suspended Solids	\$17.67

Effective January 1, 2008

Carbonaceous Biochemical Oxygen Demand	\$30.44
Suspended Solids	\$18.55

(d) Industrial waste surveillance charge is hereby established at one hundred eighty dollars (\$180.00) each time monitored.

(e) Water Pollution Control Fund. Funds received from the strength surcharge and the industrial waste surveillance charge shall be deposited in the Water Pollution Control Fund.

(f) Charge Adjustment.

- (1) Each year on or before July 1, the Superintendent of the Water Pollution Control Department shall submit to the Service-Safety Director a recommended system of strength surcharges, surcharges and industrial waste surveillance charges. If approved, the Director shall submit the schedule of charges at the first regular meeting in October of Council for ratification and incorporation into the City ordinances.
- (2) The system shall be in accordance with the following requirements:

Strength Surcharge.

The cost of treating and handling the extra strength constituents of B.O.D. and suspended solids shall be determined and reported in the schedule at a cost per 100 pounds.

Industrial Waste Surveillance Costs.

The cost shall be determined by calculating the actual cost of gathering samples, testing and reporting the

results of analysis and distributing the cost proportionately to the appropriate customers.
(Ord. 16-15. Passed 11-23-15.)

916.09 WASTEWATER DISCHARGE PERMITS.

- (a) Required. It shall be unlawful to discharge sewage, industrial wastes or other wastes to any sewer within the jurisdiction of the City, and/or to the POTW without a permit issued by the City.
- (b) Connecting or Discharging. All industrial dischargers proposing to connect to or to discharge sewage, industrial wastes and other wastes to the POTW shall obtain a wastewater discharge permit before connecting to or discharging to the POTW. All existing industrial dischargers connected to or discharging to the POTW shall obtain a wastewater discharge permit within ninety days after the effective date of this section.
- (c) Permit Application. Industrial dischargers shall complete and file with the City, a permit application therefor in the form prescribed by the City, accompanied by the appropriate fee. Existing industrial dischargers shall apply for a wastewater discharge permit within thirty days after the effective date of this section, and proposed new dischargers shall apply at least ninety days prior to connecting to the POTW. No discharge permit shall be issued unless the following conditions have been met:
- (1) Disclosure of name, address and location of the discharger including the name of the operator and owners;
 - (2) Disclosure of a list of any environmental control permits held by or for the facility;
 - (3) Disclosure of North American Industry Classification System Standard Industrial Classification (NAICSSIC) number according to the Standard Industrial Classification Manual, Office of Management and Budget Bureau of the Budget, 20121972, as amended;
 - (4) Disclosure of wastewater constituents and characteristics including but not limited to those mentioned in this chapter as determined by bonafide chemical and biological analysis. Sampling and analysis shall be performed in accordance with procedures established by the U. S. EPA pursuant to Section 304 (g) of the Act and contained in 40 CFR, Part 136, as amended. The sample shall be representative of daily operations;
 - (5) Disclosure of time and duration of discharge;
 - (6) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, from each regulated process stream and each other stream as necessary to allow use of the combined wastestream formula of 40 CFR 403.6. This including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City due to cost or nonfeasibility;
 - (7) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation. This includes a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;
 - (8) Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the City;
 - (9) Disclosure of the nature and concentration of any pollutants or materials prohibited by this chapter in the discharge, together with a statement regarding whether or not compliance is being achieved with this chapter on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the discharger to comply with this chapter;
 - (10) Where a BMP or a pollution prevention alternative is necessary, the industrial user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard;
 - (11) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this chapter, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
 - A. The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the discharger to comply with the requirements of this chapter including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing a contract for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this chapter.
 - B. Under no circumstance shall the City permit a time increment for any single step directed toward compliance which exceeds nine months.
 - C. Not later than fourteen days following each milestone date in the schedule and the final date for compliance, the discharger shall submit a progress report to the City, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the City.
 - (12) Disclosure of each product produced by type, amount, process or processes, and rate of production;
 - (13) Disclosure of the type and amount of raw materials utilized (average and maximum per day);
 - (14) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
 - (15) Any other information as may be deemed by the City to be necessary to evaluate the permit application;
 - (16) All permit applications shall include a statement, reviewed and signed by an authorized representative of the industrial user (as specified in paragraph (17) below), certifying whether categorical pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance or additional pretreatment or both, is required by the industrial user to meet the categorical pretreatment standards and requirements.
 - (17) All permit applications for new or modified permits shall be signed by a principal executive officer of the discharger, and a licensed professional engineer and all renewal applications for existing permits shall be signed by a principal

executive officer of the discharger.

(d) The City will evaluate the complete application and data furnished by the discharger and may require additional information. Within thirty days after full evaluation and acceptance of the data furnished, the City shall issue a wastewater discharge permit subject to terms and conditions provided herein.

(e) Permit Modification. The City reserves the right to amend any wastewater discharge permit issued hereunder in order to assure compliance by the City with applicable laws and regulations. Within nine months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of each discharger subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standards. All National categorical pretreatment standards adopted after adoption of this section shall be adopted by the City as part of this chapter. Where a discharger, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by Section 916.09, the discharger shall apply for a wastewater discharge permit from the City within 180 days after the promulgation of the applicable National categorical pretreatment standard by the U. S. EPA. In addition, any discharger with an existing wastewater discharge permit shall submit to the City within 180 days after the promulgation of an applicable National categorical pretreatment standard, the information required by Section 916.09(c)(8) and (9). The discharger shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) Permit Conditions. Wastewater discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the City. Permits shall contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer;
- (2) Limits on the average and maximum wastewater constituents and characteristics;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Compliance schedules;
- (7) Requirements for submission of technical reports or discharge reports, per subsection (d) hereof;
- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto;
- (9) Requirements for notification of the City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Requirements for notification of slug discharges as per Section 916.06(a);
- (11) Other conditions as deemed appropriate by the City to ensure compliance with this chapter.

(g) Permit Duration. All wastewater discharge permits shall be issued and shall be in force until the discharger ceases operation, subject to amendment or revocation at any time as provided in this chapter. Under extraordinary circumstances, a permit may be issued for a stated period or may be stated to expire on a specific date. In the event that a permit is issued for a stated period or with a specific expiration date the discharger shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the City during the term of the permit as limitations or requirements as identified in Sections 916.04 and 916.05 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least thirty days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

- (1) Permits will be evaluated and reissued by the City at least once every five years.

(h) Permit Transfer. Wastewater discharge permits are issued to a specific discharger for a specific operation at a specific location. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new discharger, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or discharger shall also comply with the terms and conditions of the existing permit. A wastewater discharge permit shall not be transferred to a new location.

(Ord. 16-15. Passed 11-23-15.)

916.10 REPORTING REQUIREMENTS FOR DISCHARGER.

(a) Compliance Data Report. Within ninety days following the date for final compliance by the discharger with applicable pretreatment standards set forth in this chapter or ninety days following commencement of the introduction of wastewater into the POTW by a new discharger, any discharger subject to this chapter shall submit to the City a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. Industrial users with applicable pretreatment standards that require compliance with a BMP or a pollution prevention alternative shall submit documentation to determine compliance. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance (O & M) and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the discharger, and certified by a professional engineer licensed to practice in Ohio.

(b) Periodic Compliance Report.

- (1) Any discharger subject to a pretreatment standard, or at the discretion of the Superintendent, shall submit to the City on or before each June 30 and December 31, unless required more frequently by the City, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the pretreatment standards hereof. In addition, it shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in subsection (a) hereof. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques.
- (2) Reports of dischargers shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the City. The frequency of monitoring by the discharger shall be as prescribed in the applicable pretreatment standard or wastewater discharge permit issued hereunder.
- (3) All analysis shall be performed in accordance with 40 CFR, Part 136 and amendments thereto. Grab samples shall be used for

pH, hexavalent chromium, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, twenty-four-hour composite samples shall be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples shall be representative of the discharge and the decision to allow the alternative sampling shall be documented in the industrial user file for that facility or facilities.

- A. Using protocols (including appropriate preservation) specified in 40 CFR 136 and appropriate USEPA guidance, multiple grab samples collected during a twenty-four-hour period may be composited prior to the analysis as follows: for hexavalent chromium, cyanide, total phenols, and sulfides the samples may be composited in the laboratory or field; for volatile organics and oil and grease the samples may be composited in the laboratory.
- B. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, the sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluent for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U.S. EPA.

(c) Monitoring Facilities.

- (1) Each discharger shall provide and operate at the discharger's own expense, a monitoring facility to allow inspections, sampling and flow measurement of each sewer discharge to the City. Each monitoring facility shall be situated on the discharger's premises, except where such a location would be impractical or cause undue hardship on the discharger, the City may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles.
- (2) The POTW may require an industrial user to install flow monitoring facilities, instruments, and recording devices to enable accurate measurement of flows as determined to be necessary.
- (3) All sewers shall have an inspection and sampling manhole or structure with an opening of no less than twenty-four inches diameter and an internal diameter of no less than forty-eight inches containing flow measuring, recording and sampling equipment as required by the City to assure compliance with this chapter.
- (4) There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger.
- (5) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within 120 days of receipt of permit by discharger.
- (6) If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within twenty-four hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within thirty days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority shall perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis.

(d) Inspection and Sampling. The City may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this chapter. The discharger shall allow the City or its representatives, upon presentation of credentials of identification, to enter upon the premises of the discharger at all reasonable hours, for the purposes of inspection, sampling or records examination. The City shall have the right to set up on the discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a discharger has security measures in force which would require proper identification and clearance before entry into their premises, the discharger shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay for the purposes of performing their specific responsibilities.

(e) Confidential Information.

- (1) Information and data furnished to the City with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the discharger.
- (2) When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, State disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information.
- (3) Information accepted by the City as confidential, shall not be transmitted to any governmental agency or to the general public by the City unless a ten-day notification is given to the discharger.

(f) Signatory Requirements. All reports under this section shall include the certification statement as set forth in 40 CFR 403.6 (a)(2) (ii) and shall be signed by:

- (1) A president, secretary, treasurer or vice president of a corporation;
- (2) The manager of one or more manufacturing, production, or operation facilities, provided the manager:
 - A. Is authorized to make management decisions that govern the operation of the regulated facility, including have the explicit or implicit duty of making major capital investment recommendations, and of initiating and directing other comprehensive measures, to assure long-term environmental compliance with environmental laws and

regulations;

B. Can ensure that the necessary systems are established or that the necessary actions are taken to gather complete and accurate information for control mechanism requirements; and

C. Is assigned or delegated the authority to sign documents in accordance with corporate procedures.

(3) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or

(4) A duly authorized representative of the above, if the authorization is previously made in writing to the Superintendent.

(g) Notification of Changes in Discharge. All industrial users shall notify the City in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(P).

(h) Notification of Hazardous Waste. The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Industrial users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12 (j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).

(1) Dischargers are exempt from the requirements of paragraph (p)(1) of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(2) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

(3) In the case of any notification made under paragraph (p) of this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Ord. 16-15. Passed 11-23-15.)

916.11 EMERGENCY SUSPENSION OF SERVICE AND DISCHARGE PERMITS.

The City may for good cause shown suspend the wastewater treatment service to a discharger when it appears to the City that an actual or threatened discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, a substantial danger to the environment, interferes with the operation of the POTW, or violates any pretreatment limits imposed by this chapter or any wastewater discharge permit issued pursuant to this chapter. Any discharger notified of the suspension of the City's wastewater treatment service and/or the dischargers wastewater discharge permit, shall within a reasonable period of time, as determined by the City, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the City shall take such steps as deemed necessary including immediate severance of the sewer connection and shall commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The City shall reinstate the wastewater discharge permit and/or the wastewater treatment service and terminate judicial proceedings pending proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above. A detailed written statement submitted by the discharger describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the City within fifteen days of the occurrence.

(Ord. 16-15. Passed 11-23-15.)

916.12 REVOCATION OF PERMIT.

The City may revoke the permit of any discharger which fails to:

(a) Factually report the wastewater constituents and characteristics of its discharge;

(b) Report significant changes in operations or wastewater constituents or characteristics;

(c) Refuses reasonable access to the discharger's premises by representatives of the City for the purpose of inspection or monitoring;

or

(d) Violates the conditions of its permit or this chapter, or any final judicial order entered with respect thereto.

(Ord. 16-15. Passed 11-23-15.)

916.13 NOTIFICATION OF VIOLATION; ADMINISTRATIVE ADJUSTMENT.

Whenever the City finds that any discharger has engaged in conduct which justifies revocation of a wastewater discharge permit, pursuant to Section 916.12, the City shall serve or cause to be served upon such discharger, a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within thirty days of the date of receipt of the notice, the discharger shall respond personally or in writing to the City, advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and where necessary, establish a plan for the satisfactory correction thereof.

(Ord. 16-15. Passed 11-23-15.)

916.14 SHOW CAUSE HEARING.

Where the violation specified in Section 916.12 is not corrected by timely compliance by means of administrative adjustment, the City may order any discharger which causes or allows conduct prohibited by Section 916.12, to show cause before the City or its duly authorized representative, why the proposed permit revocation action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered mail, return receipt requested, specifying the time and place of a hearing to be held by the City or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the City or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer or authorized representative of a discharger. The proceedings at the hearing shall be considered by the City which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or State law.

(Ord. 16-15. Passed 11-23-15.)

916.15 JUDICIAL PROCEEDINGS.

Following the entry of any order by the City with respect to the conduct of a discharger contrary to the provisions of Section 916.12, the City Law Director may, following the authorization of such action by Council, commence an action for appropriate legal and/or equitable relief in the appropriate local court.

(Ord. 16-15. Passed 11-23-15.)

916.16 ENFORCEMENT ACTIONS; ANNUAL PUBLICATION.

At least annually, the Superintendent shall publish a list of all industrial users which, at any time during the previous twelve months, were in significant noncompliance with applicable pretreatment requirements. For the purposes of this provision, a nonsignificant industrial user is in significant noncompliance if its violations meet part (c), (d), or (h) of this rule. A significant industrial user is in significant noncompliance if its violations meet one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits at any permitted monitoring point, defined here as those in which sixty-six percent (66%) or more of all the measurements taken during a six month period exceed, by any magnitude, the daily maximum limit or the , average limit, or instantaneous limit for the same pollutant parameter;
- (b) Technical review criteria (TRC) violation at any permitted monitoring point, defined here as those in which thirty- three percent (33%) or more of all the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit, or the average limit, or the instantaneous limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);
- (c) Any other violations of a pretreatment effluent limit (daily maximum or longer term average) that the Superintendent determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (d) Any discharge of a pollutant that has caused imminent endangerment of human health, welfare or to the environment or has resulted in the POTW's exercise of emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety days after the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
- (f) Failure to provide, within thirty days after the due date, required reports, such as baseline monitoring reports, ninety-day compliance reports, periodic self- monitoring reports and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; and
- (h) Any other violation (including a violation of BMPs), or group of violations, which the Superintendent determines will or has adversely affected the operation or implementation of the City's pretreatment program.

(Ord. 16-15. Passed 11-23-15.)

916.17 RIGHT OF APPEAL.

Any discharger or any interested party shall have the right to request in writing an interpretation or ruling by the City on any matter covered by this chapter and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger or deals with matters of performance or compliance with this chapter or deals with a wastewater discharge permit issued pursuant thereto for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this chapter may be taken in accordance with local and State law.

(Ord. 16-15. Passed 11-23-15.)

916.18 OPERATING UPSETS.

(a) Any discharger which experiences an upset in operations which places the discharger in a temporary state of noncompliance with this chapter or a wastewater discharge permit issued pursuant hereto shall inform the City thereof within twenty-four hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the City within five days. The report shall specify:

- (1) Description of the upset, the cause thereof and the upset's impact on a discharger's compliance status.
- (2) Duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur.
- (3) All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

(b) A documented and verified bonafide operation upset shall be an affirmative defense to any enforcement action brought by the City against a discharger for any noncompliance with this chapter or any wastewater discharge permit issued pursuant thereto which arises out of violations alleged to have occurred during the period of the upset.

(Ord. 16-15. Passed 11-23-15.)

916.19 RECORDS RETENTION.

All dischargers subject to this chapter shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

(Ord. 16-15. Passed 11-23-15.)

916.20 SEVERABILITY AND CONFLICT.

(a) If any provision, paragraph, word or section of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words and sections shall not be affected and shall continue in full force and effect.

(b) All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of such inconsistency or conflict.

(Ord. 16-15. Passed 11-23-15.)

916.21 SPECIAL AGREEMENTS.

No statement in this chapter shall be construed as preventing any special agreement or arrangement between the Water Pollution Control Department and any person, with the approval of the Mayor and/or Service-Safety Director, whereby a waste of unusual strength or characteristic may be accepted by the P.O.T.W. Under no circumstances however, will any special agreement supersede compliance with State or federal pretreatment requirements.

(Ord. 16-15. Passed 11-23-15.)

916.99 PENALTY.

(a) Violation and Punishment. Any discharger violating an order of the City or failing to comply with any provision of this chapter, and the regulations or rules of the City, or orders of any court of competent jurisdiction, or permits issued hereunder, shall be fined not less than one thousand dollars (\$1,000) nor more than five thousand dollars (\$5,000) or imprisoned for not more than six months, or both. Each day in which any violation continues shall be deemed a separate offense.

(b) Recovery of Costs Incurred by City. Any discharger violating any of the provisions of this chapter, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the City's wastewater disposal system shall be liable to the City for any expense, loss or damage caused by such violation or discharge. The City shall bill the discharge, for the costs incurred by the City for any cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter enforceable under the provisions of Section 916.12.

(c) Falsifying Information. Any person who knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this chapter, shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months or both.

(d) Civil Penalties.

(1) Any industrial user who has violated or continues to violate any provision of this chapter, or any order or permit issued hereunder, shall be liable for a civil penalty of up to one thousand dollars (\$1,000) per day, per violation, for as long as the violation(s) continue, plus any cost of damages incurred by the POTW. In addition to the above penalties and costs of damage, the City may recover reasonable attorney's fees, court costs and other expenses associated with the enforcement activities, including sampling and monitoring expenses.

(e) Administrative Fines. Notwithstanding any other section of this chapter, any user who is found to have violated any provision of this chapter, or any order or permit issued hereunder, shall be liable to the Superintendent for an administrative fine in an amount not to exceed one thousand dollars (\$1,000) per day. Each day of which noncompliance shall occur or continue, shall be deemed a separate and distinct violation.

Industrial users desiring to dispute such fines shall file a request for the Superintendent to reconsider the fine within ten days of being notified of the fine. Where the Superintendent believes a request has merit, he shall convene a hearing on the matter within fifteen days of receiving the request from the industrial user. Any administrative fine shall be assessed in the form of an invoice, payable to the Water Pollution Control Fund.

(Ord. 16-15. Passed 11-23-15.)

CHAPTER 917

Natural Gas Service

917.01 Definitions.

917.02 Units of gas measurement.

917.03 Residential service- Schedule "RS".

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917.16 Operating cost adjustment.

917.17 Supply curtailment in emergencies.

CROSS REFERENCES

Power to furnish light, power and heat - see Ohio R. C. 715.06, 717.01

Purchase of gas - see Ohio R. C. 715.07

Compulsory gas connections - see Ohio R. C. 743.37

Gas tap fees outside City - see ADM. 137.04

Unvented gas heater - see GEN. OFF. 521.02

Subdivision improvements - see P. & Z. Ch. 1109

Gas piping and appliances - see BLDG. Ch. 1323

917.01 DEFINITIONS.

For purposes of this chapter, the following terms are defined as follows:

- (a) "Btu" means British thermal unit.
- (b) "Ccf" means 100 standard cubic feet of gas. A standard cubic foot of gas is the quantity of gas which would occupy a volume of one cubic foot when such gas is at a temperature of sixty degrees Fahrenheit and at a pressure of 14.73 psia.
- (c) "Cfh" means cubic feet per hour.
- (d) "City" means the City of Lancaster, Ohio.
- (e) "Decatherm" means 1,000,000 Btu or ten therms.
- (f) "Gas" means natural gas, including associated liquefiable hydrocarbons, which is produced from gas wells. "Gas" also includes oil well gas which is produced in association with crude oil and synthetic or substitute natural gas.
- (g) "Main" or "gas main" means the City's gas lines which can be tapped with customers' service lines or service connections.
- (h) "Person" means the State of Ohio, any political subdivision, public or private corporation, individual, partnership or other legal entity.
- (i) "Psia" means pounds per square inch absolute.
- (j) "Service line connection" or "tap" consists of the connection at the main, necessary pipe and appurtenances to extend to the property line or the curb cock location, curb cock and curb box. The service line connection shall be made by the City or its representative, at the customer's expense as described in Section 917.09. The service line connection shall remain the property of the City.
- (k) "Customer service line" consists of the pipe from the outlet of the curb cock to the meter connection. The customer service line shall be installed and maintained by the customer. The City of Lancaster - Gas Department shall provide one meter (and regulator where required) per service line at the City's expense.
- (l) "Therm" means 100,000 Btu.
- (m) "Transmission and distribution system" means gas facilities owned and under contract by the City which are interconnected with interstate pipelines which transport gas to the City and are used to deliver gas to the customer.
- (n) "Unaccounted for gas" means the volume of gas retained by the City to offset the amount of gas which enters the City's transmission and distribution system for such customers but cannot be accounted for through such customers' meter reading.
- (o) "Unit of gas" means the designation of Btu, Ccf, decatherm or therm by which natural gas and related services are sold for billing purposes.
- (p) "Volume of gas" means the number of units of gas expressed in Btus, Ccf, decatherms or therms.

(Ord. 62-98. Passed 12-14-98.)

917.02 UNIT OF GAS MEASUREMENT.

The general unit of gas measurement shall be a volume measured in increments of Ccf approximately one therm. The Service-Safety Director is hereby authorized to approve, in his discretion, alternative units of measurement in the case of special contracts permitted under Section 917.13 of this chapter.

(Ord. 62-98. Passed 12-14-98.)

917.03 RESIDENTIAL SERVICE - SCHEDULE "RS".

(a) Schedule "RS" is applicable for service supplied to what is ordinarily designated and recognized as individual, single, or multi-family, residential or home use, including apartments, mobile homes and other individual single or multi-family noncommercial dwelling quarters or units and nonresidential uses within the City where the City's mains are adjacent to the premises to be served, provided that customers outside the City corporation limits shall not be eligible for this rate.

(b) Residential Service Charges. The monthly charge for Residential Service - Schedule "RS" shall be the sum of the charges set forth below:

(1) Customer service charge:

\$6.00 per meter per month

(2) Volumetric charge:

\$.200 per Ccf per month

(3) Gas cost recovery charge:

The gas cost recovery charge shall be determined in accordance with Section 917.11

(4) Operating cost adjustment:

The operating cost adjustment shall be determined in accordance with Section 917.16

(5) Rate stabilization cost adjustment:

The operating cost adjustment shall be determined in accordance with Section 917.15.

(Ord. 67-04. Passed 12-6-04.)

917.04 COMMERCIAL SERVICE - SCHEDULE "CS".

(a) Schedule "CS" is applicable for service supplied to what is ordinarily designated and recognized as commercial facilities including, but not limited to, restaurants, retail stores, grocery stores, lodging facilities, educational institutions, and office complexes where the City's mains are adjacent to the premises to be served.

(b) Commercial Service Charges. The monthly charge for Commercial Service Schedule "CS" shall be the sum of the charges set forth below:

(1) Customer service charge:

\$10.00 per meter per month.

(2) Volumetric charge:

\$.190 per Ccf per month

(3) Gas cost recovery charge:

The gas cost recovery charge shall be determined in accordance with Section 917.11.

(4) Operating cost adjustment.

The operating cost adjustment shall be determined in accordance with Section 917.16.

(5) Rate Stabilization cost adjustment.

The operating cost adjustment shall be determined in accordance with Section 917.15.

(Ord. 67-04. Passed 12-6-04.)

917.0 INDUSTRIAL SERVICE - SCHEDULE "IS".

(a) Schedule "IS" is applicable for service supplied to what is ordinarily designated and recognized as manufacturing, assembly, or process facilities where the City's mains are adjacent to the premises to be served.

(b) Industrial Service Charges. The monthly charge for Industrial Service Schedule "IS" shall be the sum of the charges set forth below:

(1) Customer service charge:

\$25.00 per meter per month

(2) Volumetric charge:

\$.15 per Ccf per month

(3) Gas cost recovery charge:

The gas cost recovery charge shall be determined in accordance with Section 917.11

(4) Operating cost adjustment:

The operating cost adjustment shall be determined in accordance with Section 917.16.

(5) Rate stabilization cost adjustment:

The operating cost adjustment shall be determined in accordance with Section 917.15.

(Ord. 67-04. Passed 12-6-04.)

917.06 OUTSIDE CITY SERVICE - SCHEDULE "OCS".

(a) Schedule "OCS" is applicable for service supplied to what is ordinarily designated and recognized as individual, single, or multi-family, residential or home use, including apartments, mobile homes and other individual single or multi-family noncommercial dwelling quarters or units and nonresidential uses where the City's mains are adjacent to the premises to be served, provided that customers are located outside the City.

(b) Outside City Charges. The monthly charge for Outside - Service Schedule "OCS" shall be the sum of the charges set forth below:

(1) Customer service charge:

\$6.50 per meter per month

(2) Volumetric charge:

\$.220 per Ccf per month

(3) Gas cost recovery charge:

The gas cost recovery charge shall be determined in accordance with Section 917.11.

(4) Operating cost adjustment:

The operating cost adjustment shall be determined in accordance with Section 917.16.

(5) Rate stabilization cost adjustment:

The operating cost adjustment shall be determined in accordance with Section 917.15.

(Ord. 62-98. Passed 12-14-98.)

917.07 SUPPLY WITHOUT PERMIT.

The City shall not be required to supply gas to any person, firm or corporation, unless a conforming application for service, "gas tap application," has been submitted to the City and the application is approved by the City.

(Ord. 62-98. Passed 12-14-98.)

917.08 TRANSPORTATION SERVICE.

The City of Lancaster recognizes that a smaller number of industrial customers located within the corporation limits of the City of Lancaster are currently not purchasing their natural gas supplies through the City of Lancaster's Gas Department. The customers currently served by the City of Lancaster's Gas Department along with future residential, commercial and industrial development within

the City of Lancaster's corporation limits shall obtain their natural gas supply from the City's Gas Department. The City of Lancaster solicits bids for natural gas supply and related services; comments and recommendations are welcome, however, no rights exist for individual proposals to be incorporated.

(Ord. 62-98. Passed 12-14-98.)

917.09 SERVICE FEES.

In addition to the charges imposed by this chapter, the following service fees are hereby established:

- (a) Gas Tap Fee. A gas tap fee shall be charged, in addition to the above mentioned charges, to each customer requesting a gas tap permit based on the size of the service line used to make the gas tap as follows:

Gas Tap Fee

Inside the City corporation limits \$400.00

Outside the City corporation limits \$525.00

Note: An additional \$75.00 charge will be assessed should the customer desire an emergency shut-off valve.

- (b) Equity Connection Fees. At its discretion and expense, the City may, from time to time, construct additional mains and service facilities in public rights of way or easements. When an improvement or addition to a utility system made by the City at its expense makes service possible in a new location where such service did not previously exist, or improves already existing service, but such improvement or addition is not made for the purpose of benefitting the utility system as a whole, such as by improving the reliability, longevity, capacity or interconnective network of the utility system, such addition or improvement shall be known as a "local main extension". When an improvement or addition to a utility system made by the City at its expense is made for the purpose of benefitting the utility system as a whole, such as by improving the reliability, longevity, capacity or interconnective network of the utility system, but such improvement or additional can also safely be tapped to make service possible in a new location where such service did not previously exist, or improve already existing service, such an addition or improvement shall be known as a "feeder main extension". When a connection or tap is made to the City's gas system in a public right of way or easement by an abutting owner or developer for the purpose of providing new service, and where the owner of the lot or parcel to receive such new service has not previously paid an equitable share of the City's cost of extending the main into which the connection or tap is made, the owner of the abutting lot shall pay the City an equity connection fee in order to assist in the recovery of the City's cost of extending the main into which the abutting owner has connected or will connect. The equity connection fee shall be determined as follows:
- (1) Local main extension. Where a tap or connection is made to what has previously been constructed as a local main extension, a uniform fee of fifteen dollars (\$15.00) per lineal foot of frontage of the lot or parcel abutting the gas main shall be paid to the City. In the event such lot or parcel of real estate abuts a street, alley, right of way or easement in which such gas main is located on more than one side, the frontage used shall be the shortest lot line distance that such lot or parcel of real estate has abutting the street, alley, right of way or easement in which the connecting main is located; and in the event such abutting lot parcel of real estate is not rectangular, the frontage used shall be the number or lineal feet produced by averaging the front line and the rear lot line, or one-half of the front lot line if the lot or parcel forms a triangle.
- (2) Feeder main extension. Where a tap or connection is made to a feeder main extension or residential or commercial building, which existed at the time the feeder main project was approved, along the abutting right of way or easement, shall be permitted to connect to such feeder main for an equity connection fee of twenty dollars (\$20.00) per lineal foot for the lesser of either the actual footage of the lot or parcel of real estate or 100 feet of frontage along such abutting right of way or easement. All subsequent attachments are subject to the local main extension fees for actual frontage.
- The equity connection fee shall be paid in full to the City before a gas tap is authorized and the connection is made.
- (c) Involuntary Disconnection: Reconnection Fee. In the event gas service to customer under Schedule "RS," Schedule "CS," Schedule "IS," or Schedule "OCS" is involuntarily discontinued for any reason other than the City's inability to serve, the City shall be under no obligation to restore service at that location until the City first receives payment of a reconnection fee which is equal to the sum of the monthly customer service charge for each of the months between the time the service was discontinued and the time service is restored up to a maximum of twelve monthly customer charges, any remaining payments due for service provided prior to the discontinuation of service, and the service turn-on fee as set forth in this section.
- (d) Voluntary Disconnection: Reconnection Fee. In the event gas service to customers under Schedule "RS", Schedule "CS," Schedule "IS," or Schedule "OCS" is voluntarily discontinued for any reason, the City shall be under no obligation to restore service at that location until the City first receives payment of a reconnection fee which is equal to the sum of the monthly customer service charge for each of the months between the time the service was discontinued and the time service is restored up to a maximum of twelve monthly customer charges, any remaining payments due for service provided prior to the discontinuation of service, and thirty-five dollars (\$35.00).
- (e) Service Turn-on Fee. A service turn-on fee of fifteen dollars (\$15.00) shall be charged to each new customer under Schedule "RS," Schedule "CS," Schedule "IS," or Schedule "OCS" and included in the initial service bill. This fee shall also be charged to customers requesting reconnection subsequent to an involuntary disconnection as set forth in this section.
- (f) Miscellaneous Fees. The following fees shall be charged to Schedule "RS," Schedule "CS," Schedule "IS," or Schedule "OCS" customers for the following services performed, or arranged to be performed, by the Gas Department:

<u>Service</u>	<u>Miscellaneous Fee</u>
Special meter reading and/or Special appointment at request of customer	\$15.00 Inside City \$25.00 Outside City
After Hours Calls	Actual costs of labor and materials

multiplied by 1.3
(Regular hours are 7:30 A.M. - 4P.M., Monday-Friday,

excluding holidays)
Gas meter testing Actual cost of labor and materials

multiplied by 1.3
Remote gas meter installation Actual cost of labor and

materials multiplied by 1.3

(Ord. 62-98. Passed 12-14-98.)

917.10 TERMS AND CONDITIONS OF SERVICE.

(a) Payment, Penalty and Disconnection. Payment for all rates and other applicable charges shall be made in accordance with the terms specified on the bill or bill insert. In the event any utility account becomes delinquent, penalties shall be assessed against all delinquent amounts and utility service shall be subject to disconnection in accordance with Section 917.09 of this chapter.

(b) Returned Check Charge. In addition to adding late payment charges as appropriate, the City shall charge and collect a fee of fifteen dollars (\$15.00) to cover the cost of handling a check which a customer tenders in payment of an account and which is returned by the bank because it cannot be paid as ordered.

(c) Customer Obligation. The customer is responsible for the customer's side of the point of delivery, generally considered to be the outlet side of the curb cock, for the service supplied or taken, as well as for the installation of gas equipment and appliances used in connection therewith. The customer shall not attach or use any appliance or equipment which is unsafe or may result in the injection of air, water or other foreign matter into the gas lines so as to interfere, in any manner, with service to other customers.

(d) No Person Shall Sell to Another. No person shall supply or sell gas for use in any location other than that specified in the application for service as the location where service is to be received.

(e) Right to Shut Off Gas. The City shall have the right to discontinue gas service to a customer or a premises under the following conditions:

- (1) For refusing access to any employee of the City who has provided identification to the customer and stated the reasonable purpose for desiring such access;
- (2) For failure to furnish or maintain the required security deposit according to the requirements of the Utilities Collection Office;
- (3) For violation of any Rules and Regulations of the City; or
- (4) If any bill is not paid in total within thirty days after the payment date specified on the bill.

The City shall have the right to discontinue service and the right to disconnect and remove from the premises of any customer the meter and any other property belonging to the City for theft of gas, non-use of gas, nonpayment of bills for gas when bills are due, fraudulent representation or practice, tampering with the gas utility meter or piping in order to affect billing or metering, or whenever deemed necessary by the City for safety reasons.

(f) Volume of Gas Delivered by Meter; Meter Tests. Volumes of gas delivered shall be determined on the basis of the meter registration and bills shall reflect the units of gas so registered. Any mistake in reading the meter registration shall not affect the liability for gas delivered as determined by a correct subsequent reading of the registration. When the meter is not read, the City may estimate the volume of gas delivered and render a bill for such volume. A meter registering between three percent (3%) fast and three percent (3%) slow shall be deemed for all purposes to be registering correctly. A meter registering incorrectly shall be replaced by the City at its expense. Periodically, the City may test meters, using standard industry practices, to determine accuracy of meter registration. If the customer requests a meter test and if the meter is found to be registering correctly, as defined above, the date of the test shall be stamped on the meter and the customer shall pay the applicable gas meter testing fees.

(g) Customer Service Line. The customer shall own and maintain the customer service line. The City shall have the right to prescribe the size, location and termination points of the customer's service line and the meter connection. The City shall have no obligation to install, maintain or repair such customer service line.

(h) Meter and Regulation Facilities. When changes in building or arrangements therein render the meter inaccessible or exposed to hazards, the City shall, at the customer's expense, arrange for the relocation at a site acceptable to the City of the meter and regulation facilities, together with any portion of the customer's service line necessary to accomplish such relocation. The customer shall not permit anyone who is not an authorized agent of the City to connect or disconnect the City's meters, regulators or any portions of the service line. The meter and regulation facilities are not part of the customer service line and shall remain the property of the City.

(i) Internal Piping and Gas-Burning Equipment and Appliances. The customer shall own and maintain, in an operable and safe order, the internal piping from the outlet of the meter to all gas-burning equipment and appliances. The customer shall own and maintain all gasburning equipment and appliances.

(j) Standards for Customer's Property. The customer's service line, house lines, fittings, valve connections and appliance venting shall be installed with materials and workmanship which meet all applicable safety standards and shall be subject to inspection or test by the City. The City shall have no obligation to establish service until after such inspection and test demonstrates compliance with such requirements with respect to the facilities in place at the time of the test. The first inspection or test at any premises, including service lines and house lines, shall be without charge. In the case of leakage, error, patent defect or other unsatisfactory or unsafe condition resulting in the disapproval of the line(s) by the City, the necessary correction shall be made at the customer's expense and the facilities shall then be inspected and tested again by the City. If the customer's service line, house lines, fittings, valve connections and gas-

burning appliances or equipment on the customer's property are damaged, defective or in such condition as to constitute a hazard, the City, upon notice to the customer of such defect or condition, may discontinue gas service until such defect or hazardous condition has been rectified by the customer in compliance with the reasonable requirements of the City. The customer shall notify the City promptly of additions, changes, alterations, remodeling or reconstruction affecting the gas movement on the customer's property.

(Ord. 62-98. Passed 12-14-98.)

917.11 GAS COST RECOVERY CHARGE.

(a) The City shall recover, through the gas cost recovery charge, the gas cost component of the total retail rate.

(b) The formula for calculating the gas cost recovery (GCR) shall include all commodity expenses and purchases, all transportation expenses and revenues, all unaccounted for gas expenses, all expenses associated with municipal facility service, and all special contract expenses. The portion of the revenue from special contract customers which exceeds the volumetric charges and the operations cost adjustment shall be included in the GCR calculation.

(c) The gas cost recovery charge calculation shall be applicable to all Schedule "RS," Schedule "CS," Schedule "IS," and Schedule "OCS" bills.

(d) The City may, at the option of the Service Safety Director, adjust the gas cost recovery charge quarterly or whenever changes in gas acquisition and delivery costs, sales level or system operating characteristics cause, or may be reasonably anticipated to cause, an increase or decrease in the gas cost component.

(Ord. 62-98. Passed 12-14-98.)

917.12 RULES AND REGULATIONS.

All customers shall comply with the Rules and Regulations of the City of Lancaster and the City of Lancaster Gas Department as have been or may be promulgated as the same may be amended from time to time. In addition, customers shall comply with all then current Federal and State of Ohio rules and regulations.

(Ord. 62-98. Passed 12-14-98.)

917.13 SPECIAL CONTRACTS.

The Service-Safety Director is hereby authorized to enter into special contracts with industrial and large commercial customers, with annual load factors above sixty percent (60%), for the sale of special supplies of gas; for specified periods, and under mutually agreed rates, terms and conditions; and to return the cost of service of such supplies to the City, including the cost of procurement, purchase, transportation, delivery and accounting via the GCR mechanism as described above.

(Ord. 62-98. Passed 12-14-98.)

917.14 SERVICE FOR PREMISES OUTSIDE CORPORATE LIMITS.

Nothing in this chapter is intended to confer any right to service for premises outside the corporate limits of the City.

(Ord. 62-98. Passed 12-14-98.)

917.15 RATE STABILIZATION FUND ADJUSTMENT.

Should a Rate Stabilization Fund be required by any indenture entered into pursuant to the sale of City gas system revenue bonds or mortgage revenue bonds, the rates established for Schedule "RS" as set forth in Section 917.03, Schedule "CS" as set forth in Section 917.04, Schedule "IS" as set forth in Section 917.05, and Schedule "OCS" as set forth in Section 917.06 as they now provide and as they may hereafter be amended shall be increased in any fiscal year by the percentage certified by the Service-Safety Director to the Utilities Collection Office and the Mayor to be necessary to cause there to be appropriated to the credit of the Gas Rate Stabilization Fund in such fiscal year the amount required by the indenture to be credited with respect to such fiscal year, such increase to take effect commencing the month after such certification.

(Ord. 62-98. Passed 12-14-98.)

917.16 OPERATING COST ADJUSTMENT.

Should the billing and collection, labor, equipment, material, or tax cost to the City's Gas Department increase relative to the annual amount of such cost per Ccf as existed during the year 1997, the volumetric and customer charges contained in Schedule "RS" as set forth in Section 917.03, Schedule "CS" as set forth in Section 917.04, Schedule "IS" as set forth in Section 917.05, and Schedule "OCS" as set forth in Section 917.06 shall be increased by a percentage surcharge sufficient to permit recovery of such increased costs provided that the Service-Safety Director and the Mayor certify to the Utilities Collection Office that such action is reasonably necessary and specify the percentage surcharge that shall apply to such charges.

(Ord. 62-98. Passed 12-14-98.)

917.17 SUPPLY CURTAILMENT IN EMERGENCIES.

For the purpose of avoiding injury to any person, property or the financial interest in the City, the Service-Safety Director is hereby authorized to curtail any portion, up to one hundred percent of the industrial, public authority and commercial total connected gas load to the extent required to avoid such injury in the discretion of the Service-Safety Director. Any person that does not comply with a curtailment order shall be subject to service termination. In addition to service curtailment, the Service-Safety Director may direct special contract customers to increase the amount of gas delivered to the City's system to avoid injury to any person, property or the financial interest of the City provided the City tenders reasonable compensation for such actions.

(Ord. 62-98. Passed 12-14-98.)

CHAPTER 918

Storm Water Utility Program

- 918.01 Declaration of necessity.**
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CROSS REFERENCES

Storm water sediment and soil erosion protection - see S.U. & P.S. Ch. 919

918.01 DECLARATION OF NECESSITY.

It is determined and declared to be necessary and inducive to the preservation of the public health, safety, welfare and convenience of the City of Lancaster (City) to levy and collect a service charge or rental to be paid to the City by every person whose lots, lands and premises are tributary, directly or indirectly to the stormwater system of the City, or part thereof. The proceeds of such charges or rentals shall be for the use of the stormwater system of the City, to pay the principal and interest on outstanding and future bonds and notes in accordance with the applicable ordinances and to pay the amounts, if any, provided for in an agreement pursuant to Ohio R.C. 6121. (Ord. 23-03. Passed 6-23-03.)

918.02 DEFINITIONS.

- (a) Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:
- (1) "Adjustment" means a modification in a non-single family stormwater user fee for certain activities that impact stormwater runoff or impacts the City's costs of providing stormwater management.
 - (2) "Agricultural Property" means land designated by the Fairfield County Auditor as a Commercial Agricultural Use Valuation for tax reduction purposes.
 - (3) "Apartment/Condominium Property" means a non-single family lot or parcel on which is situated three or more dwelling units.
 - (4) "Approved plans" means plans approved according to permits and plan review which will govern all stormwater improvements, required or not, made within the City or changes or alterations to existing stormwater facilities.
 - (5) "Best Management Practices (BMP)" means those practices recognized by the Ohio Department of Natural Resources and Ohio Environmental Protection Agency which provide the best available and reasonable physical, structural, managerial, or behavioral activity to reduce or eliminate pollutant loads and/or concentrations leaving the site.
 - (6) "Brownfield" means typically a former industrial or commercial site that is considered to be contaminated to varying extents, and certified as such by the Ohio Environmental Protection Agency.
 - (7) "Buffer" means a designated area adjacent to or part of a stream or wetland that is an integral part of the stream or wetland ecosystem. The critical function of riparian buffers including shading, input of organic debris and coarse sediments, stabilization of banks, overflow during high water events and for maintenance of wildlife habitat.
 - (8) "Credits" means an on-going reduction in a customer's stormwater user charge given for certain qualifying activities that either reduce the impact of increased stormwater runoff or reduce the City's costs of providing stormwater management.
 - (9) "Debt service costs" means the average annual principal and interest payments on all outstanding bonds or other comparable long-term capital obligations.
 - (10) "Duplex Property" means a lot or parcel of real estate on which is situated a building containing two (2) single-family dwelling units.
 - (11) "Equivalent Residential Unit (ERU)" means a value, equivalent to 2,600 square feet of measured impervious area and is equal to the average amount of impervious area of single-family properties within the City of Lancaster.
 - (12) "Facilities" means various stormwater and drainage works that may include inlets, pipes, pumping stations, conduits, manholes, energy dissipation structures, channels, outlets, retention/detention basins, and other structural components.
 - (13) "Impervious area" means areas that have been paved and/or covered with buildings and materials, which include, but are not limited to, concrete, asphalt, rooftop, blacktop and gravel.
 - (14) "Non-single family property" means all property not encompassed by the definition of Single-Family Property or Duplex Property.
 - (15) "NPDES" means the National Pollutant Discharge Elimination System permit program as administered by the USEPA or the State of Ohio.
 - (16) "NPDES permit" means the National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500.
 - (17) "Operation and maintenance" means those functions that result in expenditures during the useful life of the treatment works for materials, labor, utilities and other items which are necessary for managing and operating the stormwater system in a manner for which such works were designed and constructed. The term "operation and maintenance" includes replacement.
 - (18) "Operation and maintenance costs" include all costs, direct and indirect, necessary to provide adequate stormwater

management on a continuing basis and to produce discharges to receiving waters that conform with all related Federal, State and local requirements including replacement costs.

- (19) "Other service charges" means tap charges, connection charges, area charges and other identifiable charges, other than user charges, and debt service charges.
- (20) "Owner" means any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, State of Ohio, the United States of America or other legal entity, or their legal representatives, agents or assigns. The masculine gender includes the feminine, and the singular includes the plural where indicated by context.
- (21) "Private stormwater facilities" mean various stormwater and drainage works not under the control and/or ownership of the City, County, State and/or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.
- (22) "Public stormwater facilities" mean various stormwater and drainage works under the control and/or ownership of the City, County, State, or Federal government which may include inlets, conduits, pipes, pumping stations, manholes, structures, channels, outlets, retention or detention basins, other structural components and equipment designed to transport, move or regulate stormwater.
- (23) "Public stormwater open channel" means all open channels, which convey in part or in whole, stormwater and 1) are owned, operated, or maintained by the City or 2) a stormwater open channel which has a permanent drainage/stormwater easement owned by the City and drains an area which includes City owned property or right-of-way. A public stormwater open channel does not include roadside ditches, which convey only immediate right-of-way drainage.
- (24) "Replacement costs" means the expenditures for obtaining and installing equipment, accessories or appurtenances which are necessary during the service life of the treatment works to maintain the capacity and performance for which such works were designed and constructed.
- (25) "Shall" is mandatory and "may" is permissive.
- (26) "Single-Family Property" means all single-family residential properties located within the City of Lancaster regardless of the size of the building lot or the square footage of the buildings.
- (27) "Square footage of impervious area" means, for the purpose of assigning an appropriate number of ERUs to a parcel or real property, the square footage of all impervious area using the outside boundary dimensions of the impervious area to include the total enclosed square footage, without regard for topographic features of the enclosed surface.
- (28) "Stormwater" means stormwater runoff, snowmelt runoff, and surface runoff and drainage.
- (29) "Storm sewer" means a sewer, which carries stormwater, surface runoff, street wash waters, and drainage, but which excludes sanitary sewage and industrial wastes, other than unpolluted cooling water.
- (30) "Stormwater service charge" means a charge assessed to users of the City's stormwater system.
- (31) "Stormwater system" means all man-made facilities, structures, and natural watercourses owned by the City of Lancaster, used for collection and conducting stormwater to, through, and from drainage areas to the points of final outlet including, but not limited to, any and all of the following: conduits and appurtenant features, canals, creeks, catch basins, ditches, streams, gulches, gullies, flumes, culverts, siphons, streets, curbs, gutters, dams, floodwalls, levels, and pumping stations.

(Ord. 23-03. Passed 6-23-03.)

918.03 USER CLASSES.

A stormwater service charge shall be assessed to each and every lot and parcel of land within the City, and the owner thereof that contains impervious area. This charge is necessary to pay for the repair, replacement, planning, improvement, operation and maintenance of the existing and future City stormwater system. This charge is not related to the water and/or sanitary sewer service and does not rely on occupancy of the premises to be in effect. Service charges are levied to defray the cost of operation and maintenance (including replacement) of the stormwater system and to provide funds to pay debt service costs. User classes shall be assigned as follows:

- (a) Single Family Property
- (b) Duplex Property
- (c) Agricultural Property
- (d) Non-Single Family Property

(Ord. 23-03. Passed 6-23-03.)

918.04 USER RATES AND CHARGES.

(a) For the use of and the service rendered by the stormwater system, rates and charges shall be collected from the owner of each and every lot, parcel of real estate or building that is situated within the corporate limits of the City of Lancaster, that is tributary, directly or indirectly to the stormwater system of the City. Such rates and charges include user charges, debt service costs and other service charges which rates shall be payable as hereinafter provided and shall be in an amount determinable as follows:

- (1) The stormwater rates and charges shall be based upon the quantity of impervious area situated thereon.
- (2) All properties having impervious area within the City of Lancaster will be assigned an Equivalent Residential Unit (ERU) or a whole multiple thereof, with all properties having impervious area receiving at least one (1) ERU.
- (3) Single-Family properties. All Single-Family properties will be assigned one (1) ERU. A flat rate will apply to all Single-Family properties.
- (4) Duplex property shall be assigned an ERU of one (1) ERU per residential unit for a total of two (2) ERU's to represent their status as two single family units.
- (5) Agricultural property, determined by the Fairfield County Auditor's office and designated, as a Commercial Agricultural Use Valuation designation for tax purposes shall be considered Non-Single Family property.
- (6) Non-Single Family properties. Non-Single Family properties will be assigned an ERU whole multiple based upon the properties' individual measured impervious area (in square feet) divided by 2,600 square feet (1 ERU). This division will be calculated to the first decimal place and rounded to the nearest whole ERU according to

mathematical convention.

(7) For the service rendered to the City for any City property excluding roadways and stormwater systems, the City shall be subject to the same rates and charges hereinabove provided. (Ord. 23-03. Passed 6-23-03.)

(b) The charge as prescribed in the rate schedule is as follows.

(1) \$4.64 per month per Equivalent Residential Unit (ERU) based on twelve (12) months per year.

(2) Beginning with the first billing period in January 2009, \$5.00 per ERU.

(3) Beginning with the first billing period in January 2010, \$5.50 per ERU.

(4) Beginning with the first billing period in January 2011, \$6.25 per ERU.

(5) Beginning with the first billing period in January 2012, \$7.00 per ERU.

(6) Beginning with the first billing period in January 2013, \$7.64 per ERU.

(Ord. 49-08. Passed 11-10-08.)

918.05 STORMWATER ONLY ACCOUNTS.

Stormwater only accounts are properties that do not contain water, municipal gas, sanitation and/or sanitary sewer services but do contain impervious area. New and additional stormwater only accounts will be determined by the City Engineer.

(Ord. 23-03. Passed 6-23-03.)

918.06 COLLECTION AND ENFORCEMENT DUTIES.

The charge or rentals levied pursuant to this chapter shall be collected by the Safety- Service Department, and the Safety-Service Director shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economical and efficient management and protection of the City stormwater system, for the construction and use of the stormwater system, and for the regulation, collection, rebating and refunding of such charge.

The Director is hereby authorized to prohibit dumping of wastes into the City stormwater system, which at his discretion, are deemed harmful to the operation of the stormwater system or to the waters of the state.

(a) The rates and charges for all users shall be prepared and billed monthly.

(b) The rates and charges shall be billed to the owner of the property unless otherwise requested in writing by the owner, but such change of billing shall in no way relieve the owner from the liability in the event payment is not made as herein required. The owner of properties served, which are occupied by a tenant or tenants, shall have the right to examine the collection records of the City for the purpose of determining whether bills have been paid by such tenant or tenants, provided that such examination shall be made at the office at which such records are kept and during the hours that such office is open for business.

(Ord. 23-03. Passed 6-23-03.)

(c) As is provided by statute, all rates and charges not paid when due are hereby declared to be delinquent and a penalty of five percent (5%) of the amount of the rates or charges due shall be attached thereto. The time at which such rates or charges shall be paid is now fixed at fifteen (15) days after the date of mailing of the bill.

(Ord. 65-05. Passed 10-17-05.)

918.07 CHARGES A LIEN.

Each stormwater service charge rendered under or pursuant to this chapter is made a lien upon the corresponding lot, parcel of land, building or premises that are a tributary directly or indirectly to the stormwater system of the City, and, if the same is not paid within thirty days after it shall become due and payable, it shall be certified to the County Auditor who shall place the same on the tax duplicate of the County with the interest and penalties allowed by law and shall be collected the same as other taxes are collected.

(Ord. 23-03. Passed 6-23-03.)

918.08 RIGHT OF APPEAL.

(a) A property owner may challenge the ERU multiple assigned his property by filing an appeal with the City Engineer for adjustment thereof, stating in writing the grounds for the appeal. The City Engineer shall cause appropriate investigation thereof and report the findings to the appellant. The City Engineer shall consider the appeal and determine whether an adjustment of the ERU multiple for any such lot or parcel is necessary, and adjust such ERU multiple if appropriate.

(b) A Hearing Board shall be appointed by the Mayor as needed for arbitration of differences between the City Engineer and stormwater users concerning interpretation and execution of the provisions of this chapter. The cost of the arbitration will be divided equally between the City and the sewer user.

(c) One member of the Board shall be a registered professional engineer; one member shall be a representative of an industry or manufacturing enterprise; one member shall be a lawyer and one member shall be selected at large for his interest in accomplishing the objectives of this chapter.

(Ord. 23-03. Passed 6-23-03.)

918.09 LIMITS AND CORRECTIONS TO BILLING.

(a) If the City has undercharged a customer because of a billing error, the City may only bill the customer for the portion of the unbilled stormwater services used in the one (1) year period immediately prior to the date the City remedies the billing error.

(b) If the City determines, however, that a customer has been overcharged because of a billing error, the City will adjust the customer's account back, for a period not to exceed one (1) year, from the date the City remedies the billing error.

(c) If the City has attempted to verify a discrepancy in billing under section (a) and the customer has not responded within ninety (90) days to requests by the City to reconcile the discrepancy, the City will bill the customer for the unbilled stormwater services used in the four (4) year period immediately prior to the date the City remedies the billing error.

(d) This Section does not apply to circumstances where an act or omission or an act by the property's agent results in no calculation or an inaccurate calculation of stormwater service charges. In these cases, the property owner shall be responsible for all unpaid service charges.

(Ord. 23-03. Passed 6-23-03.)

918.10 RATES TO APPLY TO FUTURE CONNECTIONS.

For any lots, lands, buildings or premises within the corporate limits of the City which in the future increases the impervious area and is tributary to the City stormwater system, either directly or indirectly, after the effective date of this chapter charges shall be made pursuant to this chapter.

(Ord. 23-03. Passed 6-23-03.)

918.11 USE OF STORMWATER FUND.

The funds received from the collection of the stormwater charges authorized by this chapter, shall be deposited with the City Treasurer and shall be accounted for and be known as the Stormwater Fund and, when appropriated by Council, shall be available for the payment of the cost and expense of the management, maintenance, operation and repair of the City stormwater system.

(Ord. 23-03. Passed 6-23-03.)

918.12 PERIODIC REVIEW OF STORMWATER RATES.

(a) In order that the rates and charges for sewage services may remain fair and equitable and be in proportion to the cost of providing services to the various users or user classes, the City shall cause a study to be made within a reasonable period of time following the fourth year of operation. Such study shall include, but not be limited to, an analysis of the costs required level of service, impervious area calculations attributed to the various user classes, the financial position of the stormwater system and the adequacy of its revenue to provide reasonable funds for the operation and maintenance, replacements, debt service requirements and capital improvements to the system.

(b) Thereafter, on an annual basis, within a reasonable period of time following the normal accounting period, the City shall cause a similar study to be made for the purpose of reviewing the fairness and equity of the rates and charges for stormwater services on a continuing basis. Such studies shall be conducted by officials or employees of the City, or by a firm of certified public accountants, or a firm of consulting engineers which shall have experience in such studies, or by such combination of officials, employees, accountants or engineers as the City shall determine to be best under the circumstances.

(c) Further, the results of such study shall be used as a basis for any rate adjustments necessary to maintain sufficiency of revenue and/or proportionality between classes.

(Ord. 23-03. Passed 6-23-03.)

918.13 ADJUSTMENTS.

Credit or adjustments can be made to non-single family service charges for qualified property owners performing activities that reduce the impact of stormwater runoff to the stormwater system as follows:

(a) Education Credits.

(1) General Policies.

- A. This program is available to all schools as defined in the zoning code, public or private that offer a compulsory education curriculum for grades K through 12 or part thereof.
- B. Credits will be issued on a building complex by building complex basis.
- C. Where a site is jointly used by a school and another use (e.g. church) the stormwater fee will be prorated based on usage and the credit will be issued to the school portion of the fee.
- D. In no case will the total credit amount be more than the cap identified in Section 918.13(1).

(2) Credits available. Stormwater education credits of up to 50% of the stormwater bill may be granted for approved programs providing public awareness and education on stormwater issues as follows

- A. Stormwater Educational Curriculum (e.g. Project WET and Project Aquatic WILD) integrated into standard curriculum for 15% of the students in the school;
- B. Stormwater Educational Activities (e.g. essay contest, poster contest) with participation of 15% of the students;
- C. Public Service Activities (e.g. Adopt a Road, Adopt a Stream, Hocking River cleanup, or inlet stenciling) involving 5% of the students or utilizing student recruited adults. Where adults are recruited, they shall be credited with 3 equivalent students per each adult participant;
- D. In Kind Services (e.g. web site development, brochure development, public service announcements, videos or other program related work) as approved by the Service Safety Director;
- E. A combination of the above items for an equivalent student participation of 15% or as approved by the Service Safety Director.

(3) Basic Procedures.

- A. In order to receive educational credits, the school will need to submit an application including an education plan. The application will be due by October 1, of each year. The plan shall be reviewed and approved by the Service Safety Director. Once approved, the credit shall be placed on the appropriate stormwater bill.
- B. Upon completion of the educational plan or no later than October 1 of each year, the school shall submit an annual report indicating compliance with the approved plan. The annual report shall be broken down by the types of activities and indicate the number of participants. If the school did not substantially comply with the plan, the report will include an explanation of the failure and any needed corrective action. Other reporting requirements may be required as part of the plan approval and shall be included in the annual report.
- C. The annual report will be reviewed by the City Engineer. If upon review, the school did not substantially comply with the approved plan, the City may:
 - 1. Require additional activities as a corrective action
 - 2. Reduce the education credit to a level comparable with the compliance
 - 3. Revoke the education credit and require repayment in accordance with Section 918.09
 - 4. Refuse approval of any new education plan.

(b) Retention/Detention Credit.

(1) General Policies.

- A. This program is available to all non-single family properties or part thereof.
- B. Credits will be issued on a property by property basis for only the portion of the property tributary to the retention/detention facility.
- C. When a facility is jointly used by several non-single family properties under a joint use agreement, including deed restriction, the credit shall be prorated among the properties as a percentage of the tributary area.
- D. In no case will the total credit amount be more than the cap identified in Section 918.13(I).

(2) Credits available. Retention/Detention credits may be granted for approved facilities that reduce the quantity of stormwater and/or improve the water quality of stormwater as follows:

- A. A 10% credit may be given for a retention/detention facility required by City standards, that is functioning as designed.
- B. An additional credit of up to 10% may be given for facilities that provide additional detention/retention that benefits upstream or downstream properties without a joint use agreement or provide additional detention/retention for water quality purposes. This additional credit will be calculated as one tenth of a percent for each one percent increase in detention/retention over the volume required by City Standards.
- C. An additional credit of up to 10% for demonstration projects of Best Management Practices determined and approved by the City Engineer designed to meet specific site situations.

(3) Basic Procedures.

- A. In order to receive detention/retention credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, and any required engineering plans and calculations stamped by a registered professional engineer.
If approved the credit shall be placed on the appropriate stormwater bill.
- B. The City Engineer or his designee shall inspect the detention/retention facility prior to approving the credit and periodically after the credit is issued to insure compliance with the approved plans.
- C. If inspections find that the facility has been altered or is not maintained to provide the approved detention/retention, the City may
 - 1. Required corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.

(c) Preservation of the 100 Year Special Flood Hazard Area.

(1) General Policies.

- A. This program is available to all non-single family properties or part thereof.
- B. Credits will be issued on a property by property basis.
- C. In no case will the total credit amount be more than the cap identified in Section 918.13(I).

(2) Credits available. Preservation credits may be granted to properties located all or in part in the Special Flood Hazard area regulated under Chapter 1331. Preservation credits may be granted to preserve the flood hazard area resulting in the reduction of flood damage, improvements in water quality and reduction of water quantity as follows

- A. A 20% credit may be given for preserving 100% of the special flood hazard area (excluding the floodway) as pervious areas and without altering the existing ground elevations.
- B. A credit of up to 10% may be given for preserving portions of the special flood hazard area (excluding the floodway) as buffer and without altering the existing ground elevations. This additional credit will be calculated as one tenth of a percent for each one percent of special flood area (excluding the floodway) preserved as buffer and without altering the existing ground elevations.
- C. A credit of up to 20% for projects to replace special flood hazard area (excluding the floodway) by construction of flood storage basins or other Best Management Practices determined and approved by the City Engineer designed to meet specific site situations.

(3) Basic Procedures.

- A. In order to receive preservation credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, and any required engineering plans and calculations stamped by a registered professional engineer. If approved the credit shall be placed on the appropriate stormwater bill.
- B. The City Engineer or his designee shall inspect the property prior to approving the credit and periodically after the credit is issued to insure compliance with the approved preservation.
- C. If inspections find that the preservation area has been altered, the City may
 - 1. Required corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.

(d) Maintenance Credit.

(1) General Policies.

- A. This program is available to all non-single family properties or part thereof.
- B. Credits will be issued on a property by property basis.
- C. In no case will the total credit amount be more than the cap identified in Section 918.13(I).

(2) Credits available. Maintenance credits may be granted to properties which maintain public stormwater open channels or to property owners who participate in an approved Adopt-A-Road or other sanctioned City clean up program. Maintenance credits may be granted to reduce operation and maintenance costs to the City as follows

- A. A credit of up to 30% may be given for maintaining public stormwater open channels. The credit will be calculated as one half percent per lineal foot of channel maintained.
- B. A credit of up to 10% may be given for participation in an approved Adopt-A-Road program. The credit will be based on a signed contract to provide litter collection on a one mile section of roadway on a schedule to be approved

by the Service Safety Director. The minimum term of the contract shall be three clean ups per year for a three year period.

- C. A credit of up to 10% may be given for participation in a sanctioned City clean up program. The credit will be calculated as 1% for each 5 participants in the cleanup program. The credit shall be granted for a period of no more one year from the sanctioned program.

(3) Basic Procedures.

- A. In order to receive Maintenance credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, maintenance plan and any required engineering plans and calculations stamped by a registered professional engineer. If approved the credit shall be placed on the appropriate stormwater bill.
- B. The City Engineer or his designee shall inspect the property to determine if the proposed maintenance will reduce operation and maintenance costs to the City. If the proposal is approved for maintenance credit, the City Engineer shall periodically inspect the property to insure compliance with the approved maintenance plan.
- C. In order to receive credit for participation in an approved Adopt- A-Road Program, the non-single family property owner will need to submit an application including application fee, and a request for roadway designation. Only roadways designated by the Superintendent of Streets shall be approved for adoption and cleanup work must be completed in accordance with a schedule approved by the Service Safety Director.
- D. In order to receive credit for participation in a sanctioned cleanup program, the non-single family property owner will need to submit an application including application fee and tentative list of participants. Participants must register at the event and identify themselves as credit program participants. A single participant may be credited only to one stormwater account.
- E. If periodic inspections find that the property owner is not following the approved maintenance plan, the City may
 - 1. Require corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.
- F. If a participant in an Adopt A Road program fails to comply with the conditions of the contract, the City may
 - 1. Require corrective action on a schedule determined by the Service Safety Director
 - 2. Reduce the credit to a level comparable with the contract completion
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.

(e) Brownfield Reuse.

(1) General Policies.

- A. This program is available to all non-single family properties or part thereof.
- B. Credits will be issued on a property by property basis.
- C. In no case will the total credit amount be more than the cap identified in Section 918.13(I).

(2) Credits available. Brownfield Reuse credits may be granted to properties receiving Brownfield Cleanup funds under ORC 122.

Brownfield Reuse credits may be granted to improve water quality from stormwater discharges as follows

- A. A 10% credit may be given for a period of five years following activation of the project.

(3) Basic Procedures.

- A. In order to receive Brownfield Reuse credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, proof of funding under ORC 122 and any required engineering plans and calculations stamped by a registered professional engineer. If approved the credit shall be placed on the appropriate stormwater bill.
- B. The City Engineer or his designee shall inspect the property prior to approving the credit and periodically after the credit is issued to insure compliance with the approved cleanup plan.
- C. If inspections find that the cleanup is no longer proceeding, the City may
 - 1. Require corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided
 - 3. Revoke the credit and require repayment in accordance with Section 918.09.

(f) Industrial National Pollution Discharge Elimination System Permit (NPDES) Credit.

(1) General Policies.

- A. This program is available to all non-single family properties or part thereof.
- B. Credits will be issued on a property by property basis.
- C. In no case will the total credit amount be more than the cap identified in Section 918.13(I).

(2) Credits available. NPDES credits may be granted to properties receiving and operating under an individual industrial National Pollution Discharge Elimination System Permit for stormwater or an individual or general Municipal Separated Storm Sewer System Permit as issued by the United States Environmental Protection Agency or delegated state authority. NPDES credits may be granted to recognize improve stormwater management and water quality from stormwater discharges as follows

- A. A 30% credit may be given for a valid NPDES permit covering stormwater discharges.

(3) Basic Procedures.

- A. In order to receive NPDES credits, the non-single family property owner will need to submit an application, including application fee, right of entry easement, if applicable, and proof of valid NPDES permit and Stormwater Pollution Prevention Plan, if applicable. If approved the credit shall be placed on the appropriate stormwater bill.
- B. The City Engineer or his designee shall investigate the status of the NPDES permit to determine if it is valid and appropriate.
- C. If the NPDES permit is revoked or enforcement action is taken by the issuing authority, the City may
 - 1. Require corrective action
 - 2. Reduce the credit to a level comparable with the detention/retention provided

3. Revoke the credit and require repayment in accordance with Section 918.09.

(g) Economic Development Credit.

(1) General policies.

- A. This program is available to all non-single family properties or part thereof.
- B. Credits will be issued on a property by property basis.
- C. In no case will the total credit amount be more than the cap identified in Section 918.13(l).

(2) Credits available. Economic Development credits may be granted to properties classified by the County Auditor on the most recent tax roll as Land Uses 200-299, 300-400, 404-1000 having commercial water service.

- A. A 10% credit may be given for providing job opportunities in the City.

(3) Basis procedures.

- A. In order to receive Economic Development credits, the non-single family property owner will need to submit an application, including application fee. If approved the credit shall be placed on the appropriate stormwater bill.
- B. The City Engineer or his designee shall inspect the property prior to approving the credit to determine that the property falls under the appropriate land use code and periodically to insure that the proper land use code applies.
- C. If inspections find that the property no longer falls within the applicable land use codes, the City may:
 - 1. Revoke the credit and require repayment in accordance with Section 918.09.

(h) Phase In Credit.

(1) General policies.

- A. This program is available to all non-single family properties with an Equivalent Residential Unit Calculation before credits of 50 ERU or greater.
- B. Credits will be issued on a property by property basis.
- C. In no case will the total credit amount be more than the cap identified in Section 918.13(l).

(2) Credits available. Phase in credits may be granted to properties receiving bills larger than 50 ERU before credits to allow budgeting for stormwater charges as follows:

- A. A 15% credit may be given for billing cycles within the calendar year of 2004.
- B. A 10% credit may be given for billing cycles billed within the calendar year 2005.
- C. A 5% credit may be given for billing cycles billed within the calendar year 2006.

(3) Basic procedures.

- A. In order to receive a Phase in credit, the non-single family property owner will need to submit an application, including application fee. If approved the credit shall be placed on the appropriate stormwater bill.
- B. The City Engineer or his designee shall review the property impervious area calculations prior to approving the credit and periodically after the credit is issued to insure that the ERU calculation is 50 ERU or greater before credits.
- C. If review finds that the property no longer meets the criteria for the credit, the City may:
 - 1. Revoke the credit and require repayment in accordance with Section 918.09.

(i) Adjustments for the above credits will be made only to non-single family properties with an ERU greater than five (5) units.

(j) Credit applications will not be accepted from any property that has a delinquent utility account.

(k) Credits apply only to the non-single family property in which the activity applies. Credits may not be transferred to other properties.

(l) In no case shall the total amount of all credits issued under this Section exceed 50% of the stormwater bill for the property.

(Ord. 23-03. Passed 6-23-03; Ord. 53-04. Passed 9-27-04.)

918.14 VALIDITY.

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

(Ord. 23-03. Passed 6-23-03.)

918.15 EFFECTIVE DATE.

The rates and charges herein set forth shall become effective on the first full billing period of December 2003 to be billed the first full billing period of January 2004.

(Ord. 23-03. Passed 6-23-03.)

CHAPTER 919

Storm Water Sediment and Soil Erosion Protection

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CROSS REFERENCES

Storm Water Utility Program - see S.U. & P.S. Ch. 918

919.01 PURPOSE.

This chapter is adopted for the purpose of controlling the pollution of public waters by sediment from accelerated soil erosion and accelerated stormwater runoff caused by earth- disturbing activities and land use changes connected with developing urban areas. Control of such pollution shall promote and maintain the health, safety and general well-being of all inhabitants of the City. (Ord. 4-14. Passed 4-14-14.)

919.02 DEFINITIONS.

For the purpose of this chapter, certain rules or word usage apply to the text as follows:

- (a) "City" means the City of Lancaster, Ohio or its duly designated representative.
- (b) "Channel" means a natural stream that conveys water; a ditch or channel excavated for the flow of water.
- (c) "Development area" means any contiguous area owned by one person or operated as one development unit and used or being developed for nonfarm commercial, industrial, residential or other nonfarm purposes upon which earth- disturbing activities are planned or under way.
- (d) "District" means the Fairfield Soil and Water Conservation District.
- (e) "Ditch" means an excavation either dug or natural for the purposes of drainage or irrigation with the intermittent flow.
- (f) "Drainageway" means an area of concentrated water flow other than river, stream, ditch or grassed waterway.
- (g) "Dumping" means leveling, pushing, piling, throwing, unloading or placing.
- (h) "Earth-disturbing activity" means any grading, excavating, filling or other alteration of the earth's surface where natural or manmade ground cover is destroyed and which may result in or contribute to erosion and sediment pollution.
- (i) "Earth material" means soil, sediment, rock, sand, gravel and organic material or residue associated with or attached to the soil.
- (j) "Erosion" means
 - (1) The wearing away of the land surface by running water, wind, ice, or other geological agents including such processes as gravitational creep.
 - (2) Detachment and movement of soil or rock fragments by wind, water, ice or gravity.
 - (3) "Erosion" includes
 - A. "Accelerated erosion": erosion occurring much more rapid than normal, natural or geologic erosion, primarily as the result of the influence of the activities of man.
 - B. "Floodplain erosion": abrading and wearing away of the overbank areas situated on either side of a channel due to overflow flooding.
 - C. "Gully erosion": the erosion process whereby water accumulates in narrow channels during and immediately after rainfall or snow or ice melt and actively removes the soil from this narrow area to considerable depths such that the channel would not be obliterated by normal smoothing or tillage operations.
 - D. "Natural erosion": geologic erosion or the wearing away of the earth's surface by water, ice or other natural environmental conditions of climate, vegetation, etc., undisturbed by man.
 - E. "Normal erosion": the gradual erosion of land used by man which does not greatly exceed natural erosion.
 - F. "Rill erosion": an erosion process in which numerous small channels only several inches deep are formed, occurs mainly on recently disturbed soils.
 - G. "Sheet erosion": the removal of a fairly uniform layer of soil from the land surface by wind or runoff water.
- (k) "Grassed waterway" means a broad or shallow natural course or constructed channel covered with erosion-resistant grasses or similar vegetative cover and used to conduct surface water.
- (l) "Landslide" means the rapid downward and outward movement of large rock matter and/or soil mass under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.
- (m) "Person" means an individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, County or State agency, the Federal Government, or any combination thereof.
- (n) "Public waters" means water within rivers, streams, ditches and lakes except private ponds and lakes wholly within single properties or waters leaving property on which surface water originates.
- (o) "Sediment" means solid material both mineral and organic, that is in suspension, is being transported or has been moved from its site of origin by wind, water, gravity or ice, and has come to rest on the earth's surface above or below sea level.
- (p) "Sediment basin" means a barrier, dam or other suitable detention facility built across an area of waterflow to settle and retain sediment carried by the runoff waters.
- (q) "Stormwater Pollution Prevention Plan (SWP3)" means a written description and graphical exhibit, acceptable to the City of methods for controlling sediment pollution from accelerated erosion on a disturbed development area of one or more contiguous acres or smaller areas that are part of a larger development over one acre.
- (r) "Sediment pollution" means failure to use management or conservation practice to abate wind or water erosion of the soil or to

abate degradation of the waters of the State by soil sediment in conjunction with land grading, excavating, filling or other soil-disturbing activities.

- (s) "Slip" means a landslide as defined in subsection (1) hereof.
- (t) "Sloughing" means a slip or downward movement of an extended layer of soil resulting from the undermining action of water or the earth-disturbing activity of man.
- (u) "Soil loss" means soil relocation on or removed from a given site by the force of erosion and redeposit of the soil at another site on land or in a body of water.
- (v) "Storm frequency" means the statistical average time within which a storm of a given duration and intensity can be expected to be equaled or exceeded.
- (w) "Stream" means a body of water running or flowing on the earth's surface or channel in which such flow occurs. Flow may be seasonally intermittent.
- (x) "Topsoil" means surface and upper surface soils which presumably are darker colored, fertile soil materials, ordinarily rich in organic matter or humus debris.
- (y) "100 year floodplain" means land susceptible to being inundated by water from a base flood that has a one percent or greater chance of being equaled or exceeded in any given year.
- (z) "Clearing" means the removal of trees, brush, and other unwanted material in order to develop land for other uses, or to provide access for site work.
- (aa) "Best Management Practice (BMP)" means a range of management procedures, schedules of activities, prohibitions on practices and other management practices which have been demonstrated to effectively control the quality and/or quantity of water runoff and which are compatible with the planned land use.
- (bb) Municipal separate storm sewer system "(MS4)" refers to a storm sewer system owned and operated by the Municipality in which it is located. These storm sewer systems may discharge into local rivers and streams and are regulated by the Environmental Protection Agency to reduce the amount of pollutants that reach these bodies of water from the storm sewer system.

(Ord. 4-14. Passed 4-14-14.)

919.03 SCOPE.

(a) This chapter shall apply to earth-disturbing activities to areas designated below which are within the jurisdiction of the City unless otherwise excluded within this chapter or unless expressly excluded by State law; land used or being developed for commercial, industrial, residential, recreational, public service or other nonfarm purposes.

(b) This chapter shall not apply to:

- (1) Strip mining operations regulated by Ohio R.C. Chapter 1513; or
- (2) Surface mining operations regulated by Ohio R.C. Chapter 1514.
- (3) Land disturbed for crop production.

(Ord. 4-14. Passed 4-14-14.)

919.04 DISCLAIMER OF LIABILITY.

Neither submission of a plan under provisions of this chapter nor compliance with provisions of this chapter shall relieve any person from responsibility for damage to any person or property otherwise imposed by law, nor impose any liability upon the City for damage to any person or property.

(Ord. 4-14. Passed 4-14-14.)

919.05 SEVERABILITY.

If any clause, section or provision of this chapter is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.

(Ord. 4-14. Passed 4-14-14.)

919.06 REQUIREMENTS.

(a) No person shall cause or allow earth-disturbing activities on a development area prior to submittal and approval of a stormwater pollution prevention plan (SWP3) showing compliance with the standards and criteria set out in Chapter 919.

(b) No storm sewer tap under Section 913.10, zoning clearance under Section 1155.02, approval of plans under Section 1105.08, or Flood Plain development permit under Section 1331.12 shall be issued until the developer receives approval of a Stormwater Pollution Prevention Plan (SWP3) and methods for control of stream channel and floodplain erosion control showing compliance with the standard and criteria set out in Chapter 919.

(Ord. 4-14. Passed 4-14-14.)

919.07 EXCEPTIONS.

(a) When the proposed earth-disturbing activity includes less than one acre, it is not necessary to submit a stormwater pollution prevention plan (SWP3). The developer shall incorporate best management practices into the site development plan submitted for approval. When the proposed earth-disturbing activity includes less than one acre and the development is exclusively one-, two- and three family housing not part of a larger development, it is not necessary to submit a stormwater pollution prevention plan (SWP3). Compliance with the other provisions of this chapter is required.

(b) Where post development stormwater discharge increases by less than one cubic foot per second (1 cfs) in a 100 year storm event, no stream channel and floodplain erosion is required under Section 919.12, Compliance with the other provisions of this chapter is required. (Ord. 4-14. Passed 4-14-14.)

919.08 STANDARDS AND CRITERIA.

In order to control sediment pollution of water resources, the owner or person responsible for the development area shall use conservation planning and practices to maintain the level of conservation established by standards set forth by the Ohio Department of Natural Resources, Division of Soil and Water Conservation and the City Engineer.

(a) Development shall comply with the Ohio Environmental Protection Agency General Construction Permit.

(b) Discharges from dewatering activities, including discharges from dewatering trenches and excavations, are prohibited unless

managed by appropriate controls.

- (c) Development shall design, install, implement and maintain effective pollution prevention measures to minimize the discharge of pollutions from equipment and vehicle washing, exposure of building materials and construction waste.
- (d) The following discharges are prohibited
 - (1) Wastewater from washout of concrete, unless managed by an appropriate control;
 - (2) Wastewater from washout and cleanout of stucco, paint, from release oils, curing compounds and other construction materials;
 - (3) Fuels, oils, or other pollutants used in vehicle and equipment operation and maintenance; and
 - (4) Soaps or solvents used in vehicle and equipment washing.

(Ord. 4-14. Passed 4-14-14.)

919.09 SHEET AND RILL EROSION.

To control pollution of public waters by soil sediment from accelerated sheet and rill erosion of development areas, the person responsible shall:

- (a) Construct and maintain sediment basins sized in accordance with the Ohio Department of Natural Resources handbook, "Rainfall and Land Development"; or
- (b) Use other Best Management Practices designed in accordance with the Ohio Department of Natural Resources handbook "Rainfall and Land Development" to control sediment pollution, provided those methods are acceptable to the City.
- (c) Stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.

(Ord. 4-14. Passed 4-14-14.)

919.10 CONCENTRATED WATER EROSION.

To control pollution of public waters by soil sediment from accelerated erosion in drainageways, grassed waterways, streams and ditches disturbed or modified in conjunction with the development process, the person responsible for the change shall:

- (a) Design, construct and maintain sediment basins sized in accordance with the Ohio Department of Natural Resources handbook, "Rainwater and Land Development"; or,
- (b) Use other Best Management Practices designed in accordance with the Ohio Department of Natural Resources handbook "Rainfall and Land Development" to control sediment pollution provided those methods are acceptable to the City.
- (c) Stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.

(Ord. 4-14. Passed 4-14-14.)

919.11 SLOUGHING, LANDSLIDING AND DUMPING.

To control sediment pollution of public waters caused by sloughing, landsliding or dumping of earth material, or placing of earth material into such proximity that it may readily slough, slide or erode into public waters by natural forces, no person shall:

- (a) Dump or place earth material into public waters or into such proximity that it may readily slough, slide or erode into public waters unless such dumping or placing is authorized by the City for such purposes as constructing bridges, culverts, erosion control structures and other in-stream or channel bank improvement works; or,
- (b) Grade excavate, fill or impose a load upon any soil or slope known to be prone to slipping or landsliding, thereby causing it to become unstable, unless qualified engineering assistance has been employed to explore the stability problems and make recommendations to correct, eliminate or adequately address the problems. Grading, excavating, filling or construction shall commence only after the City has reviewed and approved the exploratory work and recommendations and only in accordance with the approved recommendations.
- (c) Fail to stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.

(Ord. 4-14. Passed 4-14-14.)

919.12 STREAM CHANNEL AND FLOODPLAIN EROSION.

(a) To control pollution of public waters by soil sediment from accelerated stream channel erosion and to control floodplain erosion caused by accelerated stormwater runoff from the development areas, the increased peak rates and volumes of runoff shall be controlled such that the peak rate of runoff from the twenty four hour storm having a recurrence frequency of 100 years occurring on the development area does not exceed the peak rate of runoff from a two year frequency, twenty four hour storm occurring on the same area under predevelopment conditions.

(b) Methods for controlling increases in storm water runoff peaks and volumes may include but are not limited to:

- (1) Retarding flow velocities by increasing friction; for example, grassed road ditches rather than paved street gutters where practical, low density development areas, access roads, etc; discharging roof water to vegetated areas; or grass- and rock-lined drainage channels;
- (2) Grading and construction of terraces and diversions to slow runoff and use of grade control structures to provide a level of control in flow paths and stream gradients;
- (3) Inducted infiltration of increase storm water runoff into the soil where practical; for example, constructing special infiltration area where soils are suitable; retaining topsoil for all areas to be revegetated; or providing good infiltration areas with proper emergency overflow facilities. However, no concentrated infiltration technology, including infiltration basins or trenches, permeable pavement-infiltration, bioretention areas/cell and infiltration, and other methods where the stormwater infiltrates into the ground will be permitted within the Wellhead Protection Zone 1 or Wellhead Protection Zone 2 as defined by Section 1335.04; and,
- (4) Provisions for detention and retention; for example, permanent ponds and lakes with stormwater basins provided with proper drainage, multiple use areas for stormwater detention and recreation, wildlife, transportation, fire protection, aesthetics or subsurface storage areas.

(c) Where required by the City Engineer, provide a 50 foot undisturbed natural buffer around surface waters of the state.

(d) Stabilize disturbed areas in accordance with the Ohio Environmental Protection Agency General Construction Permit.

(Ord. 4-14. Passed 4-14-14.)

919.13 STORMWATER POLLUTION PREVENTION PLAN CONTENT.

In compliance with Section 919.06 a Stormwater Pollution Prevention Plan (SWP3) for the proposed development area, with maps drawn to scale of not less than one inch equals one hundred feet shall be submitted containing the following information:

- (a) All items listed in Part III G of the Ohio Environmental Protection Agency General Construction Permit.
- (b) Structural Post Construction Best Management Practices shall be limited to Dry Extended Detention Basin including underground detention tanks, Wet Extended Detention Basin and Bioretention Areas unless approved by the City Engineer.

(Ord. 4-14. Passed 4-14-14.)

919.14 EXCEPTIONS.

The City Engineer may waive specific requirements for the plan detail if the area is covered by a previously approved plan or is incorporated into a development permit under Chapter 1331.

(Ord. 4-14. Passed 4-14-14.)

919.15 PLAN REVIEW.

The City shall, in a reasonable time period, indicate its approval or disapproval to the person who filed the plan. Indication of disapproval shall include the plan deficiencies and the procedures for filing a revised plan. Pending preparation and approval of a revised plan, earth disturbing activities shall proceed only in accordance with conditions outlined by the City.

(Ord. 4-14. Passed 4-14-14.)

919.16 INSPECTION TO ENSURE COMPLIANCE.

The City or its authorized representative may inspect development areas to determine compliance with these regulations and the approved Stormwater Pollution Prevention Plan (SWP3). If it is determined that a violation of these regulations exists, the responsible person shall be notified of the deficiencies or noncompliance. After a reasonable time for voluntary compliance, the inspector or inspecting agency shall report the deficiency or noncompliance to the City. The City, upon determining that a person is not complying with these regulations, may issue an order to comply. The order shall describe the problem and the work needed, and specify a date when the work shall be completed. The City maintains the right to issue a stop-work order for non-compliance with specified time schedule or upon City determination of a need to remedy of a serious problem.

(Ord. 4-14. Passed 4-14-14.)

919.17 MAINTENANCE.

(a) When a site is developed under single ownership, the costs of maintaining any soil sediment control facilities shall be the responsibility of the property owner.

(b) When the benefiting area will involve two or more property owners, the person(s) developing the site shall provide for the permanent maintenance of structures and other facilities designed to control erosion and manage stormwater through the formation of an owners association. The cost of maintenance of all storm water facilities shall be the responsibility of the association.

(Ord. 4-14. Passed 4-14-14.)

919.18 APPEAL OF NOTICE OF VIOLATION.

(a) Right to Appeal. Any person affected by a decision of the Service Safety Director or his authorized designee or a notice or order issued under this Chapter shall have the right to appeal to the Hearing Board established under Section 918.08, provided that a written application for appeal is filed within twenty days after the day the decision, notice or order was served.

(b) Limitation of Authority. An application for appeal shall be based on a claim that the true intent of the rules legally adopted hereunder have been incorrectly interpreted, the provisions of this code do not apply, or the requirements of this code are adequately satisfied by other means. (Ord. 4-14. Passed 4-14-14.)

919.19 ENFORCEMENT MEASURES AFTER APPEAL

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within 30 days of the decision of the Board upholding the decision of the Service Safety Director or his authorized designee, then the Service Safety Director or his authorized designee shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above. (Ord. 4-14. Passed 4-14-14.)

919.20 COST OF ABATEMENT OF THE VIOLATION.

Within 45 days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. The property owner may file a written appeal of the amount of the assessment within 20 days. If the amount due is not paid within a timely manner as determined by the decision Service Safety Director or his authorized designee or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

Any person violating any of the provisions of this chapter shall become liable to the city by reason of such violation.

(Ord. 4-14. Passed 4-14-14.)

919.21 INJUNCTIVE RELIEF.

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this ordinance, the Service Safety Director or his authorized designee may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation. (Ord. 4-14. Passed 4-14-14.)

919.22 RIGHT TO REIMBURSEMENT.

The Service Safety Director or his authorized designee may recover all attorney's fees court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses. (Ord. 4-14. Passed 4-14-14.)

919.23 REMEDIES NOT EXCLUSIVE.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and

it is within the discretion of the Service Safety Director or his authorized designee to seek cumulative remedies.
(Ord. 4-14. Passed 4-14-14.)

919.24 ADOPTION OF CHAPTER.

This chapter shall be in full force and effect immediately after its final passage and adoption. All prior ordinances and parts of ordinances in conflict with this chapter are hereby repealed. (Ord. 4-14. Passed 4-14-14.)

919.25 VIOLATIONS DEEMED A PUBLIC NUISANCE.

In addition to the enforcement processes and penalties provided, any condition caused or permitted to exist in violation of any of the provisions of this Ordinance is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

(Ord. 4-14. Passed 4-14-14.)

919.99 CRIMINAL PENALTY.

Whoever violates any section of this chapter shall be deemed guilty of an unclassified misdemeanor subject to thirty days jail and a maximum fine of one thousand dollars (\$1,000.00). (Ord. 4-14. Passed 4-14-14.)

CHAPTER 920

Electricity

EDITOR'S NOTE: There are no sections in Chapter 920. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

City consent for electrical fixtures and lines on public property - see Ohio R.C.
715.27, 4933.03, 4933.13, 4933.16
Electrically charged fence - see GEN. OFF. 521.05(b)

CHAPTER 921

Utilities Installation in Developments

- 921.01 Installation authorized without detriment.**
- 921.02 Precedence over existing law.**
- 921.03 Compliance with standards.**
- 921.04 Permits and permit fees.**
- 921.05 Application.**

CROSS REFERENCES

Utility improvements - see P. & Z. 1113.01
Order of improvements - see P. & Z. 1113.02

921.01 INSTALLATION AUTHORIZED WITHOUT DETRIMENT.

The Superintendent of the Division of Water is hereby instructed that he shall not install or make any arrangements or commitments to install new water lines, fire hydrants or appurtenances in any new development where the installation shall be for the sole benefit of providing water to that development. However, when in the opinion of the Service-Safety Director, the Division of Water can accomplish the installation of water lines, fire hydrants and appurtenances without detriment to its operations involving the maintenance of the water distribution system, then the Director may direct the Superintendent to install lines and appurtenances on a public utility basis.

(Ord. 11-95. Passed 4-10-95.)

921.02 PRECEDENCE OVER EXISTING LAW.

This shall take precedence over any existing section of the Codified Ordinances of the City that may obligate City personnel to install water lines, fire hydrants or appurtenances for the benefit of the owner or owners of a development.

(Ord. 11-95. Passed 4-10-95.)

921.03 COMPLIANCE WITH STANDARDS.

Any water line, fire hydrant and/or appurtenance constructed that will become part of or will be connected to the City's water distribution system, shall be built to the standards, specifications and policies of the Division of Water and the State of Ohio Environmental Protection Agency.

(Ord. 11-95. Passed 4-10-95.)

921.04 PERMITS AND PERMIT FEES.

It shall be the responsibility of any person, partnership and/or corporation installing water lines and/or appurtenances to make application for and obtain all necessary permits. The total cost of applying for and obtaining permits including any permit fees shall be borne by the applicant.

(Ord. 11-95. Passed 4-10-95.)

921.05 APPLICATION.

This chapter shall apply to all developments that have not made arrangements or received a commitment from the City for installation of water lines, fire hydrants and/or appurtenances prior to the date of first reading for this chapter.
(Ord. 11-95. Passed 4-10-95.)

TITLE FIVE - Other Public Services

- Chap. 931. Parks.
- Chap. 933. Cemeteries.
- Chap. 935. Lancaster-Fairfield County Joint Hospital.
- Chap. 937. Waste Removal.
- Chap. 939. Trees.

CHAPTER 931

Parks

- 931.01 Zane Parks named.**
- 931.011 Lancaster City Bike Trail.**
- 931.02 Open Space Plan.**
- 931.03 Supervision of park recreational activities.**
- 931.04 Park rangers; appointment, powers and duties.**
- 931.05 Hours of operation.**
- 931.06 Motor vehicles in park.**
- 931.07 Trail regulations.**
- 931.99 Penalty.**

CROSS REFERENCES

- Land appropriation for parks - see Ohio R.C. 715.21, 719.01
- Power to regulate vehicle speed in parks - see Ohio R.C. 4511.07(E)
- Free water furnished to parks - see S. & P. S. 911.01

931.01 ZANE PARKS NAMED.

The downtown parks located at the intersection of Main Street and Broad Street, are hereby declared to be known as Zane Parks.

(Ord. 109-65. Passed 10-25-65.)

931.011 LANCASTER CITY BIKE TRAIL.

- (a) The Lancaster City Bike Trail is hereby designated as a Lancaster City Park.
- (b) Park rangers, county, city, and state law enforcement officers are hereby authorized to enforce violations under this chapter.

(Ord. 29-07. Passed 4-23-07.)

931.02 OPEN SPACE PLAN.

The Open Space Plan for the City parks and surrounding areas now on file with the Clerk of Council is hereby approved.

(Ord. 12-74. Passed 2-28-74.)

931.03 SUPERVISION OF PARK RECREATIONAL ACTIVITIES.

The Board of Park Commissioners is hereby vested with authority to supervise and maintain all recreational activities in the public parks, all in accordance with Ohio R.C. 755.13.

(Ord. 21-75. Passed 6-23-75.)

931.04 PARK RANGERS; APPOINTMENT, POWERS AND DUTIES.

- (a) The Service-Safety Director of the City is hereby authorized to hire auxiliary policemen to serve in the City parks as park rangers.
- (b) Such auxiliary policemen shall be appointed and removed at the discretion of the Service-Safety Director who shall be the executive head of the auxiliary police unit. Such members of the auxiliary unit are not eligible for membership in the Police Relief and Pension Fund and shall not be in the classified service of the Municipality.

(Ord. 8-76. Passed 1-26-76.)

(c) The Service-Safety Director shall prescribe rules and regulations for the organization, training, administration, control and conduct of the auxiliary police unit. Any auxiliary policeman who is appointed prior to commencing service, shall satisfactorily complete a basic course of police training in accordance with Ohio law.

(Ord. 13-92. Passed 5-11-92.)

(d) Auxiliary policemen shall have the same powers and jurisdiction as other police officers have under State law, including the authority to arrest anyone who commits a misdemeanor in his presence.

(Ord. 8-76. Passed 1-26-76.)

931.05 HOURS OF OPERATION.

The Park Superintendent shall establish the hours of operation for each Park. Each park shall close at dusk and open at dawn, unless posted otherwise. No person shall enter or remain within the park during hours when the park is closed unless they are participating in an authorized "Parks" program or activity, are members of a group which has reserved a facility beyond normal operating hours.

(Ord. 29-07. Passed 4-23-07.)

931.06 MOTOR VEHICLES IN PARK.

- (a) Persons shall not operate, within any park, any motor vehicle that is not customarily registered with the Department of Motor

Vehicles of the State of Ohio and designated for highway travel.

(b) Persons shall not operate motorized vehicles including electric personal assistive mobility devices on multi-use trails, footpaths, or bicycle paths, except park employees or emergency service personnel in the performance of their official duties or except as necessary for transportation by persons with disabilities. Persons shall not use any portion of any park for purposes of travel except drives, roadways, paths, walks, and trails established for such purposes by the Park Superintendent unless granted written permission by the Park Superintendent.

(Ord. 29-07. Passed 4-23-07.)

931.07 TRAIL REGULATIONS.

Persons shall obey all traffic control signs, lane markings, devices and posted operational policies on trails.

(Ord. 29-07. Passed 4-23-07.)

931.99 PENALTY.

Any violation of this section shall be a fourth degree misdemeanor on the first offense and each offense thereafter is enhanceable to a misdemeanor of the third degree on a second offense, a misdemeanor of the second degree on a third offense and a misdemeanor of the first degree on a fourth offense.

(Ord. 29-07. Passed 4-23-07.)

CHAPTER 933

Cemeteries

EDITOR'S NOTE: Ohio R.C. 759.11 provides that the Director of Public Service may make bylaws and regulations not inconsistent with the ordinances of the City and the Constitution and laws of the State of Ohio for the management and protection of the burial grounds and the cemeteries under his control and for the burial of the dead therein, and they shall have the same validity as City ordinances. The Director of Public Service, pursuant to Ohio R. C. 759.09, shall take possession and charge and have the entire management, control and regulation of public burial grounds and cemeteries located in or belonging to the City, subject to its ordinances. The Director shall determine the size and price of cemetery lots, the terms of payment therefor and shall give to each purchaser a receipt showing the amount paid and a pertinent description of the lots sold, as provided by Ohio R.C. 759.13.

933.01 Burial in Square No. 16 prohibited.

933.02 Investment of cemetery funds; certificate.

933.03 Lot sale or transfer.

933.04 Cemetery Funds.

933.05 Perpetual Care Fee.

CROSS REFERENCES

Municipal cemeteries - see Ohio R. C. Ch. 759

New cemeteries restricted; location - S.U.& P.S. 1123.20

933.01 BURIAL IN SQUARE NO. 16 PROHIBITED.

(a) The lots comprising Square No. 16, heretofore used as a burial ground, shall be kept enclosed for the purpose of containing and preserving the dead who are buried and the monuments that are erected therein but from and after July 1, 1837, there shall be no more burials on such lot. (1939 R.O., 12:02)

(b) No further interments will occur on this cemetery and the property will continue to be used for public purpose.

(Ord. 26-06. Passed 6-12-06.)

933.02 INVESTMENT OF CEMETERY FUNDS; CERTIFICATE.

The City Investment Committee is authorized to invest the funds for the Perpetual Care Trust Fund and Pre-Interment Trust Fund for the care of lots in cemeteries of the City.

(Ord. 26-06. Passed 6-12-06.)

933.03 LOT SALE OR TRANSFER.

(a) All of the land in any City Cemetery is the property of the City of Lancaster, in fee simple. Cemetery deeds convey the right to use portions of that land for grave lots for the sole purpose of interment. A separate deed shall be prepared for each lot purchased. Each owner is vested with the title to his or her graves for the sole purpose of interment.

(b) Any sale or transfer of a cemetery lot by the owner of such lot must be processed by the City Cemetery Department. Graves cannot be sold or transferred without prior permission of the Cemetery Department.

(c) Owners may transfer their ownership of a lot through a will. When an owner dies intestate, the lot(s) will descend to his or her heirs, as determined by the Statutes of the State of Ohio in effect at the time of death. Consent to these transfers will not be unreasonably withheld. Owners shall provide to the Cemetery Department the names, addresses and telephone numbers of the persons to whom the grantee's property would pass by intestate secession.

Any person who receives a lot by gift or inheritance must, within one year after receiving such interest, give written notice of his/her name and address to the Cemetery Department. In addition, he/she must notify the Cemetery Department of any subsequent changes in name and address. The Cemetery Department requires the heirs to submit proof of inheritance and return the old deed to the City for a name transfer.

(d) A transfer fee will be charged each time a lot is sold or transferred at the current rate in effect at the time of the transfer.

(Ord. 26-06. Passed 6-12-06.)

933.04 CEMETERY FUNDS.

(a) The Cemetery Fund is a Special Revenue Fund generating monies for the operation of the Cemetery. (Ord. 26-06. Passed 6-12-

06.)

- (b) The Cemetery Pre-Interment Fund is a fund for the pre-interment monies paid in advance for interment.
- (1) The investment of the fund shall be managed by the City Investment Committee.
 - (2) The fund is to be used for operating expenses or capital improvements within the Cemetery Department.
 - (3) The money shall be appropriated to the Cemetery Department only after the actual interment has occurred.
(Ord. 21-12. Passed 12-3-12.)
- (c) Cemetery Perpetual Care Fund is a fund created for the perpetual care of the City cemeteries.
- (1) Twenty percent (20%) of the sale proceeds of cemetery lots shall be credited to the Cemetery Perpetual Care Fund.
 - (2) The Fund shall be managed by the City Investment Committee.
 - (3) The Fund balance shall not be used for operating expenses. The interest from the Fund balance may be used for operating expenses of the Cemetery Department annually.
 - (4) The balance of the Fund may be used for critical capital cemetery improvement projects with the approval of City Council. Said Fund balance shall be safeguarded by Council to ensure the perpetual nature of the Fund. (Ord. 22-12. Passed 12-3-12.)

933.05 PERPETUAL CARE FEE.

The Superintendent of the Cemetery Department shall charge for perpetual care on each lot purchased prior to 1963 a fee equal to the current fee for perpetual care for lots acquired after January 1, 1963. Such fee shall be paid at the time of burial or in advance if the owner so desires. These funds shall be deposited in the Perpetual Care Trust Fund.

(Ord. 26-06. Passed 6-12-06.)

CHAPTER 935

Lancaster-Fairfield County Joint Hospital

EDITOR'S NOTE: There are no sections in Chapter 935. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCE

Municipal hospitals - see Ohio R. C. Ch. 749

CHAPTER 937

Waste Removal

- 937.01 Definitions.**
- 937.02 Purpose.**
- 937.03 Rates for collection.**
- 937.04 Private waste disposal.**
- 937.05 Acceptable waste container regulations.**
- 937.06 Collection business prohibited.**
- 937.07 Vehicles of private haulers.**
- 937.08 Collection regulations.**
- 937.09 Ownership of waste on disposal site.**
- 937.10 Discontinuance of service; nuisance conditions.**
- 937.11 Dumpsters.**
- 937.12 Transfer station rates.**
- 937.13 Solid waste disposal fees.**
- 937.14 Unacceptable waste, recyclables and yard waste.**
- 937.15 Bulk pick-up rates and regulations.**
- 937.16 Charges a lien.**
- 937.17 Appeal.**
- 937.18 Rules and regulations.**
- 937.99 Penalty.**

CROSS REFERENCES

Collection and disposal - see Ohio R.C. 715.43, 717.01

Employment of scavengers - see Ohio R.C. 3707.39

Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.

Obstructing streets with building construction refuse - see BLDG. 1311.01

937.01 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply:

- (a) "Acceptable waste" means that portion of the residential and commercial stream that is normally disposed of by occupants of a residential dwelling or commercial establishment including only common household waste and refuse.
- (b) "Acceptable waste container" means only the trash carts provided and assigned by the City that may be used for acceptable waste disposal pursuant to the requirements in Section 937.05. An acceptable waste container does include a sealed plastic bag or box.
- (c) "Common household waste" means waste originating from a residential unit or commercial entities and includes, but is not limited to fiber material, paper, cardboard, packaging, cans, bottles, jars, food wastes and other similar materials.
- (d) "Commercial business" means any business that requires a dumpster for their trash needs that can be serviced multiple times per week.
- (e) "Condemned products" means any structure, installation, utensil, equipment, food, drink, feed, chemical or biological preparation, device or article of any kind, that may be a health hazard as determined by the Health Commissioner and which has been seized, tagged or labeled by the Health Commissioner as a hazard and which may not be used in any manner until the Health Commissioner determines the hazard has been abated.

- (f) "Construction, remodeling and demolition waste" means all waste building materials, rubble and spoils resulting from construction, remodeling, repair, and demolition operations on buildings, dwelling units, places of business, garages, pavements, streets, alleys, trenches, ditches, underground utilities, excavations, and other structures including, but not limited to roofing, concrete and cinder block, plaster, insulation, lumber, structural steel, plumbing fixtures, electrical wiring, heating and ventilation equipment, windows and doors, interior finishing materials such as woodwork and cabinets, siding, sheathing and aged railroad ties.
 - (g) "Double or duplex family residence" means the grouping together of two residential units under a common roof.
 - (h) "Hazardous waste" means any chemical, compound mixture, substance, or article which has been designated by the United States Environmental Protection Agency or an appropriate agency of the State to be hazardous, including, but not limited to flammables such as paint, gasoline, lacquer thinner, or any container that once contained these materials, as well as propane tanks, gun powder and other explosives, and automobile batteries.
 - (i) "Industrial business" means any business that requires a roll-off container or compacting roll-off container that the City cannot service.
 - (j) "Medical waste, infectious waste" shall include:
 - (1) Cultures and stocks of infectious agents and associated biologicals;
 - (2) Laboratory wastes that were, or are likely to have been, in contact with infectious agents that may present a substantial threat to public health if improperly managed;
 - (3) Pathological wastes;
 - (4) Waste materials from the rooms of humans, or the enclosures of animals, that have been isolated because of diagnosed communicable disease that are likely to transmit infectious agents;
 - (5) Human and animal blood specimens and blood products that are being disposed of not including patient care waste such as bandages or disposable gowns that are lightly soiled with blood or other body fluids;
 - (6) Contaminated carcasses, body parts, and bedding of animals that were intentionally exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals, and carcasses and bedding of animals otherwise infected that may present a substantial threat to public health if improperly managed;
 - (7) Sharp wastes such as hypodermic needles, syringes, or scalpel blades used in the treatment, diagnosis, or inoculation of human beings or animals or that have, or are likely to have, come in contact with infectious agents in medical research or industrial laboratories and which must be placed into puncture resistant containers before disposal;
 - (8) Any other waste materials generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals that the public council created in Ohio R.C. 3701.33;
 - (9) Any other waste materials the generator designates as infectious waste.
 - (k) "Multiple family residence" or "apartment" means the grouping together under a common roof of three or more residential units.
 - (l) "Normal business" means any business that does not require a dumpster but needs more than one (1) ninety-five (95) gallon provided and assigned trash cart of service per week. These businesses shall be provided and assigned up to three (3) ninety-five (95) gallon trash carts that will be serviced one time per week.
 - (m) "Radioactive waste" means any substance that spontaneously emits ionizing radiation.
 - (n) "Recyclables" means aluminum cans, glass bottles and jars, plastic containers, tin cans, newspaper and any other material designated by the Sanitation Department as recyclables.
 - (o) "Refrigerants and items containing chlorofluorocarbons (CFC) or their substitutes" means items that contain chlorofluorocarbons which contribute to the depletion of the ozone layer. This includes refrigerators and other devices utilizing either chlorofluorocarbons as a coolant or the substitutes for chlorofluorocarbons which may not cause ozone depletion but which are subject to special handling requirements.
 - (p) "Refuse" means paper, boxes, baskets, rags, old shoes, broken glass, tin cans, ashes and similar discarded materials. It does not include construction, remodeling, and demolition waste.
 - (q) "Residential unit" means the place of abode of persons living separately or together as an independent family in a "dwelling unit" as defined in Section 1161.01(37) of the Codified Ordinances.
 - (r) "Small business" means any business that only needs only one (1) ninety-five (95) gallon provided and assigned trash cart of service per week.
 - (s) "Trash cart" means a thirty-five (35) gallon or a ninety-five (95) gallon wheeled trash container with a closable lid approved, provided, and assigned by the Sanitation Department. The Sanitation Department Superintendent, or his/her designee, will designate approved trash carts with the concurrence of City Council.
 - (t) "Unacceptable waste" means that portion of the waste stream that will not be picked up by the City of Lancaster and is further defined in Section 937.14.
 - (u) "Volume", as used in Section 937.12, means average volume.
 - (v) "White goods" are a type of bulk refuse that may be recycled or resold including, but not limited to large, enameled appliances such as clothing washers and dryers, dish washers, furnaces and electrical heaters, hot water heaters, stove and ovens.
 - (w) "Yard waste" means solid waste that included only grass clippings, brush, garden waste, tree trunks, holiday trees, tree trimmings, and/or prunings. (Source: EPA definition from The Municipal Solid Waste Landfill Regulations OAC 3745-27).
- (Ord. 9-21. Passed 3-22-21.)

937.02 PURPOSE.

This waste code is enacted to preserve and promote the public health, safety and welfare by establishing minimum standards for the storage, collection, transportation and disposal of acceptable and unacceptable waste in order to maintain a sanitary environment for the residents of the City of Lancaster. Whenever this chapter conflicts with any other portion of the Codified Ordinances, this chapter shall prevail with respect to any matters relating to acceptable or unacceptable waste generated by residential units or places of business.

(Ord. 9-21. Passed 3-22-21.)

937.03 RATES FOR COLLECTION.

- (a) Monthly Rates. Monthly rates for the collection and disposal of acceptable waste by the City are hereby established as follows:
 - (1) Class 1. Any one or two persons, sixty-two (62) years of age or older, occupying a residential unit will be provided and assigned by the Sanitation Department, at no charge, one (1) thirty-five (35) gallon trash cart in which all trash for pick-up must be placed. All trash must be placed in the trash cart with the lid closed. No bags, boxes or trash of any kind shall be placed on top of the trash cart or on the ground. Class 1 occupants must sign an application at the Utilities Collection Office.
 - A. Rate - nine dollars (\$9.00) per month.
 - (2) Class 2. Residential units will be provided and assigned by the Sanitation Department, at no charge, one (1) ninety-five (95) gallon trash cart. All trash must be placed in the trash cart with the lid closed. No bags, boxes, or trash of any kind shall be placed on top of the trash cart or on the ground.
 - A. Rate - thirteen dollars and fifty cents (\$13.50) per month.
 - B. Any residential unit needing more than one (1) trash cart may request a second trash cart provided and assigned by the

Sanitation Department for a one-time non-refundable fee of twenty-five dollars (\$25.00) and an additional three dollars per month service fee for a total monthly rate of sixteen dollars and fifty cents (\$16.50) per month.

(3) Class 3. Small businesses will be provided and assigned by the Sanitation Department, at no charge, one (1) ninety-five (95) gallon trash cart.

A. Rate - thirteen dollars and fifty cents (\$13.50) per month.

(4) Class 4. Normal businesses will be provided and assigned by the Sanitation Department, at no charge, no more than three (3) ninety-five (95) gallon trash carts per week.

A. Rate - twenty-four dollars (\$24.00) per month.

(5) Class 5a. Commercial, industrial, multiple-family residences and businesses using dumpsters per uncompacted cubic yard, with minimum of two (2) cubic yards.

A. Rate - eighteen dollars and seventy-five cents (\$18.75) per month.

(6) Class 5b. Commercial, industrial, multiple-family and businesses using dumpster per compacted cubic yard.

A. Rate - sixty-eight dollars and fifty cents (\$68.50) per month.

(b) Dumpsters. Dumpsters shall be approved by the Sanitation Department.

(Ord. 9-21. Passed 3-22-21.)

937.04 PRIVATE WASTE DISPOSAL.

No person shall throw, dump or deposit acceptable or unacceptable waste upon the ground or bury the same upon any premises, public or private, within the City, and no person shall permit any acceptable or unacceptable waste to stand or lay on the premises occupied by him, as tenant or owner, for a period of longer than one (1) week or burn the same in any place except a heating plant or incinerator so designed as to thoroughly consume the same without causing nuisance or smoke, fly ash or offensive odors. Whenever a landlord assumes responsibility for utility services for a tenant, such landlord shall be equally responsible with the tenant for sanitation services as provided herein.

(Ord. 9-21. Passed 3-22-21.)

937.05 ACCEPTABLE WASTE CONTAINER REGULATIONS.

Acceptable waste containers in the City of Lancaster shall be only the following:

(a) Ninety-five (95) or thirty-five (35) gallon trash carts provided and assigned by the Sanitation Department. Should a resident already own a trash cart and wish to use it as a second trash cart they still must pay an additional fee of three dollars (\$3.00) per month, but the one time twenty-five dollars (\$25.00), non-refundable fee will be waived.

(b) Dumpsters approved by the Sanitation Department.

(c) Any other garbage can, or trash can, plastic bag, box or container is not an acceptable waste container.

(Ord. 9-21. Passed 3-22-21.)

937.06 COLLECTION BUSINESS PROHIBITED.

(a) No person, business, firm or corporation, except the City, shall engage in or carry on the business of collection, hauling and disposing of waste in the City.

(b) An exception to this section is permitted if such person, business, firm or corporation received permission in writing from the Superintendent of Sanitation and Service-Safety Director.

(Ord. 9-21. Passed 3-22-21.)

937.07 VEHICLES OF PRIVATE HAULERS.

Industrial or other producers of waste herein granted the right to convey waste to the waste disposal site shall accomplish the same in trucks or vehicles so constructed as to prevent the leakage or scattering of the contents thereof, and all such conveyances shall be provided with a suitable tarpaulin which shall at all times cover the contents thereof, except when being loaded or unloaded.

(Ord. 9-21. Passed 3-22-21.)

937.08 COLLECTION REGULATIONS.

(a) It is the intention of this chapter that each family or person occupying a separate residential unit, or each business or firm, shall make a separate provision for the collection and removal of acceptable waste. There shall be no doubling up. Any multiple family residence and/or three (3) separate businesses shall, if deemed necessary, be required to have a dumpster.

(b) No acceptable waste shall be placed or allowed to be placed for removal except in the acceptable waste containers provided and assigned by the Sanitation Department for that purpose. Acceptable waste containers shall not be placed for pick-up until the night before or the day of pick-up service and no later than 7:30 a.m. on day of pick-up. All trash must be placed inside the trash cart, with the lid completely closed. Additional trash cannot be stacked on top of the trash cart. Failure to abide by these regulations will result in additional fees as set forth in subsection below.

(c) Collection shall be made at the street curb or alley property lines as determined by the Superintendent of the Sanitation Department. Trash carts must be placed within three (3) feet of the curb or alley with lid opening facing the street or alley and the wheels toward the residence. Trash carts must be placed at least three (3) feet from any tree, pole, mailbox, etc., and at least ten (10) feet from parked cars. Multiple trash carts must be spaced three (3) feet apart.

(d) When, in the opinion of the Superintendent of the Sanitation Department, an alternate route of collection will better serve the City and the person whose acceptable waste is being collected, the Superintendent may use such an alternate route.

(e) All trash carts shall be returned by the City employees to designated pick-up points set forth in subsection (c) above. Owners shall then return trash carts to the point of origin/storage location and shall not be left at the street curb or alley property line. Trash carts must be removed from the curb or alley by 7:00 p.m. the day of pick-up.

(f) Additional fees shall apply as follows:

(1) If one (1) cubic yard or less outside of trash cart.

A. Trash will be picked-up and a service fee of ten dollars (\$10.00) will be added to the monthly utility bill for each separate offense.

(2) Bulk items and/or excessive trash in excess of one (1) cubic yard outside closed trash cart, or if too much trash or items that are too large to fit in the trash cart, the bulk items and/or excessive trash will be picked up and bulk pick-up rates will apply pursuant to Section 937.15.

(Ord. 9-21. Passed 3-22-21.)

937.09 OWNERSHIP OF WASTE ON DISPOSAL SITE.

All waste on the disposal site is the property of the City, and no person shall be allowed to separate and collect, carry off or dispose of the same except under the direction of the Sanitation Superintendent.

(Ord. 9-21. Passed 3-22-21.)

937.10 DISCONTINUANCE OF SERVICE; NUISANCE CONDITIONS.

Fermenting, putrefying and odoriferous waste in containers which has not been collected or which has been dumped in the open due to failure to pay waste removal fees shall be declared a nuisance and the person or persons responsible shall be liable to prosecution under Ohio R.C. 3767.13.
(Ord. 9-21. Passed 3-22-21.)

937.11 DUMPSTERS.

(a) It shall be the duty of all commercial businesses and multiple-family residences, where ninety-five (95) gallon trash carts are not suitable for the amount of acceptable waste accumulated, to maintain a dumpster. Such dumpster shall be constructed and located so as to allow servicing by City equipment by means of a specially designed dumping mechanism.

(b) It shall be the duty of the Superintendent of Sanitation to determine the need, size, number, and frequency of pick-up of dumpsters and require use of same.

(Ord. 9-21. Passed 3-22-21.)

937.12 TRANSFER STATION RATES.

(a) The following rates shall be charged at the Transfer Station for all residents and customers within the Solid Waste District.

(1) Class 2. Minimum charge per customer, up to 999 lbs. Rate - \$25.00.

(2) Class 3. Per ton, if 1,000 lbs. or over. Rate - \$45.00.

(3) Class 4. Each appliance, other than refrigerant base. Rate - \$10.00.

(4) Class 5. Each refrigerant based appliance. Rate - \$15.00.

(5) Class 5. Tires - each.

A. Light truck or passenger care tire. Rate - \$10.00.

B. Heavy truck tire. Rate - \$15.00.

C. Tractor tire. Rate - \$25.00.

(b) The Transfer Station will not accept building materials, yard waste, dirt, liquids, or large automotive parts.

(c) The use of the Transfer Station shall be restricted to the residents and commercial haulers of the Coshocton Fairfield Licking-Perry County Solid Waste District.

(d) Transfer Station Accounts. Customers using charge accounts at the Transfer Station shall be charged a penalty of one and five tenths percent (1.5%) per month (18% APR) on outstanding balances thirty (30) calendar days from the closing date of their statement. Charge accounts are to be approved at the discretion of the Sanitation Superintendent using volume as one of the criteria. The superintendent has the authority to refuse to open charge accounts.

(Ord. 9-21. Passed 3-22-21.)

937.13 SOLID WASTE DISPOSAL FEES.

The following fees shall be established for the Coshocton, Fairfield, Licking, Perry Solid Waste District:

(a) One dollar (\$1.00)/ton for waste generated within the District;

(b) Two dollars (\$2.00)/ton for waste generated outside the District, but inside the State; and

(c) One dollar (\$1.00)/ton for waste generated outside the State.

(Ord. 9-21. Passed 3-22-21.)

937.14 UNACCEPTABLE WASTE, RECYCLABLES AND YARD WASTE.

(a) Unacceptable Waste, and Yard Waste and Exclusions.

(1) Unacceptable waste.

A. "Unacceptable waste" means that portion of the waste stream that will not be collected by the City of Lancaster. If any other governmental agency or unit having appropriate jurisdiction determines that substances which are not as of yet considered harmful, toxic, or dangerous, are in fact harmful, toxic or dangerous or are hazardous or harmful to health, then any such substances or materials should thereafter constitute unacceptable waste.

B. "Unacceptable waste" includes but is not limited to:

1. Medical waste, infectious waste (defined in Section 937.01.)

2. Radioactive waste (defined in Section 937.01.)

3. Hazardous waste (defined in Section 937.01.)

4. Explosive materials

5. Liquid waste including motor oil

6. Asbestos

7. Whole and shredded tires

8. Lead acid batteries

9. Drums and barrels

10. Motor vehicles or major parts thereof

11. Equipment or machinery

12. Fecal matter, other than human fecal matter contained in a diaper or other sanitary garment, pad or napkin and wrapped separately in plastic before it is placed into a container or receptacle

13. Construction, remodeling and demolition waste (defined in Section 937.01.)

14. Refrigerants or items containing chlorofluorocarbons (CFCs) or their substitutes (defined in Section 937.01.)

15. Ashes of any kind

16. Offal or animal wastes, byproducts or hide trimmings

17. Nonresidential waste

18. Shredder fluff from shredding automobiles, light duty trucks, motor vehicle engines, household appliances, white goods, (defined in Section 937.01) and other miscellaneous metal parts

19. Condemned products (defined in Section 937.01)

20. And other items as may be determined by the Sanitation Superintendent.

(2) Yard waste.

A. Yard waste will be collected at curb line only in approved container at no additional cost.

B. Yard waste must be:

1. Tied in bundles not exceeding four (4) feet in length and two (2) feet in diameter or fifty (50) pounds; or

2. Placed in acceptable bio-degradable paper bags weighing no more than fifty (50) pounds each when loaded with waste.

3. Co-mingling of yard waste within the same container as acceptable waste is prohibited.

(3) Any exclusion or exception to any part of this chapter shall be approved by the Superintendent or his designated representative.

(Ord. 9-21. Passed 3-22-21.)

937.15 BULK PICK-UP RATES AND REGULATIONS.

(a) Bulk Pick-Up. Any resident or business within Lancaster City limits may call the Sanitation Department to make an appointment for bulk pick-up of items not picked up with normal waste for an additional fee.

(1) Minimum twenty-five dollars (\$25.00) charge per bulk pick-up, with minimum of one (1) cubic yard.

- (2) Each additional yard will have a fee of eighteen dollars and seventy-five cents (\$18.75) per cubic yard.
(Ord. 9-21. Passed 3-22-21.)

937.16 CHARGES A LIEN.

Each charge or rental levied by or pursuant to this chapter is made a lien upon the corresponding lot, land or premises served by the Sanitation Department of the City, and if the same is not paid within thirty (30) days after it shall become due and payable, it shall be certified to the County Auditor who shall place the same on the tax duplicate of the County with the interest and penalties allowed by law and shall be collected.

(Ord. 9-21. Passed -3-22-21.)

937.17 APPEAL.

Any customer shall have the right to appeal surcharges or penalties assessed, pursuant to this chapter, to their city utilities monthly billing statement using the appeals process set forth in the City of Lancaster Utilities Collection Office's "General Rules and Regulations" which is available on-line at their City's website and/or at the Utilities Collection Office during normal business hours.

(Ord. 9-21. Passed 3-22-21.)

937.18 RULES AND REGULATIONS.

The Sanitation Department Superintendent, with the approval of the Service-Safety Director, shall have authority to make such other rules and regulations, not inconsistent herewith, pertaining to the handling, collection and disposal of refuse, waste, recyclables, and yard waste, as well as the administration thereof, as he/she deems necessary, proper or convenient to facilitate their collection and disposal.

(Ord. 9-21. Passed 3-22-21.)

937.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars (\$150.00). Each day's violation shall constitute a separate offense.

(Ord. 9-21. Passed 3-22-21.)

CHAPTER 939

Trees

939.01 Definitions.

939.02 City Tree Commission.

939.03 Municipal Arborist.

939.04 Enforcement.

939.05 Authority of Arborist.

CROSS REFERENCES

Destruction of trees - see GEN. OFF. 541.06

Removal of dead trees and tree limbs - see GEN. OFF. 565.03

939.01 DEFINITIONS.

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. The word " shall" is mandatory and not merely directory.

- (a) "Municipal Arborist" is the Superintendent of the Park Department of the City assigned to carry out the enforcement of this chapter.
- (b) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.
- (c) "Street or highway" means the entire width of every public way or right of way when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular and pedestrian traffic.
- (d) "Park" means all property under the jurisdiction of the Lancaster Park Board.
- (e) "Public places" include all other grounds owned by the City.
- (f) "Property line" means the outer edge of a street or highway.
- (g) "Treelawn" is that part of a street or highway, not covered by sidewalk or other paving, lying between the property line and that portion of the street or highway usually used for vehicular traffic.
- (h) "Public trees" include all shade and ornamental trees now or hereafter growing on any street or any public places where otherwise indicated.
- (i) "Property owner" means the person owning such property as shown by the County Auditors Plat of the City.

(Ord. 20-75. Passed 6-23-75.)

939.02 CITY TREE COMMISSION.

(a) There shall be created a commission to be known and designated as the City Tree Commission composed of seven citizens, five of whom shall be residents of the Municipality. The five resident members shall be appointed by the Mayor with approval of Council. The sixth member shall be the Director of Public Service and the seventh member shall be the Superintendent of the Department of Parks. All members of the Commission shall serve without pay. The five members appointed by the Mayor shall be appointed as follows: two for two years, two for three years and one for four years, and serve until their successors are duly appointed and approved by Council. Successors to those members appointed by the Mayor shall, thereafter be appointed for terms of four years. Vacancies caused by death, resignation or otherwise, shall be filled for the unexpired term in the same manner as original appointments are made.

(b) The duties of the City Tree Commission are as follows:

- (1) To study the problems and determine the needs of the Municipality relative to a tree care and tree planting program.
- (2) To recommend to the proper authority, the type and kind of trees to be planted upon such municipal streets or parts of municipal streets or in parks is designated.
- (3) To assist the properly constituted officials of the Municipality as well as Council and citizens of the Municipality, in the dissemination of news and information regarding the selection, planting and maintenance of trees within the

corporate limits, whether the trees are on private or public property, and to make such recommendations from time to time to Council as to desirable legislation concerning the tree program and activities of the Municipality.

- (4) To provide regular and special meetings at which the subject of trees insofar as it relates to the Municipality may be discussed by the members of the Commission, officers and personnel of the Municipality and its several divisions, and all others interested in the tree program.

(c) Within a reasonable time after the appointment of the Commission and the approval of the members thereof, upon call of the Mayor, the Commission shall meet and organize by the election of a chairman and the appointment of the Municipal Arborist as secretary. The Commission shall then provide for the adoption of rules and procedures and for the holding of regular and special meetings as the Commission deems advisable and necessary in order to perform the duties set forth.

(Ord. 20-75. Passed 6-23-75.)

939.03 MUNICIPAL ARBORIST .

The Municipal Arborist shall be the Superintendent of the Parks Department.

(Ord. 20-75. Passed 6-23-75.)

939.04 ENFORCEMENT.

The Municipal Arborist shall have the authority to enforce any ordinances governing the planting, maintenance, removal, fertilization, pruning and bracing of trees on the streets or other public sites in the Municipality, and shall direct, regulate and control the planting, maintenance and removal of all trees growing now or hereafter in any public area of the Municipality. He shall cause the provisions of this chapter to be enforced. In his absence these duties shall be the responsibility of a qualified alternate designated by the Mayor.

(Ord. 20-75. Passed 6-23-75.)

939.05 AUTHORITY OF ARBORIST.

The Municipal Arborist shall have the following authority:

- (a) To regulate the planting, maintenance and removal of trees on streets and other publicly owned property to insure safety or preserve the aesthetics of such public sites.
- (b) The Municipal Arborist or his designated alternate shall have the authority and it shall be his duty to supervise or inspect all work done under a permit issued in accordance with the terms of this chapter.
- (c) To formulate a Master Street Tree Plan with the advice, a hearing, and approval of the City Tree Commission. The Master Street Tree Plan shall specify the species of trees to be planted on each of the streets or other public sites of the Municipality. From and after the effective date of the Master Street Tree Plan, or any amendment thereof, all planting in the public right of way shall conform thereto.
- (d) To consider utility and environmental factors when recommending a specific species for each of the streets and other public sites of the Municipality.
- (e) To amend or add to the Master Street Tree Plan at any time that circumstances make it advisable, with the approval of the City Tree Commission.

CODIFIED ORDINANCES OF LANCASTER

PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Subdivision Regulations

- Chap. 1101. Planning Commission.
- Chap. 1105. Subdivision Procedures.
- Chap. 1107. Obligations of Developer and City.
- Chap. 1109. Minimum Design Standards and Requirements.
- Chap. 1111. Site Improvements.
- Chap. 1112. Hillside Regulations.
- Chap. 1113. Application Requirements.
- Chap. 1115. Variances.
- Chap. 1117. Enforcement.
- Chap. 1118. Validity.

TITLE THREE - Zoning and Property Restrictions

- Chap. 1121. Title, Purposes, Interpretation and Jurisdiction.
- Chap. 1123. General Provisions.
- Chap. 1125. Yards and Accessory Uses.
- Chap. 1127. (AG) Agriculture District.
- Chap. 1129. Residential Districts.
- Chap. 1131. Office District.
- Chap. 1133. Commercial Districts.
- Chap. 1135. Industrial Districts.
- Chap. 1137. Sexually Oriented Businesses.
- Chap. 1139. Landscape Requirements.
- Chap. 1141. Historic Preservation. (Repealed)
- Chap. 1143. Wellhead Protection.
- Chap. 1145. Flood Damage Prevention.
- Chap. 1147. Planned Unit Development.
- Chap. 1149. Use Units. (Repealed)

- Chap. 1151. Off-Street Parking and Off-Street Loading.
- Chap. 1153. Nonconformities.
- Chap. 1155. Enforcement.
- Chap. 1157. Board of Zoning Appeals.
- Chap. 1159. Amendments.
- Chap. 1161. Definitions.

Appendix B Index of Land Uses.

Appendix C Wireless Telecommunications. (Chapter 1339)

**CODIFIED ORDINANCES OF LANCASTER
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CHAPTER 1101

City Planning Commission

1101.01 City Planning Commission established.

1101.02 Organization; term; no compensation.

1101.03 Powers and duties.

CROSS REFERENCES

Planning Commissions - see Ohio R.C. Ch. 713

Powers and duties - see Ohio R.C. 713.02, 713.06

Planning Commission to be Platting Commission - see Ohio R. C. 713.03

Approval of plat required - see P. & Z. 1105.02

1101.01 CITY PLANNING COMMISSION ESTABLISHED.

There shall be established a City Planning Commission in accordance with Ohio R.C. 713.01.
(1939 R.O., 9:04)

1101.02 ORGANIZATION; TERM; NO COMPENSATION.

The City Planning Commission shall consist of seven (7) members as follows: the Mayor, the Safety-Service Director, the president of the Board of Park Commissioners of the City or his/her designee, and four (4) citizens of the Municipality who shall serve without compensation and who shall be appointed by the Mayor for terms of six (6) years, except that the term of two (2) members of the first Commission shall be for three (3) years.

(Ord. 23-17. Passed 6-26-17.)

1101.03 POWERS AND DUTIES.

Whenever such Commission is appointed it shall have all the powers conferred in Ohio R.C. 735.15 and all the powers and duties conferred upon it by Ohio R. C. 713.02 to 713.14 and 713.21 to 713.27, inclusive, and all other Ohio R.C. sections appertaining thereto.

(1939 R.O., 9:04)

CHAPTER 1105

Subdivision Procedures

1105.01 Pre-application meeting.

1105.02 Application for preliminary plat.

1105.03 Submittal of minor subdivisions ("Lot splits").

1105.04 Submittal of preliminary plat to Planning Commission.

1105.05 Action on preliminary plat by Planning Commission.

1105.06 Application for final plat.

1105.07 Plans and specifications for site improvements.

1105.08 Review by City Engineer.

1105.09 Construction of improvements or performance guarantees.

1105.10 Application for approval of final plat.

1105.11 Action by Planning Commission.

1105.12 Appeal of plat refusal.

1105.13 Acceptance of public lands and improvements.

1105.14 Recording of plat.

1105.15 Definitions.

1105.01 PRE-APPLICATION MEETING.

Prior to preparation of a preliminary plan, an Owner/Developer is encouraged to meet with the City Engineer and Planning Commission to familiarize himself/herself with the provisions of this Code and other applicable requirements. The submittal of a concept or sketch plan for the proposed development, using plans for adjacent areas, existing aerial photographs and topographic information, is strongly recommended.

(Ord. 5-01. Passed 2-26-01.)

1105.02 APPLICATION FOR PRELIMINARY PLAT.

(a) Upon determining to proceed with a preliminary plat, the Owner/Developer shall submit twenty (20) copies of the application for preliminary plat to the City Engineer, and one (1) copy of reduced size no larger than eleven inches (11") by seventeen inches (17"), along with applicable fees as established by City Council in separate Ordinance.

(b) With ten (10) working days from receipt, the City Engineer shall review the submitted materials to determine completeness. If the application meets the submittal requirements as specified in Chapter 1113, the City Engineer shall certify such application to the Planning Commission, and proceed with review. If the application is found to be incomplete, the Owner/Developer shall be notified, and the submitted materials shall be so marked along with a citation of deficiencies. Fees as paid by the Owner/Developer shall be returned, however, a service fee to cover the costs of initial review may be charged.

(Ord. 5-01. Passed 2-26-01.)

1105.03 SUBMITTAL OF MINOR SUBDIVISIONS ("LOT SPLITS").

(a) If, upon receipt of an application referenced in Section 1105.02 above, the City Engineer determines that the proposed subdivision of land meets the following criteria, and then it shall be classified as a minor subdivision:

- (1) Adjoins an existing public street and does not involve opening, widening, extension or improvements of any roadway or the installation of any public utilities, or new easements deemed necessary by the City Engineer to provide future public utility service, and
- (2) Creates no more than five (5) lots including the remainder, and
- (3) Does not adversely affect adjoining land, and
- (4) Complies with the requirements of Chapter 711 of the Ohio Revised Code and applicable zoning regulations of the City or other area within which it is located.

(b) No minor subdivision shall be approved that utilizes the width of a street at the terminus of such street as the required frontage for the minor subdivision.

(c) All minor subdivisions shall comply with sidewalk and wheelchair ramp requirements located in Section 1109.06(g).

(d) If the subdivision is considered a minor subdivision, the City Engineer shall review the existing right of way to determine if the proposed lot split meets the relevant criteria in the City's Thoroughfare Plan or if previous dedication have occurred through the major subdivision process. If the existing right of way fails to meet those specifications, the City Engineer shall require the applicant to dedicate the half width right of way required by the City's Thoroughfare Plan. This land shall be conveyed to the City in fee simple for public right of way use.

(e) If the subdivision is considered as a minor subdivision, only such drawings and information as is determined necessary by the City Engineer to determine compliance with pertinent platting, zoning and other regulations need to be submitted for approval. At a minimum, the submitted material shall include a survey of the property by a registered Surveyor, a deed of the original tract, and a completed application form as provided for such purpose by the City Engineer.

(f) After determination that such action meets the criteria for a minor subdivision, the City Engineer shall, within ten (10) working days after submittal, approve or disapprove said minor subdivision by indicating upon the preliminary plan "Approved (Disapproved) Lancaster Planning Commission", or he/she may refer such submittal to the Planning Commission. In cases of approval or disapproval, one (1) copy of the preliminary plan, with such notation thereon, shall be retained for the files of the Planning Commission, and one (1) copy shall be retained by the Code Administrator. The decision of the City Engineer may be appealed in writing to the full Planning Commission with thirty (30) days from the date of the approval or disapproval.

(g) After approval of a minor subdivision, the Owner/Developer may submit a deed or deeds describing lots by metes and bounds, which shall conform to the approved preliminary plan. The City Engineer shall review such documents of conveyance to determine conformance with the preliminary plan as submitted. If such documents are in conformance, the City Engineer shall mark such deed or deeds "Approved, Lancaster Planning Commission, No Plat Required". Upon approval, the Owner/Developer shall pay all applicable fees to the City as established under separate Ordinance by City Council.

(h) If no action on a proposed minor subdivision is taken within thirty (30) days from submittal, then the minor subdivision shall be considered as approved by the Planning Commission.

(Ord. 27-21. Passed 9-13-21.)

1105.04 SUBMITTAL OF PRELIMINARY PLAT TO PLANNING COMMISSION.

Upon certification to the Planning Commission pursuant to Section 1105.02 above, the City Engineer shall review the preliminary plat application and submit said application to other City departments and/or other entities as deemed appropriate for input. In addition, the City Engineer may seek the input of special consultants hired for the express purpose of providing input on particular issues. After review, the City Engineer shall submit the preliminary plat to the Planning Commission, along with a compilation of comments and inputs received from other sources and his/her recommendations for action.

(Ord. 5-01. Passed 2-26-01.)

1105.05 ACTION ON PRELIMINARY PLAT BY PLANNING COMMISSION.

(a) The Planning Commission shall review and take action on the preliminary plat not later than thirty (30) days from submission of the preliminary plat to the Commission by the City Engineer, or within such further time as is agreed upon by the Owner/Developer. In reviewing the preliminary plat, the Planning Commission shall consider the recommendations of the City Engineer as provided pursuant to Section 1105.04 above.

(b) A preliminary plat shall not be approved unless the Planning Commission finds that:

- (1) The provisions of the Ohio Revised Code, these regulations and other Codes of the City are complied with, and
- (2) The subdivision can be adequately served with public facilities and services suitable under the specific circumstances, and

- (3) Land intended for building sites appears suitable for development and is not likely to be subject to peril from floods, erosion, continuously high water table, poor soil conditions or other factors that have been objectively determined or can be reasonably expected to result in severe adverse developmental impacts; however, preliminary approval shall not be construed to imply or infer any warranty or assurance by the City that such hazards do not exist, or any liability thereof.

(c) The Planning Commission may approve, disapprove, or approve with modification the submitted plan. The grounds for the action on any submitted plat, including citation or reference for rules violated by the plat, shall be stated in the written record of the Commission. Any approval of a preliminary plat shall be effective for a period of two (2) years.

(d) In the event that modifications are required, a copy of the revised preliminary plat incorporating such modifications shall be completed by the Owner/Developer and submitted to the Commission for the permanent file.

(e) Approval of the preliminary plat shall confer upon the applicant the right for a two (2) year period from the date of approval that the general terms and conditions under which approval was granted will not be changed, and that within the two (2) year period, the whole, part, or parts of the preliminary plat may be submitted for final approval. Upon request by the Owner/Developer, the Planning Commission may consider an extension of such approval time, but in no case should such time period be longer than four (4) years. (Ord. 5-01. Passed 2-26-01.)

1105.06 APPLICATION FOR FINAL PLAT.

Upon approval of the preliminary plat, an application for a final plat of land being subdivided shall be submitted by the Owner/Developer to the City Engineer. It shall incorporate all modifications required by the Planning Commission during approval of the preliminary plat, and otherwise conform to the preliminary plat as approved. The Owner/Developer may apply for a final plat covering that portion of an approved preliminary plat which he/she proposes to develop and record at that time, provided that such portion conforms to all provisions of these regulations. Nonetheless, all portions of the tract covered by the preliminary plat shall be developed within a two (2) year period, unless an extension of time is granted by the Planning Commission.

(Ord. 5-01. Passed 2-26-01.)

1105.07 PLANS AND SPECIFICATIONS FOR SITE IMPROVEMENTS.

(a) Prior to action on a final plat by the Planning Commission, the applicant shall have Construction and Grading Plans, specifications and cost estimates of the required site improvements prepared by a Professional Engineer. The estimates shall be grouped according to the following:

- (1) Street and parking area improvements, including curb, pavement, sidewalks, street lighting;
- (2) Water mains, including lines, valves and hydrants;
- (3) Sanitary sewers, including manholes, "Ys", "Tees", and cleanouts.
- (4) Storm water drainage improvements, including conduits, structures, and grading and earthwork for ponds and open channels.
- (5) Site improvements, including seeding and sodding and erosion control.
- (6) Other site improvements as required by the Planning Commission in Section 1105.05 above.

(b) The applicant shall submit a minimum of eight (8) copies to the City Engineer, who shall distribute copies to local utilities, and other parties of interest, as applicable. The applicant shall provide copies of all engineering calculations performed during the process of preparing plans and plats.

(Ord. 5-01. Passed 2-26-01.)

1105.08 REVIEW BY CITY ENGINEER.

The City Engineer shall review plans submitted pursuant to Section 1105.07 above, and, subject to his review, they shall be approved or returned with comments. The City Engineer may submit the plans for review by special consultants hired by the City for that purpose, if it is determined by the City Engineer that such review is warranted. The costs associated with such reviews shall be paid for by the Owner/Developer.

(Ord. 5-01. Passed 2-26-01.)

1105.09 CONSTRUCTION OF IMPROVEMENTS OR PERFORMANCE GUARANTEES.

(a) The Owner/Developer may install, construct, have inspected and approved by the City Engineer specific site improvements as authorized by the City Engineer prior to submitting the application for approval of a final plat; however, actual public improvements to be dedicated to the City shall not be installed prior to approval of the final plat and construction plans. The Owner/Developer shall furnish satisfactory performance guarantees, pursuant to Chapter 1107, for the construction of such improvements.

(b) No lot, parcel or tract shall be transferred from the proposed development nor shall any construction work on such development, including grading, be started that may affect the arrangements of public streets or other public improvements until the owner has obtained the necessary approvals of the Construction and Grading Plans from the City Engineer.

(Ord. 5-01. Passed 2-26-01.)

1105.10 APPLICATION FOR APPROVAL OF FINAL PLAT.

Application for approval of final plat shall be submitted in writing to the City Engineer, together with the tracing and ten (10) prints of the final plat, one (1) reduced copy no larger than 11" x 17", and such other maps or data as required. The applicant shall submit all fees as applicable for a final plat, as established by City Council. The application shall be submitted within two (2) years after approval of the preliminary plat; otherwise, approval of the preliminary plat shall become null and void unless an extension is granted by the Planning Commission. Within ten (10) working days, the City Engineer shall review the application, and determine if such application is complete and if all applicable requirements of the Subdivision Regulations have been met. If he/she determines that all applicable

requirements have been met, the City Engineer shall transmit the application to the Planning Commission at its next regularly scheduled meeting, which shall be deemed the date of submission of the final plat.

(Ord. 5-01. Passed 2-26-01.)

1105.11 ACTION BY PLANNING COMMISSION.

(a) If the final plat as submitted to the Commission pursuant to Section 1105.10 above conforms to the provisions of the Ohio Revised Code and this Ordinance, and its consistent with the preliminary plat with such changes as required by the Planning Commission, and if satisfactory provisions is made regarding site improvements, and costs pursuant to Chapter 1107, the Commission shall take action on the final plat within forty-five (45) days from the date that the final plat is submitted, or within such further time as the Owner/Developer may agree to. The approval of the final plat shall be indicated in writing on the original tracing by the signature of the Chairman. Reasons for disapproval of a final plat shall be stated in the records of the Commission, including citations or references to the requirements or provisions of the applicable Ordinance(s) that are inconsistent with the final plat.

(b) If the Commission fails to act upon the final plat within the time allotted, the plat shall be considered as approved, and the certificate of the Planning Commission as to the date of the submission of the plat for approval, and the failure to take action thereon within such time, shall be issued on demand and shall be sufficient in lieu of the written endorsement or other evidence of approval.

(Ord. 5-01. Passed 2-26-01.)

1105.12 APPEAL OF PLAT REFUSAL.

Within sixty (60) days after final plat denial, the Owner/Developer may file a petition in the Court of Common Pleas, in which he/she shall be named Plaintiff. The petition shall contain a copy of the plat sought to be recorded, a statement of the facts justifying the propriety and reasonableness of the proposed subdivision, and a prayer for an order directed to the Recorder of Fairfield County to record such plat. Such petition may include a statement of facts to support the claim that the rules and regulations of the Planning Commission are unreasonable and/or unlawful. The Planning Commission of the City of Lancaster and the Fairfield County Recorder shall be joined as Defendants, and summons shall be issued upon such Defendants as in civil action. This appeal shall proceed in accordance with the terms and conditions set forth in ORC Section 711.09.

(Ord. 5-01. Passed 2-26-01.)

1105.13 ACCEPTANCE OF PUBLIC LANDS AND IMPROVEMENTS.

Within thirty (30) days after approval of the final plat by the Planning Commission, the City Engineer shall forward the plat to City Council for acceptance of the public rights-of-way and easements dedicated or granted thereon. Action of the City Council shall be by separate Ordinance, containing a statement authorizing the Clerk of Council to sign the plat and instructing him/her when such signing shall occur.

(Ord. 5-01. Passed 2-26-01.)

1105.14 RECORDING OF PLAT.

(a) The final plat shall be filed and recorded by the Owner/Developer in the Office of the Fairfield County Recorder within sixty (60) days following signing of the final plat by the Clerk of Council of the City. If the Owner/Developer fails to file the plat within such period. The approval by the City Council shall be null and void. If any change is made in the final plat after approval of the Commission, the approval shall be null and void. After recording the final plat, transfer of ownership may take place.

(b) The Owner/Developer shall furnish the City with the original tracings and three (3) prints of the signed final plat, and the Construction and Grading Plans, containing indication of approval by all pertinent parties and the recording of the plat. The Owner/Developer shall also furnish to the City as-built plans and tracings of the approved construction and grading plans in a format acceptable to the City Engineer.

(Ord. 5-01. Passed 2-26-01.)

1105.15 DEFINITIONS.

For the purpose of these regulations, which shall be known as and may be cited as "City of Lancaster, Ohio Subdivision Regulations," certain words used herein are defined as follows:

The word "person" includes a firm, associations, organization, partnership, trust, company, or corporation as well as an individual.

The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular number.

The word "shall" is a mandatory requirement; the word "may" is a permissive requirement, and the word "should" is a preferred requirement.

The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied".

The word "lot" includes the words "plot" and "parcel"

* Abutting shall mean contiguous or separated there from only be a non-arterial street, alley or railroad right-of-way. In other instances, abutting shall mean contiguous.

* Alleys are minor ways, which are used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

* Anticipated Development is the full potential urbanization of the contributing watershed, considering the Future Land Use Plan and the reasonable assumption that in considering the effects of a proposed development in a floodplain area that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream or watercourse.

* Arterial Streets and Highways are those, which are used primarily for fast or heavy through traffic and may include parkway or special traffic way.

* Board of Park Commissioners is the Board of Park Commissioners for the City of Lancaster.

* Board of Zoning Appeals (BZA) is the Board of Zoning Appeals of the City of Lancaster.

- * Block is a piece or parcel of land entirely surrounded by public highways, streets, streams, railroads, parks, other physical features, exterior boundaries or the subdivision or combinations thereof.
- * Building is a structure, which is permanently affixed to the land, and has one or more floors and a roof and is bounded by either another building with a common party wall, open air, or the lot lines of a lot.
- * Building setback is the minimum distance between the property line and the outside wall of a structure or any enclosed projection thereof.
- * Building Sewer is the portion of the sanitary sewer between the sanitary wye and the structure.
- * Caliper is the diameter of a tree trunk measured at six (6) inches above ground level for a tree trunk having a diameter of four (4) inches or less and the diameter of the tree trunk measured at twelve (12) inches above ground level for a tree trunk having a diameter exceeding four (4) inches.
- * City Council is the City Council of the City of Lancaster.
- * City Engineer is the City Engineer of the City of Lancaster.
- * Code is the Codified Ordinances of the City of Lancaster.
 - * Code Administrator is the person designated by the City of Lancaster to administer the zoning code.
 - * Commission is the City Planning Commission, of the City of Lancaster.
 - * Comprehensive Development Plan is a plan, or any portion thereof, adopted by the Planning Commission and approved by the Legislative Authority of the City of Lancaster, showing the general location and extent of present or proposed physical facilities including housing, industrial, and commercial uses, major streets, parks, schools and other community facilities. This plan establishes the goals, objectives, and policies of the community.
 - * Comprehensive Master Plan is the Comprehensive Development Plan.
 - * Construction and Materials Standards are the Construction and Materials Standards for the City of Lancaster as issued by the City Engineer. Where no City Standard exists, the Construction and Materials shall refer to the current State of Ohio Department of Transportation Construction and Material Specifications.
 - * Covenant is a written promise or pledge.

- * Cul-de-Sac is a street with one end open to traffic and being permanently terminated at the other end by a vehicle turn-around; usually of relatively short length.
- * Curb Level is the mean level of established curb at the frontage of a lot. Where no curb has been established, the City Engineer shall establish such curb level or its equivalent.
- * Dead End Street is a street temporarily having only one (1) outlet for vehicular traffic and intended to be extended or continued in the future.
- * Designated Residential Development Area is the area specifically designated for residential development by conditions imposed in a Planned Unit Development (PUD).
- * Developer is any individual, subdivider, firm association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to effect a subdivision of land hereunder for himself or for another.
- * Development of any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- * Development Agreement is a written agreement between the Developer and the City of Lancaster specifying the terms and conditions of the construction of the development.
- * Double Frontage is frontage on two different streets except for corner lots.
- * Drip line is the periphery of the area underneath a tree, which would be encompassed by perpendicular lines extending from the exterior edges of the crown of the tree.
- * Easement is a specific piece or parcel of land granted by the owner for a specific purpose to the general public, corporation or person, within which the owner shall not erect any permanent structures but shall have the right to use the land subject to such easement. Easements usually are provided for sanitary sewer, storm sewer, ditches, water mains, electricity, natural gas, telephone, walks and drives, etc.
- * Engineer is a registered engineer authorized to practice Engineering in the State of Ohio.
- * Fill is the placement of materials, either natural or manmade in order to raise the surface elevation.
- * Final Plat is a plan or drawing of the subdivision and accompanying required data or information submitted by the Subdivider to the Planning Commission for final approval.
- * Freeway is a street designated as a freeway on the Major Street Plan.
- * Land Area is the area of the lot.
- * Land Coverage is the land area of a lot covered by building or buildings, except structural parking.
- * Land Use Plan is the Comprehensive Development Plan.
- * Landscaping is the unpaved area within a lot which contains grass, shrubs, flowers, ground cover, trees or native plant materials and which may include decorative fixtures such as rock, pools and planters.
- * Loading Berth, Off-Street is a space of at least 10 feet in width and 30 feet in length and having a vertical clearance of at least 14 feet, designed and located on a lot for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.
- * Lot is a portion of a subdivision or other parcel of land intended for the purpose whether immediate or future, of transfer of ownership or for building development.
- * Lot Frontage is the front of a lot and shall be constructed to be the portion nearest the street. For the purpose of determining set back requirements on corner lots and through lots, all sides of a lot adjacent to streets shall be considered frontage.
- * Lot Line is any boundary of a lot.
- * Lot Measurement shall be as follows:
 - Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rear most points of the side lot line in the rear.
 - Width of a lot shall be considered to be the distance between straight lines connecting the front and rear lot lines at each side of the lot measured at the building setback line, provided, however, that the width between the side lot lines at their foremost points (where they intersect with the street line) shall not be less than eighty (80) percent of the required lot width.
- * Lot of Record is a lot which is part of a subdivision recorded in the office of the County Recorder, or a lot or parcel described by metes and bounds, the description of which has so been recorded.
- * Maintenance Bond is a guarantee by the Owner/Developer for the workmanship and materials of all public improvements installed as part of the development for a one-year period equal to 10% of the construction costs.
- * Major Collector Streets are those which carry traffic from minor streets to the major systems of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.
- * Major Street Plan is the Major Thoroughfare Plan.
- * Major Thoroughfare Plan is the Comprehensive Plan adopted by the City Planning Commission and approved by the Legislative Authority indicating the general location recommended for the arterial, collector, and local thoroughfares within the corporate limits of the City of Lancaster and/or areas that may annex to the City of Lancaster.
- * Marginal Access Streets are minor streets that are parallel or adjacent to arterial streets and highways and which provide access to abutting properties and protection from through traffic.
- * Minor Streets are those that are used primarily for access to the abutting properties.
- * Minor Subdivision is a division of a parcel of land that does not require a plat to be approved by a planning authority according to Section 711.131, Ohio Revised Code.
- * Monument is a permanent concrete or iron pin marker used to establish definitely all lines of the plat of a subdivision, including all lot corners, boundary lines, corners and points of change in street alignment.
- * Municipal Arborist is the Municipal Arborist of the City of Lancaster
- * Owner is any individual, subdivider, firm association, syndicate, partnership, corporation, trust, or any other legal entity commencing proceedings under these regulations to effect a subdivision or land hereunder for himself or for another.
- * Parking Space, Off-Street is a space on a lot intended and reserved for the parking of a motorized vehicle.
- * Performance Assurance is an agreement by a sub divider or developer with the City for the amount of the estimated

construction cost guaranteeing the completion of physical improvements according to plans and specifications within the time prescribed by the Developer's agreement. In lieu of completion for all or part of the improvements as specified prior to the approval of the final plat, the developer shall provide a bond, executed by a surety or sureties, or a letter of credit, or an Escrow Agreement for all or part as agreed upon, satisfactory to the Planning Commission, or a certified check guaranteeing completion of the improvements within two (2) years or agreed upon by the Planning Commission. This bond or check shall be in an amount equal to the estimated cost of completing the improvements.

* Permit to Install is the Permit to Install issued by the Ohio Environmental Protection Agency to the developer or the City for any of the subdivision improvements including but not limited to water systems, wastewater systems, storm systems, air pollution control systems or solid and hazardous waste systems.

* Planned Unit Development is a discretionary type of development for a tract of land under single ownership or control, based upon an approved development plan permitting flexibility of principal land uses, lot sizes, and accessory uses not otherwise available under conventional development standards.

* Planning Commission is the Lancaster City Planning Commission (LCPC).

* Plat is the map, drawing, or chart on which the Developer's final plans or subdivision is presented to the City Planning Commission and City Council for approval, and after such approval, to the County Recorder for recording.

* Preliminary Plat is a map, drawing, or plan of the layout and design of a proposed subdivision submitted by the Subdivider to the Planning Commission for consideration and tentative approval.

* Public Improvement is the installation, rehabilitation or repair of streets, water lines, and appurtenances, sewer lines, appurtenances, drainage structures, ponds, and channels or any other facility to be used and maintained by the City of Lancaster for the benefit of the citizens.

* Public Street is an alley, avenue, boulevard, circle, court, drive, expressway, freeway, highway, lane, parkway, place, road, street, or way on which the general public or public entity have a right, or which are dedicated whether improved or not.

* Public Way is an alley, avenue, boulevard, bridge, channel, ditch, easement, expressway, freeway, highway, land, parkway, right-of-way, road, sidewalk, street, subway, tunnel, viaduct, walk, or other ways which the general public or public entity have a right, or which are dedicated whether improved or not.

* Reserve Strips are parcels of land situated so as to control access to streets.

* Reverse Frontage is the second frontage on a minor street of a lot that also has frontage on an arterial or major collector street.

* Right-of-Way is a strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalk, lighting, and drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts, and bridges.

* Setback is a horizontal distance determining the location of a building with respect to a street, use district boundary line, or another use. Where the term "setback" is used in conjunction with a modifying work or words such as "parking area", the setback shall in its application, include but not be limited to, buildings.

* Sketch Plan is a preliminary drawing of a subdivision showing the number of lots and the proposed street layout.

* Standard Plans are the Standard Construction Drawings of the City of Lancaster as issued by the City Engineer, along with any general notes or design standards.

* Standard Specifications are the Construction and Material Specifications of the City of Lancaster as issued by the City Engineer.

* Street yard is the minimum required yard abutting a public street or the area of a lot contained between the minimum required building setback line and an abutting public street.

* Sidewalk is that portion of the road right-of-way outside the roadway, which is improved for the use of pedestrian traffic. See "Walkway".

* Street means a way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land place, or however otherwise designated.

* Structure is anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground, and includes buildings, walks, fences, and signs.

* Subdivider is a person, firm, partnership, association, or corporation undertaking the subdividing or re-subdividing of a lot, tract, or parcel of land.

* Subdivision means:

The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two (2) or more parcels, sites, or lots, any one of which is less than five (5) acres for the purpose, whether immediate or future, of transfer of ownership, provided, however, that the division or partition of land into parcels of more than five (5) acres not involving any new streets or easements of access, and the sale or exchange of parcels between adjoining lot owners, where such sale or exchange does not create additional building sites, shall be exempted; or

The improvement of one or more parcels or land for residential, commercial, or industrial structures or groups of structures involving the division or allocation of land for the opening, widening or extension of any street or streets, except a private street serving an industrial structure; the division or allocation of land as open spaces for common use by owners, occupants, or lease holders or as easements for the extension and maintenance of public sewer, water, storm drainage, or other public facilities.

* Surveyor is a registered land surveyor authorized to practice surveying in the State of Ohio.

* Thoroughfare Plan is the Comprehensive Thoroughfare Plan.

* Tree is a woody plant having one or more defined stems or trunks and as set forth within a list of trees certified by the Urban Forester of the City and adopted by resolution of the Planning Commission.

* USGS is the United States Geological Survey.

* Variance is a relaxation of a restriction of the Code, granted by the Planning Commission where by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of the Code restriction would result in unnecessary hardship.

* Vicinity Map is a drawing located on the plat which sets forth by dimensions or other means, the relationship of the proposed subdivision or use to other nearby developments or landmarks and community facilities and services within the Fairfield County

in order to better locate and orient the area in question.

* Watershed is the drainage basin in which the subdivision drains or that land whose drainage is affected by the subdivision.

* Walkway is a dedicated public way for pedestrian use only.

* Water Service is the portion of the water system between the corporation stop and the structure. The portion of the service between the corporation stop and the curb box shall be maintained by the City.

* Yard is an open unoccupied space on a lot between a building and a lot line.

* Wellhead Protection Zone is an area designated as within the one-year or five-year time of travel area for the public water supply for the City of Lancaster.

* Zoning is the Zoning Code of the City of Lancaster.

(Ord. 5-01. Passed 2-26-01.)

CHAPTER 1107

Obligations of Developer and City

1107.01 Required improvements.

1107.02 Obligations of owner/developer.

1107.03 Costs to be shared by the City.

1107.01 REQUIRED IMPROVEMENTS.

The Owner/Developer who desires to subdivide or develop any land subject to the Subdivision Regulations shall provide and pay the entire cost of improvements to such land as follows:

- (a) Streets and parking areas, graded full width and paved, including drainage structures, bridges, sidewalks, curbing and other improvements as shown on the City Standard Plans and Specifications;
- (b) Sanitary sewers, including manholes, services and all appurtenances;
- (c) Water distribution system including mains, services, valves, fire hydrants and all appurtenances;
- (d) Storm drainage improvements, including both enclosed and non-enclosed systems, as well as all appurtenances to such systems;
- (e) Monuments, stakes and property pins;
- (f) Street signs designating the name of each street at each intersection within the development and other traffic control signage as determined necessary by the City Engineer.
- (g) Street lighting including poles, underground conduits and appurtenances;
- (h) Utilities including natural gas, electric, telephone and cable television services;
- (i) All other improvements shown on the plans as approved by the City.

The Owner/Developer shall provide for the future extension of streets and water, sanitary sewer and storm drainage lines from his/her site to adjacent property as deemed necessary by the Planning Commission, upon recommendation of the City Engineer.

(Ord. 5-01. Passed 2-26-01.)

1107.02 OBLIGATIONS OF OWNER/DEVELOPER.

The Owner/Developer of the land being developed shall be subject to the following obligations:

- (a) All construction work and materials used in connection with improvements shall conform to the requirements of the City and be installed under the general supervision of the City Engineer. The Owner/Developer shall be responsible for the payment of all fees incurred by the City pertaining to inspection of the improvements.
- (b) The Owner/Developer, or his agent, shall give three (3) working days notice to the City Engineer for any inspection to be conducted. The Owner/Developer shall also insure that no work shall be covered or obscured prior to inspection by the City Engineer or his/her agent.
- (c) The Owner/Developer shall hold the City free and harmless from any and all claims for damage of every nature arising or growing out of the construction of improvements or resulting from improvements and shall defend, at his own cost and expense, any suit or action brought against the City by reason thereof;
- (d) All improvements and utilities will be satisfactorily installed within one (1) year from the date of approval of the Construction Plans or within such other time schedule as specifically approved by the Planning Commission.
- (e) As an alternative to the construction and approval of the required public improvements prior to recording the final plat, an acceptable performance assurance equal to one hundred percent (100%) of the estimated cost of all required improvements, as approved by the City Engineer, shall be deposited with the City. Such performance assurance shall consist of one of the following:
 - (1) A performance or construction bond equal to the estimated construction cost as approved by the City Engineer for the public improvements. Such bond shall be without time limit;
 - (2) A certified check equal to one hundred percent (100%) of the estimated construction cost as approved by the City Engineer for the public improvement; or
 - (3) Subject to the approval of the chief fiscal officer of the City, a certification to the City by the institution, person or corporation financing the construction of the public improvements. Such certification shall consist of a subdivision bond, irrevocable letter of credit, or escrow account in favor of the City, stipulating that the funds in the amount of the estimated construction cost are available and set aside from all other funds.
 - A. That these funds will not be released to the Owner/Developer, or their agent, unless said release is signed by the City;
 - B. That such release by the City only certifies that as best as the City can determine, the construction was completed to the City's satisfaction and does not relieve the Owner/ Developer of the City's maintenance guarantee requirement;
 - C. That ten (10%) of all monies released will be placed in an escrow account for use by the City should there be cause for the City to have to finish any work through the default, neglect or negligence of the Owner/Developer, or their agents;
 - D. That only the City shall have the right to release the funds in the escrow account; and
 - E. That acceptance of the public improvements by the City and the posting of the one (1) year maintenance guarantee shall

constitute release of the funds in the escrow account lacking any formal release by the City.

- (f) All permits and approvals shall be obtained and all fees and deposits paid prior to beginning any construction of any improvements;
- (g) During construction and prior to acceptance of any public improvements, the Owner/Developer shall remove or cause to be removed such dirt and debris and foreign matter from all public rights of way, improvements and/or easements as were deposited, left or resulted from the construction of improvements of any nature within the development. Such removal shall take place within twenty-four (24) hours after being notified by the City that such work is required, and shall be completed to the satisfaction of the City Engineer.
- (h) All public improvements shall be guaranteed by the Owner/Developer for a period of one (1) year from the date such improvement is accepted, in writing, by the City Engineer. Such guarantee shall consist of a maintenance bond, certified check or other acceptable instrument, for ten percent (10%) of the total cost of the improvements. Such guarantee shall include any and all defects and deficiencies in workmanship and materials. The cost of all labor, materials, equipment and other incidentals required to maintain, repair and replace any or all such improvements and to maintain them in good and proper condition, excluding ordinary wear and tear, but including filling trenches, restoring lawns, sidewalks, yards, streets, sewers, pipe lines, restoring hydraulic capacity in drainage channels and basins, etc. during the one (1) year guarantee period shall be assumed by such Owner/Developer. In the event the Owner/Developer fails to make such maintenance, repairs or replacements within a reasonable time after notice in writing by the City, or in the event of an emergency which may endanger life or property, the City may make or cause to be made, such repairs or replacements from the above guarantee.
- (i) The Owner/Developer shall execute a development agreement with the City, specifying the terms and conditions required under this Section of this Ordinance. The City Engineer and Law Director shall approve such development agreement,
- (j) The Owner/Developer shall furnish to the City final plats and as-built tracings of the construction drawings, pursuant to Section 1105.14.
- (k) No person or owner shall violate any of the regulations established in this Section and, upon violation, the City shall have the authority to:
 - (1) Stop all work on the development site forthwith;
 - (2) Hold the bonding company responsible for the completion of the public improvement according to the approved construction drawings and the agreement.

(Ord. 5-01. Passed 2-26-01.)

1107.03 COSTS TO BE SHARED BY THE CITY.

In consideration for the agreement by the Owner/Developer of the land being developed to install utilities and/or streets to sizes and configurations in excess of the needs of the land being developed, the City shall share in the cost of the excess size and configuration of the utilities and/or streets as stipulated herein:

- (a) A utility or street shall be considered excessive to needs of the land being developed when any of the following conditions exist:
 - (1) The City specifically requires a greater width, size or configuration of the street for the purpose of meeting the future needs of the City, unrelated to the need of the land being developed as provided for a comprehensive or thoroughfare plan, or similar study, as adopted by City Council;
 - (2) There is additional pavement width and depth and/or additional length of storm sewers and other improvements required for all thoroughfares;
 - (3) The City requests that a water line be more than eight (8) inches in diameter, when such size is not required to meet the needs of the land being developed;
 - (4) A sanitary sewer line is more than ten (10) inches in diameter, unless this size is required for the land being developed by reason of grade or trench loading requirements of the land being developed, or because of anticipated sewerage flows from the land being developed;
 - (5) Other conditions warrant cost sharing and such conditions are approved by City Council.
- (b) The City shall share in the cost of improvements by:
 - (1) Paying for all the material costs only for the size difference of the waterline, sanitary sewer pipe and the appurtenances thereto between what is required for the land being developed and what is excessive to the needs of the land being developed;
 - (2) Paying for all materials F.O.B. the plant, factory, supply depot or warehouse for such other improvements that are excessive to the land being developed;
- (c) Nothing in this section shall be interpreted, read or construed to obligate the City for expenses incurred by the owner, developer, contractor, subcontractor or other persons because of:
 - (1) Equipment or labor cost due to the over sizing or increased depth of waterlines or sewers;
 - (2) Equipment, labor or material cost due to improperly and/or unacceptable installed improvements including the removal and replacement therefore; or
 - (3) Any improvements installed prior to the approval of the cost sharing by the City.
- (d) Upon approval by Planning Commission of the preliminary plat for the land being developed, the following procedure shall be followed:
 - (1) The City Engineer shall identify all improvement eligible for cost sharing, and shall estimate the cost of the City's portion of such improvements;
 - (2) If applicable, an ordinance shall be submitted to Council for approval, appropriating funds to cover the City's portion;
 - (3) Upon completion and acceptance of the work and quantities thereof the City Engineer shall certify the costs to the chief fiscal officer of the City.
- (e) Failure of the Owner/Developer of the land to provide the City Engineer with copies of billings, invoices, contracts, agreements or such other evidence of construction costs, as the Engineer deems necessary within six (6) months of completion and acceptance of the improvements by the City, shall constitute just cause to declare the City's agreement to cost share as

provided herein null and void and no reimbursement shall be made or monies paid without reapproval by Council.

(Ord. 5-01. Passed 2-26-01.)

CHAPTER 1109

Minimum Design Standards and Requirements

- 1109.01 Conformity with requirements.**
- 1109.02 General subdivision design.**
- 1109.03 Land not suited for development.**
- 1109.04 Erosion and sedimentation control.**
- 1109.05 Surface runoff and storm drainage.**
- 1109.06 Streets.**
- 1109.07 Lots.**
- 1109.08 Sanitary sewers.**
- 1109.09 Water lines.**
- 1109.10 Underground utilities and street lighting.**
- 1109.11 Street trees.**
- 1109.12 Public sites and open space.**
- 1109.13 Monuments.**

1109.01 CONFORMITY WITH REQUIREMENTS.

The design standards and requirements of this chapter shall apply to all subdivisions of land as defined in Chapter 1105.

- (a) Conformity with City Standards. All public improvements undertaken in any subdivision shall conform to the standards of this Chapter and the City Standard Plans and Specifications.
- (b) Conformity with Zoning and Plans. No final plat of land within the area in which an existing zoning code or resolution is in effect shall be approved unless it conforms with such code or resolution. The design of a proposed subdivision shall be in general conformity with adopted land use and/or comprehensive master plan(s) prepared by the City for the area.

(Ord. 5-01. Passed 2-26-01.)

1109.02 GENERAL SUBDIVISION DESIGN.

The development of the subdivision shall be based on an analysis of environmental characteristics of the site. To the maximum extent possible, development shall be located so as to preserve the natural features of the site, avoid areas of environmental sensitivity, and minimize negative impacts on and alteration of natural features. The following specific areas shall be preserved as undeveloped open space, to the extent consistent with reasonable utilization of the land, in accordance with other applicable state or local regulations:

- (a) Wetlands, as defined in Section 404, Federal Water Pollution Control Act Amendments of 1972, subject to field verification by the U.S. Army Corps of Engineers, or other agency authorized to make such determinations;
- (b) Significant trees or wooded areas, defined as the largest known individual trees of each species in the state, large trees approaching the diameter of the known largest trees or species or groups of trees that are rare to the area or of particular horticultural or landscape value;
- (c) Lands subject to flooding, pursuant to Section 1109.03 below;
- (d) Slopes in excess of fifteen percent (15%) unless appropriate engineering methods are employed to address erosion, stability and resident safety;
- (e) Historically significant structures and/or sites, as listed on, or eligible for inclusion, on the National Register of Historic Places;

(Ord. 5-01. Passed 2-26-01.)

1109.03 LAND NOT SUITED FOR DEVELOPMENT.

If the Planning Commission finds that the land proposed for subdivision development is unsuitable due to flooding, poor drainage, topography, unsuitable soils, inadequate public facilities, and/or other condition that may be detrimental to the general health, safety or welfare of the public, and if it is determined that the land should not be developed for the purpose proposed, the Planning Commission shall not approve such subdivision unless adequate methods are proposed by the Owner/Developer for alleviating the problems that would be created by development of the land.

- (a) Land Subject to Flooding. The subdivision of land or lands within areas subject to flooding, as specified in Chapter 1331 of the Codified Ordinances, shall be subject to the standards and regulations of those Ordinances, and shall in addition, be subject to the following requirements:
 - (1) No subdivision or part thereof shall be approved if the proposed subdivision development will, individually or collectively, significantly increase flood flows, heights or damages.
 - (2) No subdivision, or part thereof, shall be approved unless it complies with the Flood Hazard Regulations found in Chapter 1311.
 - (3) When the Planning Commission determines that the only part of a proposed plat can be developed in compliance with these requirements, it shall limit development to only that portion, and shall require that the method of development is consistent with its determination.
 - (4) The Planning Commission may attach other reasonable conditions as is appropriate to the approval of plats within areas subject to flooding. Such conditions may include, but are not limited to, requirement for the construction of dikes, levees or other similar measures, or flood proofing of structures, as recommended by the City Engineer.

(Ord. 5-01. Passed 2-26-01.)

1109.04 EROSION AND SEDIMENTATION CONTROL.

- (a) Measures shall be taken by the Owner/Developer to minimize erosion and its impacts during subdivision construction activity. The City Engineer may require detailed erosion and sedimentation plans to be submitted if it is determined that the size and/or scale of

the proposed subdivision warrants such action. Generally, such a plan shall be required for major subdivisions comprising more than five (5) lots or more than one (1) acre. Such plans shall be prepared by a Professional Engineer, and indicate the techniques to be used to control erosion both during construction and permanently, and include a schedule for installing same. Erosion control plans shall be based on the control of erosion on-site, with the objective of eliminating or minimizing erosion and sedimentation impacts off-site. Techniques, devices and/or measures used shall be reviewed and approved by the City Engineer.

(b) All erosion and sedimentation control devices shall be in place at the start of construction activity and to be maintained during construction until such time as a permanent grading and seeding is established.

(Ord. 5-01. Passed 2-26-01.)

1109.05 SURFACE RUNOFF AND STORM DRAINAGE.

(a) Outlets. The Planning Commission shall not approve any subdivision unless there is an adequate outlet for storm water as determined by the City Engineer. Generally it will be necessary to pipe stormwater to an adequate watercourse, stream or existing storm system which has the capacity to accommodate the flow, or to utilize acceptable on-site water retention methods adequate to minimize excessive off-site storm water flows.

(b) Preservation of Natural Drainage Courses. No natural drainage course shall be altered and no fill, building or structures shall be located within such drainage course unless provision is made for the flow of surface water, in a manner satisfactory to the City Engineer. An easement shall be provided on both sides of the existing surface drainage course adequate for the purpose of future widening, deepening, enclosing or otherwise improving said drainage course. If such drainage course crosses private property, easements must be obtained by the Owner/Developer for construction and future maintenance. These easements must be shown on the Construction Plans, including the volume and page number of recorded easement.

(c) Surface Routing Paths. Generally, it is not economically feasible to size a storm drainage system to collect and convey more than frequent storm runoff. The complete drainage system of a proposed subdivision shall contain two (2) separate drainage elements. Storm sewers comprise the initial system. Surface routing paths shall be provided to carry the storm water runoff, which exceeds the capacity of the initial system. The system of surface routing paths shall have the capacity to carry runoff from a storm with a return period of not less than one hundred (100) years, without causing significant threat to property or public safety.

(d) Grades. All surface areas not covered by hard surface improvements or stone shall be seeded or sodded and sloped to drain according to the following:

(1) Grass areas shall have a minimum slope or grade of eight tenths of one percent (0.8%)

(2) Grass areas next to buildings shall slope away from the building at not less than five percent (5%) for a minimum of ten (10) feet.

(3) Ditches or swales in grassed areas with a design velocity between three and five feet per second (3-5 fps) shall be sodded.

Ditches or swales with a design velocity greater the five feet per second (5 fps) shall have a paved or stone gutter.

Under drains shall be required in ditches or swales with bottom grades of less than two percent (2%).

(e) Submittal of Drainage Data. Information and data pertaining to water volumes and velocities for all water sheds entering and on the property, along with calculations to show that proposed drainage improvements will adequately address such flows, shall be submitted to the City Engineer along with required Construction and Grading Plans. A Professional Engineer shall approve such drainage data. Storm drainage systems shall generally be designed so that the peak rate of storm water runoff from the site after development, does not exceed the peak rate of runoff before development; however, the City Engineer may grant administrative exceptions to this requirement when specific conditions warrant such action. The methods and techniques proposed to address surface runoff shall be designed to accommodate the design frequency storm and shall be consistent with storm water design criteria established in the City's Stormwater Design Manual.

(f) Culverts. All culverts shall be constructed of concrete, and shall have the appropriate headwalls and other structures and improvements to protect the facility, as determined by the City Engineer. The design of the culverts shall be as stipulated in the City's Stormwater Design Manual.

(Ord. 5-01. Passed 2-26-01.)

1109.06 STREETS.

(a) General. The arrangement of streets shall generally conform to the thoroughfare Plan for the City. For streets not indicated on the Thoroughfare Plan, the arrangements shall provide for appropriate extensions of existing streets.

(b) Classification, Street Widths and Street Grades. The arrangement and classification of all streets in newly developed areas shall conform to the Thoroughfare Plan. The City Engineer shall make the final determination as to the classification of any new street, based on the potential development of the site, and its potential traffic volume, expressed in ADT (Average Daily Traffic), the character of the surrounding area, and the Thoroughfare Plan. Rights-of-way, pavement widths and street grades shall be as specified by the Thoroughfare Plan and the City's Design Standards.

(c) Alignment.

(1) The street pattern shall make provision for the continuance of streets into adjoining areas and for the connection to existing rights-of-way in adjacent areas.

(2) If a subdivision adjoins or contains an existing or proposed arterial or major collector street, direct access points to such street shall be minimized. The Planning Commission may require marginal access streets or reverse frontage lots with a reserve strip of a minimum width of twenty feet (20') on the rear of those lots abutting the street, and no vehicular access across the strip.

(3) If a subdivision adjoins an existing or proposed arterial or major collector street, the Planning Commission may require the construction of separate turn lanes on such streets into the proposed subdivision.

(4) Local streets shall be laid out so as to discourage use by through traffic.

(5) Streets shall intersect one another at ninety (90) degrees, or as near to ninety (90) degrees as possible, but in no case less than seventy-five (75) degrees. The intersecting street must remain within these degree parameters for a distance of not

less than one-hundred feet (100') from the intersection.

- (6) Street jogs shall be discouraged. Where such jogs are unavoidable, in no case shall the centerlines be offset by less than 125 feet.
- (7) The maximum length of a cul-de-sac shall be 600 feet, measured from the centerline of the intersecting street to the middle of the turn around.
- (8) Half width streets shall be prohibited.
- (9) Reserve strips controlling access to streets shall be prohibited except where the control of the access strip is placed solely with the City under conditions approved by the Planning Commission.
- (10) Subdivisions should provide a minimum of two (2) access points to existing streets. Where it is not possible to provide a second access, a boulevard style entrance or emergency access shall be provided.

(d) Dedication. The necessary rights-of-way for widening or extensions of all thoroughfares, as delineated in the Thoroughfare Plan as issued by the City Engineer, shall be dedicated to public use. When a subdivision fronts on an existing City Street, or County or Township road, dedication shall be made to the proper authority.

(e) Blocks. Blocks shall not exceed 1,200 feet in length except where specific topographic conditions require a greater length.

(f) Street Names. The names of new streets shall not duplicate names of existing dedicated streets except that new streets which are extensions of existing streets shall bear the names of such existing streets. All new roadways shall be named according to the following manner:

DIRECTION	* SHORT STREETS	LONG STREETS
North/South	Place	Street
East/West	Court	Avenue
Diagonal	Way	Road
Curving	Lane or Circle	Drive

* Less than 1,000 feet

(g) Curbs, Gutters and Sidewalks. Curbs, gutters, sidewalks, and wheelchair ramps shall be required in all subdivisions. In no case shall a certificate of occupancy be granted for a building within a new subdivision where sidewalks are required, until such sidewalks on the lot are constructed and approved. All sidewalks within the subdivision shall be constructed not later than six (6) months after such time when eighty percent (80%) of the lots in the subdivision have been developed.

(h) Driveways.

- (1) All driveways shall be at least three feet (3') from the side lot line.
- (2) No driveway shall be approved providing direct access from a single or two family residential lot to a street designated on the Thoroughfare Plan as an arterial or major collector street, except where no alternative access is available.

(Ord. 27-21. Passed 9-13-21.)

1109.07 LOTS.

(a) All lots shall have the required frontage on an improved public street or an approved private street.

(b) Lots in subdivisions located within the City of Lancaster shall meet the dimension and area requirements of the zoning district in which such subdivision is located. Residential lots that are located outside the zoning authority of the City of Lancaster but within the subdivision jurisdiction of this Ordinance shall conform to the zoning requirements of the jurisdiction in which they are located. All lots shall also meet the following requirements:

- (1) All residential lots shall be approximately rectangular in shape, and should not have a depth in excess of three (3) times their width, except where extra depth is necessary due to topography and/or natural conditions, or to meet other requirements of the Subdivision Regulations.
- (2) Double frontage and reverse frontage lots should be avoided, except where required to provide separation from arterial streets, or to overcome specific conditions of topography and/or orientation. In such cases, an easement or reserve strip shall be provided along the rear lot line across which there shall be no vehicular access.
- (3) Whenever possible, residential subdivisions shall be designed so that corner lots have a larger area than interior lots.
- (4) Whenever possible, side lot lines should be at right angles or radial to street lines.
- (5) Necessary easements shall be provided along side and rear lot lines for utility lines and storm water drainage.
- (6) Easements shall be provided on both sides of any open drainage course, for the purpose of widening, deepening or general maintenance. Such easements shall be a minimum of ten feet (10') on both sides, or the total width required to maintain surface routing paths pursuant to Chapter 1109.05 above, whichever are greater. In no case shall a fence or any other obstruction be constructed on this easement.

(Ord. 5-01. Passed 2-26-01.)

1109.08 SANITARY SEWERS.

(a) Sanitary sewers should be designed to maintain a minimum velocity of two feet (2') per second. The design of the overall system shall be in conformance with the requirements of the City Standard Specifications, City Ordinance, City Design Standards, the Ohio Environmental Protection Agency (OEPA), the Ohio Department of Health and Recommended Standards for Wastewater Facilities (Great Lakes – Upper Mississippi River Board of State Public Health and Environmental Managers: 1990) as may be subsequently updated or amended.

(b) Sanitary sewer lines should be located in the street right-of-way, except under special conditions, when this requirement may be waived by the Planning Commission, upon recommendation by the City Engineer. In such cases, an easement of a width determined by the City Engineer shall be provided for perpetual maintenance.

(c) Only under circumstances of extreme hardship shall sewage lift stations, sewage grinder pumps or individual household sewage disposal systems be permitted in subdivisions established after the effective date of the Subdivision Regulations. Such systems shall only be permitted with the approval of the Planning Commission, upon recommendation of the City Engineer. The Owner/Developer shall be responsible for all costs associated with the pump or lift station until such time that fifty percent (50%) of the lots in the subdivision are developed. Pump or lift stations shall meet the requirements of the City's Design Standards.

(d) Minimum line size shall be eight inches (8"). Downstream sewer pipe sizes shall be greater than or equal to the upstream size unless otherwise approved by the City Engineer. If larger pipe sizes are required to accommodate future growth, the City may participate in the costs associated with the larger sizes, in accordance with Section 1107.03.

(Ord. 5-01. Passed 2-26-01.)

1109.09 WATER LINES.

(a) Water lines shall be designed, sized and constructed so as to be in conformance with the City Standard Specifications and City Design Standards. Fire hydrants shall be located, so that adequate fire flow to each structure, based on the current guidelines of the Insurance Services Office (ISO) can be met, but, no case shall be more than three hundred and fifty (350) feet, or as required by the City Fire Department.

(b) Water lines should be located within the street right-of-way, except under special circumstances, when this requirement may be waived by the Planning Commission.

(c) The standard minimum size of the water main shall be eight inches (8"). If larger line sizes are required to accommodate future growth, or to provide for fire flows in excess of those required for the proposed development, the City may participate in costs for the size increase, in accordance with the procedures of Section 1107.03.

(d) Minimum cover for water lines shall be forty-two inches (42"). Water mains shall be laid so that at least ten feet (10') of horizontal distance and eighteen inches (18") vertical distance is maintained between the water main and sewer line. In cases where ten feet (10') of horizontal distance cannot be maintained, such as a crossing, the vertical distance shall be maintained and such sewer lines shall be constructed of water line material. At crossings, one full length of water pipe should be used so both joints will be as far away from the sewer line as possible.

(Ord. 5-01. Passed 2-26-01.)

1109.10 UNDERGROUND UTILITIES AND STREET LIGHTING.

(a) Underground utilities shall be required for subdivisions within the subdivision jurisdiction of the City of Lancaster unless a variance is received from Planning Commission.

(b) Street lights shall be required for all subdivisions within corporate boundaries of the City of Lancaster, and for all subdivisions where the total number of residential lots exceeds ten (10), or where the lots average one hundred feet (100') or less of frontage, as shown on the preliminary plat.

(c) Street lights and all appurtenances shall be installed by the Owner/Developer, and shall be of a type acceptable for cost effective service by the electric utility currently providing service to the City.

(d) Illumination for street lights shall be uniform and shall follow the recommendations of the current Illuminating Engineering Society (IES) Handbook. Generally, street lights shall be located no less than two hundred (200') feet nor more than three hundred and fifty (350') feet apart. Lights shall be placed within two hundred (200') feet from the closed end of each cul-de-sac, and at each intersection. (Ord. 5-01. Passed 2-26-01.)

1109.11 STREET TREES.

(a) Street trees shall not be planted in the right-of-way of any public street, unless the Planning Commission grants specific approval. Such approval by the Planning Commission shall be based on a master landscaping plan as reviewed and recommended by the Municipal Arborist.

(b) Trees planted in the right-of-way of any other street shall not be planted in any location where the City Engineer determines that such placement would create a safety hazard. In no case shall a street tree be planted within fifty feet (50') from an intersection, within thirty feet (30') from any alley approach, or ten feet (10') from any driveway approach.

(c) The following species of trees shall not be used for street trees in new subdivisions:

1. Silver Maple *Acer saccharinum*
2. Box-Elder *Acer negundo*
3. Horse Chestnut *Aesculus hippocastanum*
4. Tree of Heaven *Ailanthus altissima*
5. Birches *Betula sp.* (except River Birch)
6. Evergreen Conifer
7. Catalpa *Catalpa bignonioides*
8. Mulberry *Morus sp.*
9. American Sycamore *Plantanus occidentalis*
10. Poplar, Aspen, Cottonwood *Populus sp.*
11. Bradford Pear *Pyrus calleryana* "Bradford"
12. Black Locust *Robina pseudoacacia*
13. Willows *Salix sp.*
14. European Mountain Ash *Sorbus aucuparia*
15. Siberian Elm *Ulmus pumila*

(d) Any portion of any tree that extends over the curb line shall be maintained to a minimum of fifteen feet (15') from the top of limb to lowest point on portion extending over the curb, and a minimum of eight feet (8') from the sidewalk to the lowest portion of the tree extending over such sidewalk.

(Ord. 5-01. Passed 2-26-01.)

1109.12 PUBLIC SITES AND OPEN SPACE.

(a) Required Dedication or Reservation. Where a proposed park or school site, as shown on a land use adopted by City Council, is located in whole or in part within a proposed subdivision, the Planning Commission may require the following:

- (1) The dedication to the public of part or all of the proposed site and/or

(2) Reservation of the site for a period of up to three (3) years to enable acquisition by the appropriate agency or entity.

(b) **Minimum Dedication Requirements.** In all subdivisions or developments which result in additional dwelling units within the City, the Owner/Developer shall be required to dedicate land to public sites and open space without compensation or to pay an amount equal to the value defined herein, of such land to the Board of Park Commissioners for the purpose of developing public sites and open space. The amount of land to be dedicated by the Owner/Developer shall be determined according to the following formula:

$$\text{Acres of Land for Dedication} = \text{Total Population} \times .005$$

The total population of any subdivision will be determined by:

- (1) Determination of a population factor for each dwelling unit in the subdivision
- (2) Summation of all population factors for each dwelling unit in the subdivision.

The population for each dwelling unit shall be as follows:

- Single-Family Dwelling 3.0**
- One Bedroom Multiple Family 1.5**
- Two Bedroom Multiple Family 2.0**
- Three Bedroom Multiple Family 3.0**

(c) **Modifications to Requirements.** The Planning Commission, in conjunction with the Board of Park Commissioners may modify the requirements as specified above when the Owner/Developer has shown that at least one of the following conditions exist:

- (1) The development will house a population substantially lower than that established above.
- (2) The development will have a low need for parks and recreation services.
- (3) The unique or special characteristics of the project that justify modification of these requirements can be reasonably expected to continue for the life of the project.

(d) **Fee in Lieu of Dedication.**

- (1) The Planning Commission, in conjunction with the Board of Park Commissioners, shall determine if land proposed for public sites and/or open space is suitable and desirable for such purpose. If it is determined that the land is not suitable for such purposes, the Owner/Developer shall pay a fee-in-lieu of land dedication to the Board of Parks Commissioners, for the purpose of developing other sites or open spaces.

- (2) The amount of such fee shall be determined by the following formula:

$$\text{Fee} = \text{Amount of Land to be Dedicated (Acres)} \times \text{Fair Market Value/Acre}$$

- (3) The Board of Park Commissioners shall determine the fair market value, based on the average of sales of raw acreage during the past twelve (12) months within the City of Lancaster. All fees paid under the provisions of this Section shall be deposited with the Lancaster City Treasurer's Department in a fund titled **City of Lancaster Public Sites and Open Spaces**. Such funds shall be designated for the acquisition and/or development of open space or park for the citizens of Lancaster. Such fees shall be paid prior to recording of the final plat or, in the case of subdivisions and developments not requiring a final plat, fees shall be paid prior to issuance of a Certificate of Zoning Compliance.

(e) **Private Recreational Acres.** In lieu of requirements of Section 1109.12(b) and (d) above, the Owner/Developer may devote not less than the acreage required in Section 1109.12(b) to a private recreation area for the use of the occupants of the subdivision. The recreational area must be of suitable size for recreational purposes, as Determined by the Board of Park Commissioners and the Planning Commission. The Owner/Developer must present a plan for development and perpetual maintenance of the site proposed, and such plan must be reviewed and approved by the Board of Park Commissioners and the Planning Commission. The Owner/Developer shall also provide security to ensure development and maintenance of the site in the form of a bond, deposit of funds or other form satisfactory to the Planning Commission. Retention and detention areas may be included as part of the open space requirements if approved by the Board of Park Commissioners.

(Ord. 5-01. Passed 2-26-01.)

1109.13 MONUMENTS.

(a) **General Requirements.** All research, investigation, monumentation, measurement specifications, plats of survey, descriptions, and subdivision plats shall conform to the **Minimum Standards for Boundary Surveys in the State of Ohio, Section 4733-37 (Administrative Code) Ohio Revised Code**. These standards are intended as a minimum requirement, and where the surveying profession requires or recommends a higher level of standards, the higher or most restrictive of such standards shall apply.

(b) **Location.** Monuments shall be placed at all angle points on the outside boundary of the subdivision. Iron pins shall be placed at all corners of all lots, intersections of the centerlines of the streets, and at the beginning and end points of each curved street section centerline. In those cases where sanitary sewer manholes prevent the setting of monuments, such monuments shall be offset five feet (5') in each direction along the street centerline.

(c) **When Set.** Monuments in the street centerlines shall be placed upon the completion of paving of the streets. All other monuments are to be set upon completion of the street, water, sanitary sewer improvements, and over lot grading and before acceptance of improvements by the City of Lancaster.

(d) **Materials.** Monuments shall be constructed of concrete four inches (4") in diameter and thirty inches (30") long with a one inch (1") diameter iron pin cast in the center. Iron pins shall be as per the standards cited above in Section 1109.13(a).

(e) **Submittal.** When required by the City Engineer, the Professional Surveyor shall submit a stamped drawing indicating the monument location along with such USGS or State Plane coordinates required for the County GIS System. Submittals shall be in the format determined by the City Engineer.

(Ord. 5-01. Passed 2-26-01.)

Site Improvements

- 1111.01 General.**
- 1111.02 Streets.**
- 1111.03 Sanitary sewers.**
- 1111.04 Water systems.**
- 1111.05 Certification of improvements.**
- 1111.06 Responsibility and liability during construction.**

1111.01 GENERAL.

The improvements required by these subdivision regulations shall conform to the City General Regulations, Standard Construction Drawings and Construction and Material Specifications, and other applicable portions of the Codified Ordinances of the City, and shall be designed, furnished and installed by the Owner/Developer of the subdivision. The Owner/Developer shall be responsible for the costs of all tests required by the City Engineer to establish that the materials and methods utilized in construction of the improvements meets the specifications. Subdivisions shall be provided with the same improvements whether the streets are public or private, except in special situations as approved by the Planning Commission.

(Ord. 5-01. Passed 2-26-01.)

1111.02 STREETS.

(a) Street Grading. No street grading shall be permitted until the final construction plans have been approved by the City Engineer and inspection fees have been paid. No street grading shall be commenced without a forty-eight (48) working hour notice to the City Engineer.

(b) Street Subgrade. All streets shall be graded to their full width, including side slopes. No obstructions shall be placed or allowed to remain in the street right-of-way. The subgrade shall be free of sod and/or vegetative or organic matter. Soft clay and other unsuitable material shall be cleared to a depth as determined by the City Engineer. The subgrade shall be shaped and compacted subject to the requirements of the City Engineer, and no fill shall be placed until said subgrade has been inspected and approved.

(c) Pavement Application. No pavement shall be placed until the prepared subgrade has been inspected and approved. The finish pavement course shall not be placed over the base course for a period of nine (9) months. Under special conditions, this waiting period may be shortened, but in no case will the waiting period be less than seven (7) months. All failures in the base course must be repaired prior to installation of the finish course.

(d) Street Signs. The Owner/Developer shall provide and install all traffic control, street name and parking signs at intersections and other locations as designated by the City Engineer. Installation shall be under the supervision of the Superintendent, Division of Streets. All signage shall comply with the City Standards and the Ohio Manual of Uniform Traffic Devices. Signage shall be installed prior to the opening of the street to traffic.

(Ord. 5-01. Passed 2-26-01.)

1111.03 SANITARY SEWERS.

(a) Concrete Encasement. Concrete encasement shall be used when required for the sanitary sewer to withstand trench loadings, when rock is encountered in the trench bottom, when the cover is less than two-and-one-half feet (2½'), or when such sewer line crosses a stream with year-round flow and where it crosses another utility line with less than eighteen inches (18") separation.

(b) Testing. Testing shall be in accordance with the City Construction and Material Specifications.

(c) Building Sewers. Building sewers shall be constructed at no expense to the City. Before any building sewer is constructed, a tap permit must be obtained from the City. Installation of building sewers shall conform to applicable regulations of the City Division of Water Pollution Control. An "S" shall be stamped into the face of the curb at the location of any building sewer tap.

(Ord. 5-01. Passed 2-26-01.)

1111.04 WATER SYSTEMS.

(a) Water Service Lines. All water service lines shall be installed not less than forty-two inches (42") below the ground or pavement surface. No water service line shall be installed in the same trench with a sewer line. Services shall be constructed after the street is rough graded and prior to the installation of paved surfaces and curbs.

(b) Curb Boxes. Curb boxes shall be located behind the back of the curb as directed by the Superintendent, Division of Water. All curb boxes shall be adjusted to the finished ground surface.

(Ord. 5-01. Passed 2-26-01.)

1111.05 CERTIFICATION OF IMPROVEMENTS.

Upon the completion of construction, and prior to acceptance by the City, the Owner/Developer shall provide the City with an affidavit, which certifies that the construction is in conformance with the approved Construction Plans, the City Standard Construction Drawings, the Construction and Material Specifications, and the Permit to Install.

(Ord. 5-01. Passed 2-26-01.)

1111.06 RESPONSIBILITY AND LIABILITY DURING CONSTRUCTION.

No streets or public improvements shall be the responsibility of any public entity prior to formal acceptance. Until such time as such improvements have been approved and accepted, the Owner/Developer shall assume full responsibility and liability for all areas dedicated to the public, and the improvements thereon. The Owner/Developer shall agree to indemnify and hold harmless the City of Lancaster until such time as the improvements are accepted.

(Ord. 5-01. Passed 2-26-01.)

CHAPTER 1112

Hillside Regulations

1112.01 General.

- 1112.02 Determination of average slope.**
- 1112.03 Minimum lot requirements.**
- 1112.04 Grading plan and controls.**
- 1112.05 Cuts and fills.**
- 1112.06 Compaction of fills.**
- 1112.07 Retaining walls.**
- 1112.08 Exceptions to other requirements in these regulations.**

1112.01 GENERAL.

These regulations apply to all hillside areas. A hillside area as referred to herein is defined as one with an average of more than fifteen (15) percent slope. The subdivider shall submit sufficient detailed information as to geological conditions, soil types, and underground water level in order that a determination can be made by the City Engineer after consultation with the Fairfield Soil and Water Conservation District as to the safety of development of the particular location.

(Ord. 65-04. Passed 11-8-04.)

1112.02 DETERMINATION OF AVERAGE SLOPE.

The average slope for any hillside development shall be determined by the Lancaster Planning Commission during the time of preliminary plan design. Determination will be on an area by area basis with each lot sized according to the average topographic change falling within each area.

(Ord. 65-04. Passed 11-8-04.)

1112.03 MINIMUM LOT REQUIREMENTS.

Minimum lot requirements shall be determined by utilizing Table VII (Minimum Lot Size Requirements Based on Slope). Deviations from these requirements may be allowed subject to determination by the Lancaster Planning Commission where exceptional circumstances warrant.

(Ord. 65-04. Passed 11-8-04.)

1112.04 GRADING PLAN AND CONTROLS.

The grading plan shall show contour lines at two (2) foot intervals. Elevations are to be based on the sea level datum (U.S.G.S.). The approximate lot layout and the approximate dimensions shall be shown for each lot and each building site. Where pads are utilized or proposed for building sites, engineering data shall show the existing topography and the approximately finished grades, location and size of each building site and finished grade of streets prior to consideration of the final plat.

(Ord. 65-04. Passed 11-8-04.)

1112.05 CUTS AND FILLS.

No land shall be graded, cut, or filled so as to create a slope exceeding a vertical rise of one (1) foot for each two and one half (2½) feet of horizontal distance between abutting lots, unless a retaining wall sufficient height and thickness is provided to retain the graded bank. Major cuts, excavation, grading and filling, where the same materially changes the site and its relationship with surrounding areas or materially affects such areas, shall not be permitted if such excavation, grading and filling will result in a slope exceeding a vertical rise of one (1) foot for each two and one half (2½) feet of horizontal distance between abutting lots or between adjoining tracts of land, except where adequate provision is made to prevent slides and erosion by cribbing and retaining walls.

(Ord. 65-04. Passed 11-8-04.)

1112.06 COMPACTION OF FILLS.

All fills on streets shall be compacted in accordance with State Highway specifications. All fill shall be compacted to a density of 90% or greater. Inspection of fill shall be conducted by an independent soils laboratory and furnished to the City Engineer.

(Ord. 65-04. Passed 11-8-04.)

1112.07 RETAINING WALLS.

Retaining walls may be required whenever topographic conditions warrant or where necessary to retain fill or cut slopes within the right-of-way. Such improvements shall require the approval of the City Engineer.

(Ord. 65-04. Passed 11-8-04.)

1112.08 EXCEPTIONS TO OTHER REQUIREMENTS IN THESE REGULATIONS.

The following modifications of other requirements and specifications shall apply to hillside development. Where modifications are not specifically stated they shall require the approval of the City Engineer.

- (a) Street Alignment. Street alignment of all streets shall be subject to approval of the City Engineer depending upon the existing conditions.
- (b) Curb and Gutter. Curb and gutter shall be required on all streets.
- (c) Street Grades. Final grades on streets shall not exceed twelve (12) percent.
- (d) Sewers. A public sewer shall be provided by the subdivider. The use of individual systems shall be prohibited.
- (e) Cross Sections. All cross sections are subject to the approval of the City Engineer and may vary from other requirements set forth in these regulations.

(Ord. 65-04. Passed 11-8-04.)

CHAPTER 1113

Application Requirements

- 1113.01 Preliminary subdivision plat.**
- 1113.02 Final subdivision plat.**
- 1113.03 Subdivision improvement construction plans.**
- 1113.04 Application for variance.**

1113.05 Reserved.

1113.06 Application for Preliminary Development Plan (PUD).

1113.07 Application for Final Development Plan (PUD).

1113.01 PRELIMINARY SUBDIVISION PLAT.

A preliminary plat shall be drawn to scale and submitted on a sheet or sheets of eighteen inches (18") by twenty-four inches (24") inches or twenty-four inches (24") by thirty-six inches (36"), or other size as determined appropriate by the City Engineer. The preliminary plat shall include the following items:

- (a) Proposed name of the subdivision and its situate.
- (b) Location map showing the proposed subdivision and street map for a two (2) mile radius.
- (c) Names and addresses of Owners and Developers.
- (d) Name, address and registration number of the Engineer or Surveyor preparing the plat.
- (e) Date, north arrow and plan scale. Scale shall be one inch (1") equals 100 square feet or larger scale.
- (f) Boundary lines of the proposed development and the total acreage encompassed therein, including tax parcel I.D. numbers.
- (g) Locations, widths and names of all existing public streets or other public ways, railroad and utility rights of way or easements, parks and other public open spaces, permanent buildings and structures; section, corporation lines, wellhead protection, or historic district adjacent to the tract.
- (h) Existing sewers, water mains, culverts and other underground facilities within the tract, adjacent to the tract or that will be used in developing the tract, indicating pipe sizes, grades and locations.
- (i) The adjoining lines of adjacent tracts, parcels or lots, and names of property owners, and, in the case of a replat of an existing subdivision, the existing lot lines.
- (j) Existing zoning.
- (k) Existing drainage channels, wooded areas, watercourses and other significant physical features, including topography with contour lines based on USGS data at not more than a two-foot (2') difference in elevation.
- (l) Layout of proposed streets, including their names and rights of way, easement sewers, waterlines, culvert and other major improvements.
- (m) Layout, numbering and dimensions of lots, including side yard, rear yard, and building setbacks.
- (n) Parcels of land intended to be dedicated or temporarily reserved for public use or Reserved by deed covenant with the conditions proposed for such covenant, and for the dedications.
- (o) Tentative street grades and sewer size and slope.
- (p) Proposed phasing.
- (q) Any required buffer or screening areas.
- (r) Development type and density for each zoning use.
- (s) List of all proposed variances.

(Ord. 5-01. Passed 2-26-01.)

1113.02 FINAL SUBDIVISION PLAT.

A final plat shall be drawn to a scale of one inch (1") to one hundred feet (100'), or larger on a sheet or sheets a size acceptable to the Fairfield County Recorder, or other size and scale as determined appropriate by the City Engineer. The final plat shall contain the following items:

- (a) Name of the subdivision and the section number, if it is a portion of the total subdivision.
- (b) A description giving the situate, number of acres, city, township, county, property owner's name, owner's deed volume and page number.
- (c) All required certifications and approvals.
- (d) Requested covenants.
- (e) Sheet and total number for each sheet, including covenant sheet.
- (f) Scale, north indicator, and location map.
- (g) The bearings and distances of the boundary lines of the subdivision including basis of bearings.
- (h) The bearings and distances of all lot lines, areas, or easements dedicated to public uses within the subdivision. In case of curved sides of lots, the tangent deflection angle, the length of the tangent, the length of the radius, the length of arc and the length and bearing of the chord shall be given.
- (i) Lot numbers and lot areas.
- (j) The bearing and distances of all straight sections of street center lines. Curved sections of street centerlines shall show the same information as curved lot lines.
- (k) Street names.
- (l) Street, alley and easement widths. Any easement not parallel to property lines shall show the bearings and distances of the lines.
- (m) In the case of plats not located wholly within the City, the corporation line shall be accurately shown and measurements given to the nearest corners of the boundary lines.
- (n) The location of all permanent markers or monuments.
- (o) Building setback lines with their distance from the right-of-way lines.
- (p) Name and registration number of the surveyor preparing the plat.
- (q) Names and lot numbers of adjacent subdivisions, owners of adjoining parcels of un-subdivided land and the location of applicable boundary lines.
- (r) True angles and distances to the nearest established street centerline; section, township and/or corporation line; and/or official monument, where practical, shall be accurately tied to the plat.
- (s) Other additional information as may be required by the Fairfield County Auditor.

(Ord. 5-01. Passed 2-26-01.)

1113.03 SUBDIVISION IMPROVEMENT CONSTRUCTION PLANS.

Construction Plans shall be prepared for all sanitary sewers, water mains, pavements, and curbing, sidewalks, storm sewers, and drainage ways, and ponds, which are proposed for construction. All plans shall be made on mylar or other suitable permanent medium, size twenty-four inches (24") by thirty-six inches (36") in a format acceptable to the City Engineer. The proposed work shall be shown in both plan and profile, and in sufficient detail to clearly show all work to be done. In general, the scale shall be one inch (1") equals fifty feet (50') horizontal and one inch (1") equals five feet (5') vertical, except where additional detail is necessary to clearly show all work to be done. Supplemental specifications may be submitted as separate documents on eight and one-half inch (8½") by eleven inch (11") paper, or may be added onto the tracings. Plans shall contain general notes and a summary of estimated quantities. All drawings shall be made in ink and approved and signed by a Professional Engineer. A title block shall be included in the lower right hand corner of the first sheet for the approval signatures of the City Engineer.

The construction plans shall show the following items:

- (a) Name and section number of the subdivision as shown on the plat map. This shall be located in the lower right corner.
 - (b) Sheet and total sheet number.
 - (c) The plan and profile of all street centerlines, showing the existing and proposed profile with the proposed center line grades given every fifty feet (50') on straight sections and every twenty-five feet (25') on vertical curves.
 - (d) The plan view of the streets showing curb, sidewalk, utility lines and appurtenances, lot corners and foot frontages.
 - (e) A typical cross-section or half-section for the various street widths.
 - (f) The station and elevation shall be shown for P.C. and P.T. of all curved sections of curb.
 - (g) The station shall be shown where a street center line intersects a boundary line or other street centerline, and at each P.C. and P.T. on the centerline.
 - (h) All utility lines, including sanitary sewer, storm sewer, water mains, and any existing underground utilities shall be shown on the plan section, with their distance from an established line indicated.
 - (i) Station distances shall be given for the center of all manholes, catch basins, valve boxes, and fire hydrants within the street right-of-way. Stationing for storm and sanitary systems shall be from the downstream discharge. Stationing for water systems shall be based on street centerlines.
 - (j) The profile for all sanitary and storm sewers shall show the invert and top of casting elevations at each manhole or catch basin and the grade in percent between each manhole and catch basin.
 - (k) The depth of water and gas mains below the finished grade shall be shown. In cases where mains cross over or under sewers or other mains, the clearance shall be given. The station for each crossing and/or deflection shall be shown.
 - (l) Site distance at each intersection with an existing street.
 - (m) Such other information may be required by the City Engineer for his/her review.
- (Ord. 5-01. Passed 2-26-01.)

1113.04 APPLICATION FOR VARIANCE.

A variance to any portion of these regulations may be granted under extraordinary conditions. These will generally be due to naturally occurring site conditions. A request for variance shall be Submitted with the preliminary plat, construction plans, or final plat. The variance request shall include:

- (a) Name, address, and telephone number of the applicant.
 - (b) Legal description of property as recorded in the Fairfield County Recorder's office.
 - (c) The names and addresses of all property owners contiguous to, and directly across the street from the property, as appearing on the Fairfield County Auditor's current tax list.
 - (d) Each application for a variance shall refer to the specific provisions of this chapter which applies.
 - (e) A narrative statement explaining the following:
 - (1) The use for which variance or appeal is sought.
 - (2) Details of the variance or appeal that is applied for and the grounds on which it is claimed that the variance or appeal should be granted, as the case may be.
 - (3) The specific reasons why the variance or appeal is justified.
- (Ord. 5-01. Passed 2-26-01.)

1113.05 RESERVED.

EDITOR'S NOTE: This section is reserved for future legislation.

1113.06 APPLICATION FOR PRELIMINARY DEVELOPMENT PLAN (PUD).

- (a) Name, address, and phone number of applicant.
- (b) Legal description of property, including tax parcel I.D. number.
- (c) Description of existing use.
- (d) Present and proposed zoning districts.
- (e) A vicinity map at a suitable scale, showing property lines, streets, existing and proposed zoning for all property adjacent to and within 200 feet from the proposed site along with any wellhead protection or historic district boundaries.
- (f) A list of all property owners contiguous to, and directly across the street from the parcel(s) proposed to be rezoned, and their address as appearing on the Fairfield County Auditor's current tax list.
- (g) Proposed schedule for the development of the site, including any phasing.
- (h) Evidence that the applicant has sufficient control over the land in question to effectuate the proposed development plan.
- (i) A Preliminary Development Plan drawn to scale, prepared by a registered architect, registered engineer and/or registered landscape architect. Such plan shall contain the following information at a minimum.
 - (1) Selected uses by area or specific building location, allocation of land use by type as measured in acres, adjacent existing land use, right-of-way, and relationship to adjacent land use.
 - (2) General location of thoroughfares, including type, as well as location and size measured in number of parking spaces for all off-street parking areas, including curb cuts, drive aisles, loading spaces, and handicap ramps.

- (3) Open spaces and the intended use therein and acreage provided.
- (4) Residential land uses summarized by lot size, dwelling type and density.
- (5) Existing and proposed roads, buildings, utilities, permanent facilities, easements, rights-of-way and abutting property boundaries.
- (6) Physical features and natural conditions of the site including soils, the location of vegetation and existing tree lines.
- (7) Surface drainage and areas subject to flooding.
- (8) Preliminary plan for water, sewer, storm drainage and other utility systems.
- (9) Sidewalks including handicap ramps.
- (10) All building setbacks and required buffer and screening areas.
- (11) All dumpster locations.
- (12) Sign locations and sizes.
- (13) Other information required for evaluation of proposal.

(Ord. 5-01. Passed 2-26-01.)

1113.07 APPLICATION FOR FINAL DEVELOPMENT PLAN (PUD).

(a) A survey of the proposed development site, showing the dimensions and bearings of the property lines, basis of bearings, areas in acres, topography, existing features of the development site, including major wooded areas, structures, streets, easements, utility lines, and land uses.

(b) All the information required in the Preliminary Development Plan; including the location and sizes of lots, location and proposed density of dwelling units, non-residential building intensity; and land use considered suitable for adjacent properties.

(c) A schedule for the development of units to be constructed in progression and a description of the design principles for buildings and streetscapes; tabulation of the number of acres on the proposed project for various uses, the number of housing units proposed by type; estimated residential population by type of housing; estimated nonresidential population, anticipated timing for each unit; and population density and public improvements proposed for each unit of the development whenever the applicant proposes an exception from standard zoning districts or other resolution governing development.

(d) Engineering feasibility studies and plans showing, as necessary, water, sewer, drainage, electricity, telephone, and natural gas installations; waster disposal facilities; street improvements, and, nature and extent of earth work required for traffic circulation and street improvements, and nature and extent of earth work required for site preparation and development.

(e) Site plan, showing building(s), various functional use areas, circulation and their relationship.

(f) Architectural renderings and accompanying narrative to discuss in detail the design treatment of all buildings and structures where applicable.

(g) Plans for landscaping.

(h) Deed restrictions, protective covenants, and other legal statements or devices to be used to control the use, development and maintenance of land, and the improvements thereon, including those areas, which are commonly owned and maintained.

(Ord. 5-01. Passed 2-26-01.)

CHAPTER 1115

Variances

1115.01 Variances.

1115.02 Appeal.

1115.01 VARIANCES.

Whenever the tract proposed is to be subdivided is of such unusual topography, size, or shape, or is surrounded by such development or unusual conditions that the strict application of such requirements contained in these regulations would result in substantial hardship or injuries, the Planning Commission may vary or modify such requirements so that the Subdivider is allowed to develop his property in a reasonable manner; but so, at the same time, the public welfare and interest of the City and surrounding area is protected and the general intent and spirit of these regulations is preserved.

(Ord. 5-01. Passed 2-26-01.)

1115.02 APPEAL.

Any person who believes he has been aggrieved by these regulations or the action of the Planning Commission, has all the rights of appeal as set forth in Chapter 711 of the Ohio Revised Code or any other applicable section of the Ohio Revised Code.

(Ord. 5-01. Passed 2-26-01.)

CHAPTER 1117

Enforcement

1117.01 Recording of plat.

1117.02 Revision of plat after approval.

1117.03 Penalties.

1117.01 RECORDING OF PLAT.

No plat or any subdivision shall be recorded by the County Recorder of Fairfield County or have any validity until said plat has received final approval in the manner prescribed in these regulations.

(Ord. 5-01. Passed 2-26-01.)

1117.02 REVISION OF PLAT AFTER APPROVAL.

No changes, erasures, modifications, or revisions shall be made in any plat of a subdivision after approval has been given by the Planning Commission unless said plat is first resubmitted to the Planning Commission.

(Ord. 5-01. Passed 2-26-01.)

1117.03 PENALTIES.

The following penalties shall apply to the violation of these regulations:

- (a) Whoever violates these regulations or fails to comply with any order pursuant thereto, shall be guilty of a misdemeanor of the first degree.
- (b) Any owner or agent of the owner of any land within or without a municipal corporation who transfers any lot, parcel, or tract of land from or in accordance with a plat of a subdivision before the plat has been recorded in the office of the County Recorder, shall be guilty of a misdemeanor of the third degree for each lot, parcel, or tract of land sold. The description of the lot, parcel, or tract by metes and bounds in the deed of transfer shall not exempt the seller from the forfeiture provided in this section.
- (c) Any person who disposes of, offers for sale, or leases for a time exceeding five (5) years, any lot, or any part of a lot, in a subdivision before provisions of these regulations shall be complied with shall be guilty of a misdemeanor of the third degree for each lot or part of a lot sold, offered for sale or leased.

(Ord. 5-01. Passed 2-26-01.)

CHAPTER 1118

Validity

1118.01 Validity.

1118.02 Amendments.

1118.01 VALIDITY.

If any chapter, section, subsection, sentence, clause, or phrase of these regulations is for any reason held to be unconstitutional or void, such decision shall not effect the validity of the remaining portions of these regulations.

(Ord. 5-01. Passed 2-26-01.)

1118.02 AMENDMENTS.

These regulations may be amended, after public hearing and other requirements as specified in the appropriate sections of the Ohio Revised Code.

(Ord. 5-01. Passed 2-26-01.)

TITLE THREE - Zoning and Property Restrictions

- Chap. 1121. Title, Purposes, Interpretation and Jurisdiction.
- Chap. 1123. General Provisions.
- Chap. 1125. Yards and Accessory Uses.
- Chap. 1127. (AG) Agriculture District.
- Chap. 1129. Residential Districts.
- Chap. 1131. Office District.
- Chap. 1133. Commercial District.
- Chap. 1135. Industrial Districts.
- Chap. 1137. Sexually Oriented Businesses.
- Chap. 1139. Landscape Requirements.
- Chap. 1141. Historic Preservation. (Repealed)
- Chap. 1143. Wellhead Protection.
- Chap. 1145. Flood Damage Prevention.
- Chap. 1147. Planned Unit Development.
- Chap. 1149. Use Units. (Repealed)
- Chap. 1151. Off-Street Parking and Off-Street Loading.
- Chap. 1153. Nonconformities.
- Chap. 1155. Enforcement.
- Chap. 1157. Board of Zoning Appeals.
- Chap. 1159. Amendments.
- Chap. 1161. Definitions.

Appendix B Index of Land Uses.

Appendix C Wireless Telecommunications. (Chapter 1339)

CHAPTER 1121

Title, Purposes, Interpretation and Jurisdiction

1121.01 Title.

1121.02 Purposes, interpretation and jurisdiction.

1121.01 TITLE.

Lancaster Revised Zoning Code as contained in this Title Three shall be known and may be cited as "The Lancaster Zoning Code".

(Ord. 14-00. Passed 5-22-00.)

1121.02 PURPOSES, INTERPRETATION AND JURISDICTION.

(a) Purposes.

- (1) **General.** This Code is enacted for the purposes of promoting the health, safety, peace, morals, comfort, convenience, prosperity, order, and general welfare; lessening danger and congestion of public transportation and travel; securing safety from fire and other dangers; preventing overcrowding of land; avoiding undue concentration of population; providing adequate light and air, police protection, transportation, water, sewerage, schools, parks, forests, recreational facilities, and other public requirements, and preventing undue encroachment thereon; conserving the value of buildings and encouraging the most appropriate use of land; encouraging the industrial, commercial and residential growth of the community; and promoting the development of the community in accordance with a development plan.
- (2) **Signs.** Signs are used to inform and persuade the general public. All signs not exempted shall be regulated in accordance with the standards of Chapter 1317. The general objectives of these standards are to promote the health, safety, welfare, convenience and enjoyment of the public, and, in part, to achieve the following.

(Ord. 14-00. Passed 5-22-00; Ord. 50-03. Passed 11-24-03.)

A. **Safety.** To promote the safety of persons and property by providing that signs:

1. Do not create a hazard due to location, collapse, fire, collision, decay or abandonment; or
2. Do not obstruct fire fighting or police surveillance, or
3. Do not create traffic hazards by confusing or distracting motorists, or by impairing the driver's ability to see pedestrians, obstacles, or other vehicles, or to read traffic signs.

B. **Commission Efficiency.** To promote the efficient transfer of information in sign messages.

C. **Landscape Quality and Preservation.** To protect the public welfare and to enhance the appearance of the City of Lancaster.

(b) Interpretation.

- (1) **Validity of other laws.** Where this Code imposes a greater restriction upon the use of structures or land or upon height or bulk of structures, or requires larger open spaces or yards than are imposed by other ordinances, laws, or regulations, the provisions of this Code shall govern. However, nothing in this Code shall be construed to prevent the enforcement of other ordinances, laws, or regulations which prescribe more restrictive limitations. The provisions of this code providing for the residential use of property, and providing for limitations on occupancy, density and intensity of such uses, shall be applied equally and without discrimination based on race, color, religion, sex, handicap, familial status or national origin consistent with the provisions of the Federal Fair Housing Act.
- (2) **Severability.** In case any portion of this Code shall be invalid or unconstitutional, as declared by a court of competent jurisdiction, the remainder of the Code shall not thereby be invalid, but shall remain in full force and effect.

(Ord. 14-00. Passed 5-22-00.)

- (3) **Tense and definition.** For the purpose of the Code certain terms and words are to be used and interpreted as defined in Chapter 1161, words used in the present tense shall include the future tense; words in the singular number include the plural and words in the plural number include the singular, except where the natural construction of the writing indicates otherwise. The word 'shall' is mandatory and not directory. All references in this title to "Council", "Council members", "Council persons", shall be construed to mean City Council of the City of Lancaster, Ohio.

(Ord. 14-00. Passed 5-22-00; Ord. 12-01. Passed 4-23-01.)

(c) Jurisdiction.

- (1) **Territorial jurisdiction.** This Code shall be in full force and effect in the corporate limits of the City of Lancaster, Ohio. Property owned, leased, or operated by the City of Lancaster, or any other public or governmental body or agency, shall be subject to the terms of this Code.
- (2) **Annexed territory.** When any territory shall be brought into the zoning jurisdiction of the City of Lancaster, by annexation or otherwise, such territory shall continue to carry the zoning designation of the township from which it was annexed until such time as the City Council shall rezone such property by amendment in the manner set forth in Chapter 1159.

(Ord. 14-00. Passed 5-22-00.)

CHAPTER 1123

General Provisions

- 1123.01 Zoning and Overlay Zoning Districts established.**
- 1123.02 Official Zoning Map established.**
- 1123.03 District boundary description and interpretation.**
- 1123.04 Limitation on land use.**
- 1123.05 Similar uses.**
- 1123.06 Division of lots.**
- 1123.07 Street frontage required.**
- 1123.08 One single-family dwelling per lot of record.**
- 1123.09 Height exceptions.**
- 1123.10 Existing building encroachment on front yards or building setbacks.**
- 1123.11 Screening walls or fences.**
- 1123.12 Platting requirement.**
- 1123.13 Major street plan.**
- 1123.14 Structure setback from abutting streets.**
- 1123.15 Display for sale, storage and parking of vehicles and portable storage units.**
- 1123.16 Essential services.**
- 1123.17 Family day care and family child care homes.**

1123.18 Group residential facilities.

1123.19 Convict Prerelease and/or Correctional Community Treatment Centers.

1123.20 Location of cemeteries.

1123.21 Medical marijuana cultivators, processors and retail dispensaries.

1123.01 ZONING AND OVERLAY ZONING DISTRICTS ESTABLISHED.

The Zoning Districts and Overlay Zoning Districts set forth below are hereby established:

AG Agriculture District

RE Residential Single-Family Estate District

RS-1 Residential Single-Family Low Density District

RS-2 Residential Single-Family Medium Density District

RS-3 Residential Single-Family High Density District

RS-4 Residential Single-Family Highest Density District

RM-0 Residential Multifamily Lowest Density District

RM-1 Residential Multifamily Low Density District

RM-2 Residential Multifamily Medium Density District

RM-3 Residential Multifamily High Density District

RMH Residential Manufactured Home District

OM Office Medium Intensity District

CN Commercial Neighborhood District

CG Commercial General District

CH Commercial High Intensity District

CBD Central Business District

IL Industrial Light District

IM Industrial Moderate District

IH Industrial Heavy District

PUD Planned Unit Development (Overlay Zoning District)

HP Historic Preservation District (Overlay Zoning District)

WH Wellhead Protection District (Overlay Zoning District)

FP Flood Plain District (Overlay Zoning District)

CRA-3 Community Reinvestment Area 3 (Overlay Zoning District)

(Ord. 7-21. Passed 3-8-21.)

1123.02 OFFICIAL ZONING MAP ESTABLISHED.

The locations and boundaries of the various districts as defined herein shall be established by ordinance and shall be shown and delineated on the Official Zoning Map of the City of Lancaster. The Official Zoning Map shall be maintained by the Engineering Office of the City of Lancaster, and may be divided into parts, and such parts may be separately employed for identification purposes when adopting or amending the Official Zoning Map or for any reference to the Official Zoning Map.

(Ord. 7-21. Passed 3-8-21.)

1123.03 DISTRICT BOUNDARY DESCRIPTION AND INTERPRETATION.

District boundary lines shall be described by legal description or by a map. When a legal description is used, the boundary line shall be deemed to extend to the centerline of abutting streets and shall be so designated on the Official Zoning Map. When a map is used, district boundary lines shall be established by dimensions, property lines, recorded lot lines, or the centerline of abutting street, alley, or railroad rights-of-way, as the same were of record at the time of adoption. In all cases where there is doubt as to the exact location of district boundary lines, the same shall be determined by the Board of Zoning Appeals.

(Ord. 7-21. Passed 3-8-21.)

1123.04 LIMITATION ON LAND USE.

No person, firm or corporation shall use or permit to be used any land or buildings, nor shall any person, firm or corporation make, erect, construct, move, alter, enlarge or rebuild or permit the making, erection, construction, moving, altering, enlarging or rebuilding of any building, structure or improvement, which is designed, arranged or intended to be used or maintained for any purpose or in any manner except in accordance with the use, height, area, yard, space, and other requirements established in the district in which such land, building, structure or improvement is located except as provided by Chapter 1153, Nonconformities. Nothing in this Code shall be deemed to require a change in the plans, construction, or designated use of any building, where a building permit has been lawfully issued prior to the effective date of this Code, and pursuant to such permit, construction is diligently carried to completion. Upon completion, such building or use shall be deemed nonconforming and may continue as regulated by Chapter 1153, Nonconformities.

(Ord. 7-21. Passed 3-8-21.)

1123.05 SIMILAR USES.

(a) Determination as to whether a use is similar to uses permitted by right shall be considered as an expansion of use regulations of the district and not as a variance applying to a particular situation. Any use found similar shall thereafter be considered as a permitted use in that district.

(b) Applications for zoning permits for uses not specifically listed in the permitted building or use classifications of the zoning district, which the applicant feels qualify as a similar use under the provisions of this Section, shall be submitted to the Zoning Inspector.

(c) Within sixty (60) days after such submittal, the Board of Zoning Appeals shall determine whether the requested use is similar to those uses permitted in the specific district. In order to find that a use is similar, the Board of Zoning Appeals shall find that all of the following conditions exist:

(1) Such use is not listed as a permitted use or Special Exception in another zoning district.

(2) Such use conforms to basic characteristics of the classification to which it is to be added and is more appropriate to it than to any other classification.

(3) Such use creates no increased danger to health and safety, creates no increased level of noise, vibration, dust, heat, smoke, odor, glare, or other objectionable influences, and does not create traffic congestion to an extent greater than normally resulting from uses listed in the classification to which it is to be added.

(Ord. 7-21. Passed 3-8-21.)

1123.06 DIVISION OF LOTS.

A lot shall not hereafter be divided into two or more lots, unless all lots resulting from such division conform to all the applicable regulations of the zoning district in which it is located.

(Ord. 7-21. Passed 3-8-21.)

1123.07 STREET FRONTAGE REQUIRED.

No lot shall contain any building used in whole or in part for residential purposes unless such lot has a minimum of thirty (30) feet of frontage on a public street or dedicated and improved right-of-way. For the purposes of this regulation an alley, as defined in Chapter 1161, shall not be considered as an acceptable dedicated right-of-way. This Section shall not apply to a substandard lot of record or a lot within an approved Planned Unit Development or in the RMH District. (Ord. 7-21. Passed 3-8-21.)

1123.08 ONE SINGLE-FAMILY DWELLING PER LOT OF RECORD.

Not more than one (1) permitted residential use shall be allowed on any single residential lot, except in the case of a lot which is within an approved Planned Unit Development or located within the CRA-3 Overlay District. (Ord. 7-21. Passed 3-8-21.)

1123.09 HEIGHT EXCEPTIONS.

The following structures shall not be subject to the height limitations of the district in which they are located:

- (a) Farm buildings and related structures.
 - (b) Chimneys, elevators, equipment penthouses, monitors, cooling towers and ventilators, provided they are not intended for human occupancy and they do not extend more than twenty (20) feet above the top of the principal structure.
 - (c) Belfries, clock towers, cupolas, domes, flag poles and spires, provided they are not intended for human occupancy and they do not exceed more than 150% of the maximum height of district in which they are located.
 - (d) Signs, including outdoor advertising, provided that the height does not exceed the allowable maximum sign height in Chapter 1317.
 - (e) Three-story townhomes may be allowed in CRA-3/RS-4 Overlay District, Structures enumerated in subsections (b) and (c) above may be increased in height by the Board of Zoning Appeals as a special exception.
- (Ord. 7-21. Passed 3-8-21.)

1123.10 EXISTING BUILDING ENCROACHMENT ON FRONT YARDS OR BUILDING SETBACKS.

Where an existing building or buildings on the same side of the street and within the same block encroach on the required front yard or building setback, the required front yard or building setback for new construction shall be established as follows:

- (a) If the proposed building is to be located more than 200 feet from an encroaching building, the proposed building shall conform to the front yard or setback established for the district in which the proposed building is to be located.
 - (b) If the proposed building is to be located between adjacent buildings which conform to the required front yard or building setback, or between a conforming building and an intersecting street, the proposed building shall conform to the front yard or setback established for the district in which the proposed building is to be located.
 - (c) If the proposed building is to be located within 200 feet of encroaching buildings on both sides and there are no intervening buildings, the front yard or building setback shall be the average of the front yard or setback of the two nearest front corners of the encroaching buildings.
 - (d) If the proposed building is to be located within 200 feet of an encroaching building on one side, but not both sides, and there are no intervening buildings, the front yard or building setback shall be the average of the otherwise required front yard or setback and the setback of the nearest front corner of the encroaching building.
 - (e) Cornices, canopies, eaves, fireplaces and similar architectural features may project not more than two (2) feet into a required yard. Provided, however, that in the application of subsections (c) or (d) above, the front yard or building setback shall not be reduced to less than five (5) feet.
- (Ord. 7-21. Passed 3-8-21.)

1123.11 SCREENING WALLS OR FENCES.

For the purpose of maintaining a compatible relationship between certain land uses, when a screening requirement is required by this Code, the following regulations shall apply:

- (a) When the provisions of this Code require construction of a screening wall or fence, unless otherwise specified, such screening wall or fence
 - (1) Shall consist of a fence, landscaped earthen mound of suitable slope, wall, planting or combination thereof installed, repaired, replaced and maintained to the total height required herein and to an opacity of not less than seventy- five percent (75%). The percentage of opacity shall be determined by measurement of any square foot of vertical surface of the screening from a point perpendicular thereto.
 - (2) Shall not be less than six (6) feet in height, except when in a required front yard in which case the screening wall or fence shall be four (4) feet in height.
 - (3) Shall be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance.
 - (4) Shall be erected prior to the occupancy of the building or initiation of the use required to be screened.
 - (5) Shall be uniform in height except for significant changes in topography.
 - (6) Shall have consistency of design.
 - (7) Shall not be topped with barbed or razor wire.
 - (8) Shall not consist of a chain link fence which utilizes inserts of metal or other materials. Inserts may be added to existing chain link fencing to provide screening, as long as inserts are of a neutral color. Inserts should be made of durable material and replaced whenever an insert is damaged.
- (b) When screening consisting of live plants, alone or in combination with other materials, is installed, the plants
 - (1) Shall be selected for density of year round foliage.
 - (2) Shall be selected to achieve the required height and density within three (3) years of installation.
 - (3) Shall have a minimum height of three (3) feet at time of installation.
 - (4) Shall be maintained in a healthy, live state and replaced as needed to comply with the original site plan and the specifications herein set forth.
- (c) When the erection of a screening wall or fence is required by this Code due to the location of the use adjacent to an R District, and the R District property abutting such use is an arterial, collector roadway, or alley, such screening wall or fence shall not be required, except as provided in Section 1123.11 (d) below.
- (d) For junk and salvage yards, as defined in Chapter 1161, the required screen or fence enclosing such use shall:
 - (1) Be a minimum of eight (8) feet high
 - (2) Be constructed of common fencing materials, designed and arranged to provide substantial visual separation from other land uses, and from view from adjacent streets, highways and thoroughfares.
 - (3) Be uniform in height, except for significant changes in topography
 - (4) Be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance.
 - (5) Be erected prior to occupancy and/or use of the site.
- (e) The screening wall or fence shall be maintained by the owner of the lot containing the use required to construct the screening. Failure to maintain after notice by the Zoning Inspector shall constitute an offense hereunder.
- (f) The Board of Zoning Appeals, as a Special Exception, may:
 - (1) Modify or remove the screening requirement where existing physical features provide for the visual separation of the uses.
 - (2) Modify the screening requirement where alternative screening will provide for the visual separation of the uses.

- (3) Grant an extension of time to erect a screen where properties which are to be benefited by the screen are undeveloped.
- (4) Remove the screening requirement where the purposes of the screening requirement cannot be achieved, or is prohibited by other ordinances or regulations.

(Ord. 7-21. Passed 3-8-21.)

1123.12 PLATTING REQUIREMENT.

(a) For the purposes of providing a proper arrangement of streets and assuring the adequacy of open spaces for traffic, utilities, and access of emergency vehicles, commensurate with the intensification of land use customarily incident to a change in zoning, a platting requirement is established as follows:

(b) For any land which has been rezoned to a zoning classification other than AG upon application of a private party, no building permit or zoning clearance permit shall be issued until that portion of the tract on which the permit is sought has been included in a required subdivision plat or replat, as the case may be, submitted to and approved by the Planning Commission, and filed of record in the Office of the Fairfield County Recorder. Provided that the Planning Commission, pursuant to their exclusive jurisdiction over subdivision plats, may remove this platting requirement upon determining that the above purposes have been achieved by previous platting or could not be achieved by a plat or replat.

(Ord. 7-21. Passed 3-8-21.)

1123.13 MAJOR STREET PLAN.

"The Official Thoroughfare Map of the City of Lancaster", hereinafter referred to as "The Major Street Plan", as adopted by the City Council of Lancaster, Ohio, as Resolution 90-04 on June 14, 2004, as may be subsequently amended.

(Ord. 7-21. Passed 3-8-21.)

1123.14 STRUCTURE SETBACK FROM ABUTTING STREETS.

The structure setback from abutting streets shall be as provided for each zoning district.

(Ord. 7-21. Passed 3-8-21.)

1123.15 DISPLAY FOR SALE, STORAGE AND PARKING OF VEHICLES AND PORTABLE STORAGE UNITS.

(a) All motor vehicles which are designed for travel upon public streets and which are being parked, stored or displayed for sale shall be parked, stored or displayed on an all-weather material as defined in Chapter 1161 Definitions.

(b) All recreational vehicles and portable storage units shall be parked, stored or displayed for sale in accordance with the following conditions:

- (1) On an all-weather material/surface as defined in Chapter 1161 of this Code;
- (2) No closer than three (3) feet to the side property lines; and
- (3) Not within the front yard. Furthermore, no recreational vehicle or portable storage unit shall be parked, stored or displayed for sale in a manner that blocks any sidewalk or obstructs sight lines for any vehicle entering or exiting the right of way.

A. Recreational vehicles and Portable Storage Units may be parked on an all-weather surface within the front yard for a period not to exceed 48 hours for loading or unloading.

B. A Portable Storage Unit may be placed in any right of way without first obtaining the appropriate permit(s) from the City.

(c) All vehicles not defined as a motor vehicle or recreational vehicle shall be parked, stored or displayed for sale in accordance with the following conditions:

- (1) On an all-weather material/surface as defined in Chapter 1161 of this Code;
- (2) No closer than three (3) feet to the side property lines; and
- (3) Not within the front yard within a residential district.

(d) This provision shall not apply to vehicles located within junk and salvage yards or construction equipment on a site with an approved active building permit.

(e) For the purposes of this sections, "recreational vehicle" shall have the same meaning as in Section 1161.01 (96) of this Code, and the terms "vehicle" and "motor vehicle" shall have the same meaning as Chapter 301 of this Code.

(Ord. 7-21. Passed 3-8-21.)

1123.16 ESSENTIAL SERVICES.

For the purposes of this Code, essential services, as defined in Chapter 1161, shall be considered a permitted use in all zoning districts.

(Ord. 7-21. Passed 3-8-21.)

1123.17 FAMILY DAY CARE AND FAMILY CHILD CARE HOMES.

(a) "Type A Family Day Care Home" and "Type A Home" mean a permanent residence of the administrator in which the day care is provided:

- (1) For seven (7) to twelve (12) children at one time, including any children under six (6) years of age who are related to a licensee, administrator or employee of the Type A home and who are on the premises of the Type A home; or
- (2) For four (4) to twelve (12) children at one (1) time if four (4) or more of the children are under two (2) years of age, including any children under six (6) years of age who are related to a licensee, administrator or employee of the Type A home and who are on the premises of the Type A home.
- (3) Type A homes are considered Special Exceptions and require approval of the Board of Zoning Appeals.
- (4) All Type A homes must be licensed by the State of Ohio and must follow the standards set forth by the Department of Human Services.

(b) "Type B Family Day Care Home" and "Type B Home" mean a permanent residence of the provider in which child care is provided for one (1) to six (6) children at one time and in which no more than three (3) children are under the age of two (2) years.

- (1) In counting children for the purpose of this section, any children under six (6) years of age who are related to the provider and who are on the premises of the Type B home shall be counted. Children six (6) years of age and older who are related to the provider, who are not publicly funded and who are on the premises of the Type B home shall not be included in this count.
- (2) A "Type B Home" also includes a home which is the permanent residence of the provider and the parent.
- (3) Type B homes are considered a permitted use in all R Districts.
- (4) Type B homes do not require a license as long as no more than six (6) children are cared for at one (1) time. Type B homes must be certified by local and/or State officials if child care is paid for with public funds.
- (5) No person shall be employed other than a member of the immediate family residing on the premises or as a substitute caregiver as required by the standards for a Type B Child Care Home, as adopted by the Ohio Department of Human Services.

(c) All licensed Type A and Type B homes must obtain a Zoning Clearance Permit, pursuant to Chapter 1155 if established after the effective date of this Ordinance.

(d) Any signs on the lot shall comply with the provisions of Chapter 1317 of the Codified Ordinances.

(e) No exterior alterations of the dwelling or any customary accessory structure shall be made which would detract from the residential character of the structure.

(f) No Type A family day care home may be located on a lot within 300 feet from any other lot containing a Type A family day care home if any boundary of said lots abut the same street.

(g) Type A Family Day Care Homes licensed by the State of Ohio, in existence on the effective date of this amendment, but which would be prohibited by the spacing requirements herein, may continue as otherwise required herein.
(Ord. 7-21. Passed 3-8-21.)

1123.18 GROUP RESIDENTIAL FACILITIES.

"Group residential facilities" shall be defined and classified in Chapter 1161 of this Code.

A Class I Type B group residential facility, as defined in Chapter 1161, is permitted by right in any zoning district that permits single-family dwellings. A Class I Type A group residential facility shall be considered as a Special Exception in the RM-2, RM-3, RM-4, CG and CH Districts, subject to the standards below. A Class II Type A or Type B group residential facility shall be treated as a Special Exception in the CG and CH Districts subject to the standards below:

- (a) The facility shall obtain all approvals and/or licenses as required by state and local laws.
- (b) The facility shall provide 24-hour supervision by trained and qualified professional personnel.
- (c) No exterior alterations of the structure shall be made which would be inconsistent with the residential character of the residential structures in the surrounding neighborhood.
- (d) The facility shall comply with the district regulations applicable to other properties in the zoning district in which they are located.
- (e) Such facilities shall be required to provide appropriate sleeping quarters without using normal living areas, such as living rooms, dining room or kitchen for sleeping.
- (f) Such facilities shall meet all applicable local and/or state building, safety and fire safety requirements for the proposed use and level of occupancy.
- (g) Such facilities shall be reasonably accessible, by virtue of location or transportation provided by the applicant, to medical, recreational and retail services, and employment opportunities.
- (h) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, including a structured procedure whereby their grievances may be filed and resolved.

(Ord. 7-21. Passed 3-8-21.)

1123.19 CONVICT PRERELEASE AND/OR CORRECTIONAL COMMUNITY TREATMENT CENTERS.

"Convict PreRelease and/or Correctional Community Centers" shall be defined and classified in Chapter 1161 of this Code. In order to provide opportunities for location of convict pre-release and correctional community treatment centers, to avoid over concentration of said facilities, and to establish the suitability of the requested use at the proposed location, a convict pre-release or correctional community treatment center shall be allowed as a Special Exception only in the IL or IM Districts. No application for a Special Exception for such a facility shall be accepted for review unless accompanied by sufficient documentation by the appropriate licensing or certifying agency determining the need for such a facility at the proposed location. The applicant shall be responsible for demonstrating compliance with the requirements of this Section. The Board of Zoning Appeals shall consider the following criteria in determining whether a location is appropriate for such a facility and may attach conditions to zoning clearance consistent with the purposes of this Section.

- (a) The facility shall be occupied by not more than thirty (30) residents, exclusive of staff, limited by the size of the existing or proposed building and its allocated space for sleeping quarters.
- (b) Prior to occupancy and continuously thereafter, the applicant convict prerelease and correctional community treatment center shall:
 - (1) Be licensed or certified by a federal, state, or local agency which requires screening potential residents.
 - (2) Comply with all applicable City codes,
 - (3) Agree in writing to maintain with the Lancaster Police Department a current list of all residents of the facility by name and photograph,
 - (4) Submit a copy of the B.1 License or Certificate to the Zoning Inspector initially prior to occupancy and therefore subsequent to each renewal.

(Ord. 7-21. Passed 3-8-21.)

1123.20 LOCATION OF CEMETERIES.

No person/group shall establish any cemetery or other place for the interment of dead bodies, human remains, or human ashes within the corporate limits of the City. However, nothing in this section shall prevent cemeteries existing before October 31, 2005, from acquiring land for expansion when done in accordance with the provision of the Ohio Revised Code.
(Ord. 7-21. Passed 3-8-21.)

1123.21 MEDICAL MARIJUANA CULTIVATORS, PROCESSORS AND RETAIL DISPENSARIES.

The term "medical marijuana" shall have the same meaning as in Section 3769.01(A) of the Ohio Revised Code, effective September 8, 2016.

No person shall open, establish or operate any business or commercial enterprise engaged as a cultivator, processor, or retail dispenser of medical marijuana within the corporate limits of the City.

No zoning clearance, permit, or other administrative approval shall be approved or issued by any administrative official of the City, nor shall any variance be approved or granted, to any person, business, or other applicant desiring or intending to operate a business or commercial enterprise engaged as a cultivator, processor, or retail dispenser of medical marijuana within the corporate limits of the City.
(Ord. 7-21. Passed 3-8-21.)

CHAPTER 1125

Yards and Accessory Uses

- 1125.01 Yards.**
- 1125.02 Accessory uses and/or structures.**
- 1125.03 Residential fences and walls.**
- 1125.04 Antennas, satellite dishes and supporting structures.**
- 1125.05 Private swimming pools.**
- 1125.06 Home occupations.**
- 1125.07 Temporary accessory tents.**

1125.01 YARDS.

Except as otherwise provided, required yards shall be open and unobstructed from ground to sky. Yards provided for a building for the

purpose of complying with the provisions of this Code, shall not be considered the yard for any other building, and yards provided for a lot shall not be considered the yard of any other lot.

Obstructions are permitted in required side and rear yards as follows:

- (a) Cornices, canopies, eaves, fireplaces and similar architectural features may project not more than two (2) feet into a required yard.
 - (b) Fire escapes may project not more than four and one-half (4-1/2) feet into a required yard.
 - (c) Fences, plant materials, berms, walls and permitted signs may be located in any yard provided that the same do not constitute a nuisance as provided in Lancaster Revised Code. Fences must meet the standards of Section 1125.03 below.
 - (d) Detached accessory structures, subject to the standards of Section 1125.02 below.
 - (e) Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment, portable or permanent dog run, house or kennel and similar structures customary and ancillary to the primary residential use of the property.
 - (f) Antennas and supporting structures, subject to the standards of Section 1125.04 below.
 - (g) Signs which are otherwise permitted as an accessory use in the specific district, may be located within any yard bounded by a public street, provided the setback requirements of Chapter 1317 are met.
- (Ord. 28-17. Passed 9-11-17.)

1125.02 ACCESSORY USES AND/OR STRUCTURES.

"Accessory use or structure" shall mean a use and/or structure which is located on the same lot as the principal building or use and is subordinate, secondary, and incidental to such principal building or use. Such accessory uses or structures are subject to the requirements for Accessory Uses in the district in which they are located, and the following additional requirements:

- (a) An unattached accessory structure shall be located within any side or rear yard, subject to the following:
 - (1) In the AG District, any detached accessory structure must be located not closer to the side or rear lot line than the requirement for principal structures.
 - (2) In the RE and RS Districts, a detached accessory building shall meet the bulk and area requirements of the zoning district. For lots less than 50 feet in width the structure shall be located a distance at least ten percent (10%) of the lot width, not less than three (3) feet from any lot line; provided, however, in those cases where such lot line abuts a public street, the detached accessory building shall be located not closer than twenty (20) feet from the right-of-way line.
 - (3) In the OM, C and I Districts, any detached accessory structure shall meet all building setback requirements for principal buildings in the district.
- (b) In the AG, RE and RS Districts, the height of a detached accessory structure shall not exceed eighteen (18) feet.
- (c) In R Districts, the total floor area of any single detached accessory structure shall not exceed twenty percent (20%) of the area of the rear yard. In R Districts, the total floor area of all detached structures shall not exceed sixty percent (60%) of the ground floor area of the principal residential structure on the lot. If the ground floor area of the structure is less than 1,000 square feet, the total floor area of all detached structures shall not exceed 576 square feet.
- (d) Accessory commercial uses allowed in the RMH Districts shall be designed and located for the convenience of the occupants of the multi-family structure, shall be located entirely within such structure with exterior public entrance(s) solely from the lobby of such structure, and shall occupy not more than ten percent (10%) of the gross floor area of the multi-family structure.

(Ord. 28-17. Passed 9-11-17.)

1125.03 RESIDENTIAL FENCES AND WALLS.

For residential properties, fences and/or walls within or enclosing yards shall not exceed a height of eight (8) feet in a side or rear yard, and four (4) feet in a front yard. Fences or walls containing barbed wire, razor wire or charged with electrical current are prohibited unless such fences or walls are in the AG District and solely used for the enclosure of livestock.

(Ord. 28-17. Passed 9-11-17.)

1125.04 ANTENNAS, SATELLITE DISHES AND SUPPORTING STRUCTURES.

(a) Antennas or towers of licensed amateur radio stations are exempt from municipal overview, but subject to licensing criteria of Part 97 of the Federal Communication Rules.

(b) Antennas, satellite dishes and their supporting structures shall comply with Chapter 1339 of the Lancaster Codified Ordinances.

(c) Structures other than a dwelling or customary accessory building which are used to support accessory antennas, including guy lines, shall:

- (1) Be located only in the rear yard, and shall be limited to one such structure.
- (2) Not exceed 65 feet in height, measured from the average ground elevation of the rear building wall of the residential dwelling to the highest horizontal plane of the antenna supporting structure.
- (3) Not encroach upon the land or airspace of any abutting property, and
- (4) Not exceed twenty-four (24) inches in width above twenty-five (25) feet in height, exclusive of guy lines.

(Ord. 28-17. Passed 9-11-17.)

1125.05 PRIVATE SWIMMING POOLS.

A "private swimming pool" as regulated herein, means any pool or open tank not located within a completely enclosed building and containing water to a depth, at any point greater than one and one-half (1 ½) feet. A private spa or hot tub with a lockable cover shall not be considered as a "swimming pool" subject to the provisions of this Section. No such swimming pool, exclusive of storable swimming pools, shall be allowed in any residential district unless the following conditions and requirements are complied with:

- (a) The pool is intended to be used solely for the occupants of the principal use of the property on which it is located.
- (b) No pool of any kind (including storable swimming pools), including any walks, paved areas, and appurtenances thereto, shall not be located in any front yard, nor closer than five (5) feet to any property line or structure.
- (c) The area of the swimming pool, exclusive of decks, walks and other appurtenances, shall not exceed ten percent (10%) of the area of the lot or parcel.
- (d) Any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall meet the requirements established in the 2009 version of the International Residential Code (IRC), Appendix G (Swimming Pools, Spas and Hot Tubs) and be maintained in good condition.
- (e) All lights used for the illumination of the swimming pool and adjacent areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located.
- (f) Shall meet the requirements established in the 2009 version of the International Residential Code (IRC), Appendix G (Swimming Pools, Spas and Hot Tubs).

A zoning clearance permit shall be required for the construction or installation of any private swimming pool. The owner of the property, or his agent, shall certify that the pool will be constructed, installed and maintained in conformance with the above requirements.
(Ord. 15-21. Passed 4-26-21.)

1125.06 HOME OCCUPATIONS.

Home occupations shall be considered as an accessory use as specified in the respective zoning districts of this Zoning Ordinance. The applicant requesting use of property for a home occupation shall submit evidence that the proposed home occupation will comply with the following standards:

- (a) The use shall be clearly incidental and secondary to residential use of the dwelling and not more than twenty-five percent (25%) of dwelling unit floor area is devoted to the home occupation.
- (b) The home occupation shall be performed by the occupant of the premises. Not more than one (1) person, other than immediate family residing at the premises, shall be employed in such occupation.
- (c) The home occupation shall not generate greater vehicular traffic than is normal for a residential neighborhood.
- (d) External indication of such home occupation shall be limited to one sign. Such sign shall comply with the standards in Chapter 1317 of this Ordinance.
- (e) No equipment or process shall be used in the home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot.
- (f) No home occupation shall involve the exterior storage of equipment or inventory.
- (g) No parking space associated with the home occupation shall be located within the front yard other than a paved driveway.

Generally, home occupations shall be regulated not by the specific activity performed, but rather by the presence of external impacts that may affect the residential character of the surrounding area. In particular, a home occupation shall consist primarily of rendering specific personal services. Examples would include a salesperson, member of the clergy, lawyer, engineer, architect, real estate consultant, accountant, artist, computer or telecommunications worker or private teacher.

(Ord. 28-17. Passed 9-11-17.)

1125.07 TEMPORARY ACCESSORY TENTS.

Temporary tents shall be considered as an accessory use in commercial districts designated at Commercial Neighborhood, Commercial General, Commercial High Intensity, Central Business District and in Industrial Light, Moderate and Heavy districts when retail sales are a principal use as so specified by this chapter. Tents used for festivals, fairs and carnivals for a maximum of fifteen (15) days are exempt from application. The applicant requesting use of such tents shall submit evidence that the following standards will be met.

- (a) Tent(s) on a lot or contiguous lot in the same ownership shall have an aggregate floor area of not more than 700 square feet.
- (b) Tent(s) erected shall meet the requirements of the Ohio Building Code.
- (c) Tent(s) used for festivals, fairs and carnivals for a maximum of fifteen (15) days are exempt from zoning approval.
- (d) Tent(s) may not be erected for more than 89 days during any calendar year except when special permission is granted by the Zoning Inspector.
- (e) Tent(s) shall not cover or restrict access to any parking space.

(Ord. 28-17. Passed 9-11-17.)

CHAPTER 1127

(AG) Agriculture District

1127.01 Purpose.

1127.02 Agricultural use defined.

1127.03 Permitted uses.

1127.04 Accessory uses.

1127.05 Special exception uses.

1127.06 Bulk and area requirements.

1127.01 PURPOSE.

The (AG) Agriculture District is designed to:

- (a) Encourage and protect the agricultural use of land until an orderly transition to urban development may be accomplished.
- (b) Discourage the development of inappropriate uses in rural areas.
- (c) Promote the efficiency of public expenditures for infrastructure and services.

(Ord. 42-05. Passed 6-27-05.)

1127.02 AGRICULTURAL USE DEFINED.

Agricultural use means use of land for growing crops in the open, dairying, pasturage, horticulture, floriculture and necessary accessory uses, including structures typically associated with conducting farming operations, and the residence of the person who owns or operates the farm and family thereof. Such agricultural use shall not include:

- (a) Maintenance and operation of commercial greenhouses or hydroponic farms.
- (b) Wholesale or retail sales as an accessory use unless specifically permitted by this code.
- (c) Feeding, grazing or sheltering of animals in pens or confined areas within 200 feet of any residential use.
- (d) The storage or feeding of garbage to animals or operation or maintenance of a commercial stockyard or feed lot.
- (e) Raising fur-bearing animals as a principal use

(Ord. 42-05. Passed 6-27-05.)

1127.03 PERMITTED USES.

- (a) Agriculture uses, as defined in Section 1127.02 above.
- (b) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (c) Single-family detached dwellings, provided such structures comply with all other City codes and ordinances.
- (d) Class I Type B group residential facilities, subject to the requirements of Section 1123.18 of this Code.

(Ord. 42-05. Passed 6-27-05.)

1127.04 ACCESSORY USES.

- (a) Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses, and/or similar facilities for primary use by occupants of the principal use of the property on

which the facility is located, provided such structures meet the yard and setback requirements for principal buildings, as specified in Chapter 1125.

(b) Home occupations, subject to the requirements of Section 1125.06 of this Code.

(c) Private swimming pools, tennis courts and similar facilities for primary use by occupants of the principal use of the property on which the facility is located, provided such structures meet the yard and setback requirements for principal buildings, as specified in Chapter 1125.

(d) Antennas or dish-type receiving or transmission facilities, subject to the licensing criteria of Part 97 of the Federal Communications Commission Rules, and Chapter 1339 of the Lancaster Codified Ordinances.

(e) Signs, as regulated in Chapter 1317 of this Code.

(f) Tents, solely as related to Section 1127.05(l) below, pursuant to the requirements of Section 1125.07.

(Ord. 42-05. Passed 6-27-05.)

1127.05 SPECIAL EXCEPTION USES.

(a) Churches and similar places of public assembly, on lots of not less than two (2) acres, provided a site plan is submitted to and approved by the Board of Zoning Appeals.

(b) Public or private schools, on lots of not less than two (2) acres, provided a site plan is submitted to and approved by the Board of Zoning Appeals.

(c) Colleges and/or universities, provided a site plan is submitted to and approved by the Board of Zoning Appeals.

(d) Community services, such as community centers, museums, galleries, libraries and similar facilities, provided a site plan is submitted to and approved by the Board of Zoning Appeals.

(e) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters, provided a site plan is submitted to and approved by the Board of Zoning Appeals.

(f) Type A Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code, and approval by the Board of Zoning Appeals.

(g) Bed-and-Breakfast establishments, subject to the following standards:

(1) The establishment must be operated by the owner-occupant of the premises.

(2) Structures shall maintain the appearance of a single-family residence and be compatible with surrounding residences, in size and scale

(3) All parking shall be provided in the rear yard or in specially designated off-site areas.

(4) Accommodations shall be provided for not more than five (5) guests, unless otherwise determined by the Board of Zoning Appeals.

(h) Airports and/or private landing strips, provided such facilities are approved and/or properly licensed by the Federal Aviation Authority or applicable agency.

(i) Private clubs or lodges.

(j) Golf courses or country clubs, provided a site plan showing the location of all facilities is approved by the Board of Zoning Appeals.

(k) Temporary event or open air activities, such as Christmas tree sales, flea markets or seasonal plant sales, subject to the following:

(1) The Board may approve such uses for not more than 90 days during any single calendar year.

(2) A site plan showing the layout of all facilities, including parking and any attached or moveable structures, is submitted to and approved by the Board of Zoning Appeals.

(3) A traffic management plan showing ingress and egress from an arterial or collector roadway.

(4) A plan showing the size, shape and location of any permanent or temporary signage, and certification that such signage complies with the requirements of all City codes.

(l) Intensive open air commercial recreational uses, including golf driving ranges, racetracks, stadiums, arenas and concert facilities, commercial outdoor pools and similar uses, subject to the following:

(1) A site plan showing the layout of all facilities, including parking and any attached or moveable structures, is submitted to and approved by the Board of Zoning Appeals. Such plan shall clearly show how the facility will be landscaped and buffered from abutting and proximate residential areas.

(2) An analysis identifying potential adverse impacts of the use, including but not limited to noise, light, traffic, glare, and/or waste disposal, along with a plan for the alleviation and mitigation of these impacts, is submitted to and approved by the Board.

(3) A traffic management plan showing ingress and egress from the facility and effects of that traffic on nearby roadways.

(4) A plan showing the size, shape and location of any permanent or temporary signage, and certification that such signage complies with the requirements of all City codes.

(m) Mining and mineral processing, including the extraction and/or processing of stone, sand, gravel or topsoil, subject to the following:

(1) An analysis identifying potential adverse impacts of the use, including but not limited to noise, light, traffic, glare, and/or waste disposal, along with a plan for the alleviation and mitigation of these impacts, is submitted to and approved by the Board.

(2) Evidence of compliance with Chapter 1514 of the Ohio Revised Code.

(Ord. 83-05. Passed 12-12-05.)

1127.06 BULK AND AREA REQUIREMENTS.

Bulk and area requirements for the permitted and special exception uses within the (AG) Agriculture District are as shown in the following Table:

Minimum Lot Width	200 feet
Minimum Lot Area	2 acres
Minimum Land Area per Dwelling Unit	2 acres
Front Yard and Any Yard abutting a Public Street	
Arterial or Freeway Service Road	35 feet
Not an Arterial or Freeway Service Road	25 feet
Minimum Side Yard	
One Side Yard	10 feet
Other Side Yard	5 feet
Minimum Rear Yard	40 feet
Maximum Building Height	35 feet

(Ord. 42-05. Passed 6-27-05.)

Residential Districts

1129.01 Establishment and purpose.

1129.02 (RE) Residential Single-Family Estate District.

1129.03 (RS) Residential Single-Family Districts.

1129.04 (RM) Residential Multi-Family Districts.

1129.05 (RMH) Residential Manufactured Home District.

1129.01 ESTABLISHMENT AND PURPOSE.

There are hereby established ten (10) Residential Districts. These Residential Districts are designed to:

- (a) Protect the character of residential areas by limiting the intrusion of inconsistent commercial and industrial activities.
- (b) Promote a suitable environment for family life by permitting appropriate neighborhood facilities, such as churches, schools and specific cultural and recreational activities in residential areas.
- (c) Preserve openness of living areas and avoid overcrowding by requiring minimum yards, open spaces, lot areas, and by limiting the bulk of structures.
- (d) Permit a variety of dwelling types and densities to meet the varying needs of families.
- (e) Control the density of residential development to facilitate planning for the cost effective provision of streets, utilities, and other public facilities.

(Ord. 7-21. Passed 3-8-21.)

1129.02 (RE) RESIDENTIAL SINGLE-FAMILY ESTATE DISTRICT.

(a) Purpose. The RE District is designed to permit the development and continuance of single-family dwellings in relatively large lot suburban-type environments.

(b) Permitted Uses.

- (1) Single-family detached dwellings, provided such structures comply with all other City codes and ordinances.
- (2) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (3) Permanently sited manufactured homes, as defined in Section 1161.01.
- (4) Class I Type B group residential facilities, subject to the requirements of Section 1123.18 of this Code.

(c) Accessory Uses.

- (1) Accessory buildings or structures customarily associated with single-family residential use, including detached garages or carports, tool or garden sheds, playhouses, and/or similar facilities for primary use by occupants of the principal use of the property on which the facility is located, provided such structures meet the yard and setback requirements as specified in Section 1125.02 of this Code.
- (2) Home occupations, subject to the requirements of Section 1125.06 of this Code.
- (3) Private swimming pools, tennis courts and similar facilities for primary use by occupants of the principal use of the property on which the facility is located, provided such structures meet the yard and setback requirements as specified in Chapter 1125 of this Code.
- (4) Antennas or dish-type receiving or transmission facilities, subject to the licensing criteria of Part 97 of the Federal Communications Commission Rules, and/or Chapter 1339 of the Lancaster Codified Ordinances.
- (5) Type B Child Care Homes, subject to the requirements of Section 1123.17 of this Code.

(d) Special Exception Uses.

- (1) Type A Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code, and approval by the Board of Zoning Appeals.
- (2) Churches and similar places of public assembly, on lots of not less than two (2) acres, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (3) Public or private schools, on lots of not less than two (2) acres, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (4) Colleges and/or universities, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (5) Community services, such as community centers, museums, galleries, libraries and similar facilities, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (6) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (7) Bed-and-Breakfast establishments, subject to the following standards:
 - A. The establishment must be operated by the owner occupant of the premises.
 - B. Structures shall maintain the appearance of a single family residence and be compatible with surrounding residences, in size and scale
 - C. All parking shall be provided in the rear yard or in specially designated off-site areas.
 - D. Accommodations shall be provided for not more than three (3) guests.
- (8) Assisted living facilities, community group homes and life care retirement centers, on lots of not less than two (2) acres, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (9) Golf courses or country clubs, provided a site plan showing the location of all facilities is approved by the Board of Zoning Appeals.

(e) Bulk and Area Requirements. Bulk and area requirements for Permitted Uses: within the RE District are as shown in the following Table:

Minimum Lot Width (feet)	150
Minimum Lot Area (S.F.)	22,500
Minimum Land Area per Dwelling Unit (S.F.)	22,500
Minimum Front Yard and Any Yard Abutting a Public Street (feet)	
Arterial or Freeway Service Road	35
Not an Arterial or Freeway Service Road	35
Minimum Side Yard (feet)	
One Side Yard	15
Other Side Yard	15
Minimum Rear Yard (feet)	25
Maximum Building Height (feet)	35

There shall be a side yard on each side of a building of not less than fifteen (15) feet. However, on a lot having less than fifty (50) feet as shown by the last conveyance of record at the time of this Code, there shall be a side yard on each side of the building of not less than ten percent (10%) of the width of the lot, but in no case shall the side yard be less than five (5) feet.

When a single-family or two-family lot abuts a non-arterial street or roadway on two (2) sides, the owner may select the front yard, and the other yard abutting the non-arterial street shall have not less than twenty (20) feet.

Bulk and area requirements for Special Exception Uses in the RE District shall be as specified in Section 1129.02(e) above, or as required in the zoning district where such use is first listed as a permitted use. In specific cases, upon review of the site plan, the Board of Zoning Appeals shall have the authority to interpret the intent of this requirement.

Off-street parking regulations are subject to the requirements of Chapter 1151 of this Code. (Ord. 7-21. Passed 3-8-21.)

1129.03 (RS) RESIDENTIAL SINGLE-FAMILY DISTRICTS.

(a) Purpose. The RS-1, RS-2, RS-3 and RS-4 Districts are designed to permit the development and conservation of single-family detached dwellings in suitable environments in a variety of densities to meet the varying requirements of families.

(b) Permitted Uses. The permitted uses in RS-1, RS-2, RS-3 and RS-4 Districts shall be the same as in the RE District. In addition, two-family dwellings (duplexes) are a permitted use in RS-4 Districts, as are three-family dwellings (triplexes) when located in a CRA-3 Overlay District. Triplexes in a CRA-3 Overlay District must comply with the requirements of the RM-2 District and all other City codes and ordinances.

(c) Accessory Uses. The accessory uses in RS-1, RS-2, RS-3 and RS-4 Districts shall be the same as in the RE District.

(d) The special exception uses in RS-1, RS-2, RS-3 and RS-4 Districts shall be the same as in the RE District except where an RS-4 designated property has utilized the benefit of the CRA-3 Overlay when developing triplex dwellings. In addition, two-family dwellings (duplexes) are a special exception use in RS-3 District.

(e) Bulk and Area Requirements. Bulk and area requirements for permitted uses and two-family dwellings within the RS Districts are as shown on the following Table:

	RS-1	RS-2	RS-3	RS-4
Minimum Lot Width (feet)				
Single-Family Dwelling	100	75	60	40
Two-family Dwelling (Duplex)			75	75
Minimum Lot Area (S.F.)				
Single-Family Dwelling	14,500	9,500	7,500	5,000
Two-Family Dwelling (Duplex)			9,000	9,000
Minimum Land Area per Dwelling Unit (S.F.)				
Single-Family Dwelling	13,500	9,500	7,500	5,000
Two-Family Dwelling (Duplex)			9,000	9,000
Minimum Front Yard and Any Yard Abutting a Public Street (feet)				
Arterial or Freeway Service Road	35	35	35	35
Not an Arterial or Freeway Service Road	35	30	25	20
Minimum Side Yard (feet)	10	10	5	5
One Side Yard	10	10	5	5
Other Side Yard	5	5	5	5
Minimum Rear Yard (feet)	25	25	20	20
Maximum Building Height (feet)	35	35	35	35

There shall be a side yard on each side of a building of not less than five (5) feet.

However, on a lot having less than fifty (50) feet as shown by the last conveyance of record at the time of this Code, there shall be a side yard on each side of the building of not less than ten percent (10%) of the width of the lot, but in no case shall the side yard be less than three (3) feet. When a single-family or two-family lot abuts a non-arterial street or roadway on two (2) sides, the owner may select the front yard, and the other yard abutting the non-arterial street shall have not less than fifteen (15) feet; provided that any garages which access this street shall have a setback of not less than twenty (20) feet.

Bulk and area requirements for Special Exception Uses in the RS Districts shall be as specified in Section 1129.03(e) above, or as required in the zoning district where such use is first listed as a permitted use. In specific cases, upon review of the site plan, the Board of Zoning Appeals shall have the authority to interpret the intent of this requirement. Off-street parking regulations are subject to the requirements of Chapter 1151 of this Code.

(Ord. 7-21. Passed 3-8-21.)

1129.04 (RM) RESIDENTIAL MULTI-FAMILY DISTRICTS.

(a) Purpose. The RM-0, RM-1, RM-2 and RM-3 Districts are designed to permit the development and continuance of multiple family dwellings in suitable environments in a variety of densities to meet the varying requirements of families.

(b) Permitted Uses. The permitted uses in the RM-0, RM-1, RM-2 and RM-3 Districts shall be the same as in the RS-4 District, with the following additions:

- (1) Single-family townhouse units, provided such structures:
 - A. Are located on a separate lot within a townhouse development containing at least three (3) lots,
 - B. Are attached by a common party wall to another townhouse unit,
 - C. Are not located above any other dwelling unit, and
 - D. Comply with all other City codes and ordinances.
- (2) Apartment
- (3) Assisted Living Facility
- (4) Convent or Monastery
- (5) Rooming or Boarding House
- (6) Elderly/Retirement Housing

- (7) Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by the State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.

All permitted uses shall comply with all other applicable City codes and/or ordinances.

In addition, when located on a lot abutting an RE or RS District, permitted uses listed in (1) through (7) above shall be screened by the erection and maintenance of an opaque wall or fence along the lot lines abutting the RE or RS District. Such wall or fence shall comply with the requirements of Section 1123.11 of this Code.

(c) Accessory Uses. The accessory uses in the RM-0, RM-1, RM-2 and RM-3 Districts shall be the same as in the RS-4 District. In addition, management offices, private recreational, laundry and storage facilities for exclusive use by residents of the premises shall be allowed as accessory uses.

In the RM-3 District, the following accessory commercial uses shall be allowed, provided such facilities are located entirely within the multi-family structure where located, shall not occupy more than ten percent (10%) of the floor area of the building, and contain no signs or advertising visible from outside the lot:

- (1) Cafes, cafeterias, coffee shops, delicatessens, restaurants and similar eating establishments.
- (2) Retail convenience establishments, including dairy and drug stores; food stores including bakeries, candy, grocery specialty foods, etc.; gift and/or novelty stores; newsstands and tobacco stores.
- (3) Personal service establishments, including animal grooming, barber and beauty shops, dry cleaning and laundry, tanning salons and tattoo parlors.

(d) Special Exception Uses.

- (1) Type A Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code, and approval by the Board of Zoning Appeals.
- (2) Class I Type A group residential facilities, subject to the provisions of Section 1123.18 of this Code.
- (3) Churches and similar places of public assembly, on lots of not less than one (1) acre, provided a site plan is submitted to and approved by the Board of Zoning Appeals
- (4) Public or private schools, on lots of not less than one (1) acre, provided a site plan is submitted to and approved by the Board of Zoning Appeals
- (5) Colleges and/or universities, provided a site plan is submitted to and approved by the Board of Zoning Appeals
- (6) Community services, such as community centers, museums, galleries, libraries and similar facilities, provided a site plan is submitted to and approved by the Board of Zoning Appeals
- (7) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (8) Bed-and-Breakfast establishments, subject to the following standards:
 - A. The establishment must be operated by the owner-occupant of the premises.
 - B. Accommodations shall be provided for not more than three (3) guests
 - C. All parking shall be provided in the rear yard or in specially designated off-site areas.
- (9) In addition to the above, the following uses shall be considered as Special Exceptions in the RM-1, RM-2, and RM-3 Districts, subject to approval by the Board of Zoning Appeals:
 - A. Professional offices, including attorneys, accountants, insurance and consulting services.
 - B. Studios or schools for teaching ballet, dance, drama, music, language, business or modeling.
 - C. Artist's or photography studios.
 - D. General business offices.
 - E. Medical, dental or optical laboratories.
 - F. Banks and savings and loans.
 - G. Funeral homes.
 - H. Off-street parking areas and garages as a principal use, subject to the requirements of Chapter 1151 of this Code (RM-2 and RM-3 Districts only)
 - I. Structures containing separate small, self-serve storage facilities leased or rented to individuals or businesses, provided such facilities are located on a site with frontage on an arterial street, and that any such use, when located adjacent to an R District, shall be screened by erection and maintenance of a screening wall or fence along the lot line(s) which abut such R District.

(e) Bulk and Area Requirements. Bulk and area requirements for permitted uses within the RM Districts are as shown on the following Table:

	RM-0	RM-1	RM-2	RM-3
Minimum Lot Width (feet)				
Single-Family Dwelling	60	60	60	60
Two-family Dwelling (Duplex)	60	60	60	60
Three-Family Dwelling (Triplex)			50	
Multi-Family Development	100	100	50	100
Minimum Lot Area (S.F.)				
Single-Family Dwelling	6,900	6,000	6,000	6,000
Two-Family Dwelling (Duplex)	6,900	6,900	6,900	6,000
Three-Family Dwelling (Triplex)			6,900	
Multi-Family Development	10,000	10,000	10,000	24,000
Minimum Land Area per Dwelling Unit (S.F.)				
Single-Family Dwelling	6,900	6,000	6,000	6,000
Two-Family Dwelling (Duplex)	3,450	3,450	3,450	3,000
Three-Family Dwelling (Triplex)			2,300	
Multi-Family Development				
Within a PUD/One bedroom or less	2,000	1,800	1,200	600
Not within a PUD/One bedroom or less	2,500	2,000	1,400	600

For each additional bedroom, add	400	400	400	400
Minimum Front Yard and Any Yard Abutting a Public Street (feet)				
Arterial or Freeway Service Road	35	35	35	35
Not an Arterial or Freeway Service Road	25	25	10	25
Minimum Side Yard (feet)				
One Side Yard	10	10	10	25
Other Side Yard	10	10	10	25
Minimum Rear Yard (feet)	20	20	10	25
Maximum Building Height (feet)	35	35	35	35

There shall be a side yard on each side of a building of not less than five (5) feet.

However, on a lot having less than fifty (50) feet as shown by the last conveyance of record at the time of this Code, there shall be a side yard on each side of the building of not less than ten percent (10%) of the width of the lot, but in no case shall the side yard be less than three (3) feet.

When a single-family or two-family lot abuts a non-arterial street or roadway on two (2) sides, the owner may select the front yard, and the other yard abutting the non-arterial street shall have not less than fifteen (15) feet; provided that any garages which access this street shall have a setback of not less than twenty (20) feet.

Notwithstanding the above, all multi-family dwellings and their accessory buildings shall be located at least twenty-five (25) feet from any property in the RE or RS District. A two-story limitation shall apply to all multi-family dwellings located within fifty (50) feet from any RE or RS District. All multi-family structures more than two stories in height shall be located at least seventy-five (75) feet from any RE or RS District.

Bulk and area requirements for Special Exception Uses in the RM Districts shall be as specified in Section 1129.04(e) above, or as required in the zoning district where such use is first listed as a permitted use. In specific cases, upon review of the site plan, the Board of Zoning Appeals shall have the authority to interpret the intent of this requirement.

Office uses allowed as Special Exceptions in Section 1129.04(d)(8)A. and D. above, shall be subject to the bulk and area requirements of the OM District, except no structure in the RM-1 or RM-2 District shall exceed two stories in height.

Off-street parking regulations are subject to the requirements of Chapter 1151 of this Code.
(Ord. 7-21. Passed 3-8-21.)

1129.05 (RMH) RESIDENTIAL MANUFACTURED HOME DISTRICT.

(a) Purpose. The RMH District is designed to provide areas for manufactured homes so as to provide a desirable residential environment, protected from adverse neighboring influences, with adequate access for vehicular traffic and circulation. These residential communities shall be developed and located so as to not promote excessive vehicular traffic on streets in adjoining neighborhoods, and shall provide overall desirability equivalent to that for other forms of residential development.

(b) Requirements Generally. Permanently sited manufactured homes, as defined in Section 1161.01 of this Code, shall be considered as a permitted use in any zoning district that permits single-family residential dwellings. Manufactured homes not meeting the standards for "permanently sited manufactured homes", manufactured home communities, and mobile homes as defined in Section 1161.01, shall require location in the RMH District; however, mobile homes which were built prior to the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976, shall not be considered as a permitted use in the RMH District or any other zoning district within the City.

(c) Permitted Uses.

- (1) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (2) Manufactured homes and manufactured home communities, provided a site plan for any manufactured home community is approved.
- (3) Mobile homes, as defined in Chapter 1161 of this Code.

(d) Accessory Uses. The accessory uses in the RMH District shall be the same as in the RS-4 District. In addition, management offices, private recreational, laundry and storage facilities for exclusive use by residents of the premises shall be allowed as accessory uses.

(e) Special Exception Uses.

- (1) Single-family detached dwellings, provided such structures comply with all other City codes and ordinances.
- (2) Type A Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code, and approval by the Board of Zoning Appeals.
- (3) Churches and similar places of public assembly, on lots of not less than one (1) acre, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (4) Public or private schools, on lots of not less than one (1) acre, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (5) Colleges and/or universities, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (6) Community services, such as community centers, museums, galleries, libraries and similar facilities, provided a site plan is submitted to and approved by the Board of Zoning Appeals.
- (7) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters, provided a site plan is submitted to and approved by the Board of Zoning Appeals.

(f) Bulk and Area Requirements.

(1) Manufactured Home Communities. The development shall consist of one or more tracts under common ownership or control which shall be contiguous or separated only by non-arterial streets or alleys.

(2) General Requirements.

- A. Minimum internal private street surfacing width - 24 feet
- B. All dwellings shall be anchored and skirted
- C. All dwellings shall be certified and display such certification that they have been constructed and comply with the Federal Manufactured Home Construction and Safety Standards.
- D. One (1) identification sign may be erected on each perimeter street frontage of a manufactured home community. The standards for such identification sign shall be the same as for any conventional single family subdivision, as further specified in Chapter 1317 of this Code.

(3) Tract Development Standards.

- A. Minimum tract area - 5 acres
- B. Minimum gross land area per dwelling unit - 4,000 SF
- C. Minimum tract width - 200 feet
- D. Setback abutting a public arterial or freeway service road - 35 feet
- E. Setback abutting a public non-arterial or freeway service road - 25 feet
- F. Setback from perimeter boundary not abutting public street - 10 feet
- G. Maximum height - One story
- H. Common park/recreational open space and facilities, including trails, playgrounds, community buildings and/or tot-lots, shall be delineated and provided to equal at least six percent (6%) of the total gross tract area, exclusive of open space on each lot or space.

(4) Lot or Space Requirements.

- A. Minimum lot width - 40 feet
- B. Minimum lot area - 4,000 SF
- C. Minimum side yard
One side yard - 5 feet
Other side yard - 10 feet
- D. Minimum rear yard - 10 feet

- E. Minimum front yard - 10 feet
 - F. Minimum separation between dwellings - 15 feet
 - G. Maximum lot coverage - 45%
- (5) Off-street parking regulations are subject to the requirements of Chapter 1151 of this Code. (Ord. 7-21. Passed 3-8-21.)

CHAPTER 1131

Office District

1131.01 Purpose.

1131.02 Permitted uses.

1131.03 Accessory uses.

1131.04 Special exception uses.

1131.05 Bulk and area requirements.

1131.01 PURPOSE.

The (OM) Office Medium Intensity District is designed to provide areas for offices, together with certain community facilities normally compatible with office uses. It is designed to preserve existing, office environments and facilitate new medium intensity office development.

(Ord. 42-05. Passed 6-27-05.)

1131.02 PERMITTED USES.

- (a) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (b) Churches and similar places of public assembly, on lots of not less than one (1) acre.
- (c) Public or private schools, on lots of not less than one (1) acre.
- (d) Colleges and/or universities, on lots of not less than one (1) acre.
- (e) Community services, such as community centers, museums, galleries, libraries and similar facilities.
- (f) Off-street parking areas and garages as a principal use, subject to the requirements of Chapter 1151 of this Code
- (g) Professional offices, including attorneys, accountants, insurance and consulting services
- (h) General business offices.
- (i) Studios or schools for teaching ballet, dance, drama, music, language, business or modeling.
- (j) Artist's or photography studios.
- (k) Medical, dental or optical laboratories.
- (l) Banks and savings and loans.
- (m) Funeral homes, provided that if a chapel or assembly area is provided, such facility shall be on a lot of not less than one (1) acre.

(Ord. 42-05. Passed 6-27-05.)

1131.03 ACCESSORY USES.

- (a) Convenience retail goods, limited to books, stationery, office supplies, gifts and novelties, florist, tobacco, candy and medical, dental, optical and orthopedic supply (by prescription only), subject to the following:
 - (1) No convenience goods shall be permitted unless the principal building contains a minimum of 50,000 SF.
 - (2) The accessory use shall occur within the enclosed building housing the principal use and shall have no exterior pedestrian access except through the general building entrance.
 - (3) The permitted accessory use shall not occupy more than 2,000 SF of the gross floor area of the principal use building.
 - (4) Outdoor display of merchandise is permitted, provided such display area is located not closer to the street than the required building setback.
- (5) Approval for these uses is required by the Board of Zoning Appeals as provided in Chapter 1157.
- (b) Convenience personal services, including animal grooming, barber and beauty shops, dry cleaning and laundry, tanning salons and tattoo parlors, subject to the following:
 - (1) Such use shall comply with the standards of Section 1131.03(a)(1) through (3) above, and shall not occupy more than 15% of the gross floor area of the principal building.
 - (2) The total floor area of all accessory uses shall not exceed 20% of gross floor area.
 - (3) Approval for these uses is required by the Board of Zoning Appeals as provided in Section 1131.05.
- (c) Eating establishments not including drive-throughs, consisting of cafes, cafeterias, coffee shops, delicatessens and restaurants designed and located for the convenience of the occupants of the principal building, subject to the following:
 - (1) This accessory use shall not occupy more than 20% of the gross floor area. of the principal building.
 - (2) Outdoor customer seating is allowed, provided such areas abut the building wall of the establishment and extend no closer to the street or property line than the required building setback.
 - (3) Such areas shall be screened from any abutting R District by the erection of a wall or fence.
 - (4) Noise from such areas shall not be audible from any abutting R District.

(Ord. 42-05. Passed 6-27-05.)

1131.04 SPECIAL EXCEPTION USES.

All Special Exceptions in the OM District shall have a minimum frontage of not less than 100 feet.

- (a) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters, provided a site plan is submitted to and approved by the Board of Zoning Appeals
- (b) Single-family detached dwellings, provided such structures comply with all other City codes and ordinances, and approval is given by the Board of Zoning Appeals.
- (c) Two-family dwellings, provided such structures comply with all other City codes and ordinances, and approval is given by the Board of Zoning Appeals.
- (d) Single-family townhouse units, provided such structures:
 - (1) Are located on a separate lot within a townhouse development containing at least three (3) lots,
 - (2) Are attached by a common party wall to another townhouse unit,
 - (3) Are not located above any other dwelling unit, and
 - (4) Comply with all other City codes and ordinances.
- (e) Apartment. (Multi-family uses in the OM District, including (d) through (i) below, shall comply with the bulk and area requirements of the RM-2 District)
- (f) Assisted Living Facility
- (g) Convent or Monastery
- (h) Rooming or Boarding House
- (i) Elderly/Retirement Housing

- (j) Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by the State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.
 - (k) Bed-and-Breakfast establishments
 - (l) Structures containing separate small, self-serve storage facilities leased or rented to individuals or businesses, provided that:
 - (1) The building height is limited to twelve (12) feet; however, accessory buildings used for management and/or security purposes may not exceed 35 feet.
 - (2) Such facilities are located on a site with frontage on an arterial street or freeway service road. The minimum building setback from an adjacent arterial street or freeway service road shall be 50 feet.
 - (3) Exterior building walls shall consist of masonry construction using brick, stone, stucco or concrete panels. Metal or standard (smooth) concrete block exterior walls are not permitted.
 - (4) The floor area ratio (FAR) shall not exceed .5
 - (5) Access doors to the storage units shall not be visible from the ground level from any abutting R District or public street.
 - (6) No hazardous, toxic or explosive material are permitted to be stored in such facilities.
 - (7) Open air storage of materials are allowed only on the interior of a lot if such storage is not visible from the ground level from any abutting R District or public street.
 - (8) When located adjacent to an R District, such uses shall be screened by erection and maintenance of a wall or fence with a minimum height of eight (8) feet along the lot line(s) which abut such R District.
- (Ord. 42-05. Passed 6-27-05.)

1131.05 BULK AND AREA REQUIREMENTS.

Bulk and area requirements for permitted uses within the OM District are as shown on the following Table:

Minimum Lot Frontage	100 feet
Arterial or Freeway Service Road	100 feet
Not an Arterial or Freeway Service Road	50 feet
Minimum Lot Area	NA
Maximum Floor Area Ratio	.5
Setback for any yard abutting a public street	
Arterial or Freeway Service Road	50 feet
Not an Arterial or Freeway Service Road	30 feet
Setback from any abutting AG or R District	10 feet*
Maximum Building Height	35 feet

* Plus two (2) feet for each additional foot of building height exceeding fifteen (15) feet, if abutting property is in RE or RS District.
(Ord. 42-05. Passed 6-27-05.)

CHAPTER 1133

Commercial Districts

- 1133.01 Establishment and purpose.**
- 1133.02 (CN) Commercial Neighborhood District.**
- 1133.03 (CG) Commercial General District.**
- 1133.04 (CH) Commercial High Intensity District.**
- 1133.05 (CBD) Central Business District.**

1133.01 ESTABLISHMENT AND PURPOSE.

There are hereby established four (4) Commercial Districts. These Commercial Districts are designed to:

- (a) Encourage the provision of suitable areas for commercial growth and development within the City.
 - (b) Meet the needs for commercial goods and services within the community.
 - (c) Promote a range of diverse commercial environments.
 - (d) Encourage a compatible relationship between commercial facilities and other land uses.
 - (e) Facilitate the planning for the cost effective provision of streets, utilities, and other public facilities to serve commercial facilities.
 - (g) Protecting the character of commercial districts and their unique suitability for commercial use.
 - (g) Requiring off-street loading and parking facilities.
 - (h) Controlling the number, area, location and types of signs.
- (Ord. 7-21. Passed 3-8-21.)

1133.02 (CN) COMMERCIAL NEIGHBORHOOD DISTRICT.

(a) Purpose. The (CN) Commercial Neighborhood District is designed to provide for the orderly development of neighborhood-oriented businesses serving the regular day-to-day convenience and personal service needs of nearby residents. Because commercial establishments within the CN District are more closely associated with the residential land uses, more restrictive requirements related to size and scale, traffic control and landscaping are needed than in other commercial districts.

(b) Permitted Uses.

- (1) Single-family detached dwellings and permanently sited manufactured homes, as defined in Section 1161.01, provided such structures comply with the requirements of the RM-2 District and with all other City codes and ordinances.
- (2) Class I Type B group residential facilities
- (3) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (4) Residential dwellings, subject to the requirements of the RM-2 District including:
 - A. Single-family townhouse units, provided such structures are located on a separate lot within a townhouse development containing at least three (3) lots, are attached by a common party wall to another townhouse unit, are not located above any other dwelling unit, and comply with all other City codes and ordinances.
 - B. Duplexes and triplexes, provided such structures comply with all other City codes and ordinances.
 - C. Multifamily dwellings, provided such structures comply with all other City codes and ordinances.
 - D. Apartment
 - E. Assisted Living Facility
 - F. Convent or Monastery
 - G. Rooming or Boarding House
 - H. Elderly/Retirement Housing,
 - I. Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by the State of

Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.

- (5) Type A and/or Type B Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code.
- (6) Churches and similar places of public assembly.
- (7) Public or private schools.
- (8) Colleges and/or universities.
- (9) Community services, such as community centers, museums, galleries, libraries and similar facilities.
- (10) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
- (11) Off-street parking areas and garages as a principal use, subject to the requirements of Chapter 1151 of this Code.
- (12) Administrative, business or professional offices not carrying on retail trade with the public and having no stock of goods maintained for sale to customers consisting of:
 - A. Brokers and dealers in securities, investments and associated services, not including commercial banks and savings institutions.
 - B. Insurance agents and brokers and associated services.
 - C. Real estate sales and associated services.
 - D. Medical and medical-related activities, but not including veterinary offices or animal hospitals, kennels, or facilities covered in 1123.19.
 - E. Professional, legal, engineering and architectural services, not including the outside storage of equipment.
 - F. Accounting, auditing and other bookkeeping services.
- (13) Retail Stores primarily engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of those goods; provided all storage and display of merchandise shall be within the principal structure; and not including drive-through establishments or businesses selling gasoline or similar fuels. Examples include:
 - A. Food and food products, consisting of: grocery stores, meat and fish markets, fruit and vegetable markets, and specialty stores such as bakery, candy or confectionery.
 - B. Proprietary drug and hardware stores.
 - C. Similar retail stores, consisting of: florists, gift, antique or second-hand stores, books and newspapers, sporting goods, jewelry, optical goods, and other retail stores which conform to the purpose and intent of the CN District.
- (14) Personal Services, involving the care of the person and his/her personal effects, consisting of consumer services generally involving the care and maintenance of tangible personal property, except for motor vehicles. Examples include:
 - A. Restaurants, but not including restaurants with drive through facilities.
 - B. Banks, savings and loans, and credit agencies, but not including establishments with drive-through facilities.
 - C. Barber and beauty shops, having no more than four work stations.
 - D. Laundromats and/or dry-cleaning facilities.
 - E. Funeral services.
 - F. Human medical and/or dental clinics.
 - G. Radio, television or small appliance repair.
 - H. Commercial photography.
 - I. On-premises duplication services.
 - J. Licensed Day Care Center

(c) Accessory Uses. Accessory uses customarily incident to a principal permitted use shall be allowed in the CN District. Accessory buildings shall meet minimum building setback requirements for principal buildings. Signs must meet the requirements of Chapter 1317 of this Code.

(d) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (CN) Commercial Neighborhood District are shown in the following Table:

Minimum Frontage (feet)	
Arterial or Freeway Service Road	150
Not an Arterial or Freeway Service Road	50
Maximum Floor Area Ratio	.5
Minimum Setback from Property Line (feet)	
Arterial or Freeway Service Road	50
Not an Arterial or Freeway Service Road	25
Minimum Setback from Abutting R District (feet)	10*
Maximum Building Height	NA

* Plus two (2) feet for each additional foot of building height exceeding fifteen (15) feet, if abutting property is in RE or RS District.

Front yard setbacks in the CN District shall comply with Ordinance 83-41 (see APPENDIX B) .

(e) Additional Standards.

- (1) Lighting. Lighting fixtures within the CN District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
- (2) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code. Mixed commercial centers shall require one parking space per 200 S.F. gross floor space regardless of individual unit use.
- (3) Traffic and circulation. Traffic circulation for developments within the CN District is subject to review by the Engineering Department.
- (4) Trash and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances.
- (5) Screening and landscaping. The landscaping and screening of parking and service areas is encouraged in the CN District. If side or rear yards are adjacent to any RE or RS District, landscaping shall be required in those yards to meet the standards of Section 1123.11 of this Code.

(Ord. 7-21. Passed 3-8-21.)

1133.03 (CG) COMMERCIAL GENERAL DISTRICT.

(a) Purpose. The (CG) Commercial General District is designed to provide for a broad range of business activity oriented toward community and/or regional markets. Such business uses, by their nature, rely on higher volumes of customer traffic and generally have higher impact levels on adjacent uses. The intent of the CG District is to encourage the most compatible relationship between permitted uses and overall traffic movement within the City, while minimizing negative impacts on adjacent land uses.

(b) Permitted Uses.

- (1) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (2) Triplexes, subject to the requirements of the RM-2 District, when located in the CRA-3 Overlay District.
- (3) Churches and similar places of public assembly.
- (4) Public or private schools.

- (5) Colleges and/or universities.
 - (6) Community services, such as community centers, museums, galleries, libraries and similar facilities.
 - (7) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
 - (8) Off-street parking areas and garages as a principal use, subject to the requirements of Chapter 1151 of this Code.
 - (9) Administrative, business or professional offices, including:
 - A. Brokers and dealers in securities, investments and associated services, not including commercial banks and savings institutions.
 - B. Insurance agents and brokers and associated services.
 - C. Real estate sales and associated services.
 - D. Medical and medical-related activities, but not including facilities covered in Section 1123.19.
 - E. Professional, legal, engineering and architectural services, not including the outside storage of equipment.
 - F. Accounting, auditing and other bookkeeping services.
 - (10) Retail Stores primarily engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of these goods:
 - A. Food and food products, consisting of: grocery, meat, fish, fruit or vegetable markets or combinations thereof, dairy or bakery products, specialty food stores such as candy or confectionery, and miscellaneous food stores.
 - B. General merchandise, including home furnishings and hardware and similar "hard lines":
 - C. Apparel, consisting of: clothing, furnishings, and accessory items for men, women and children, custom tailor shops and combined apparel sales and personal service operations, and miscellaneous apparel and accessory stores.
 - D. Similar retail stores, including: drug stores, florists, gift and novelty stores, books and newspapers, camera, photographic and optical goods, jewelry, antique stores, specialty stores, and other retail stores which conform to the purpose and intent of the CG District.
 - (11) Personal Services, involving the care of the person and his/her personal effects, including consumer services generally involving the care and maintenance of tangible property or the provision of tangible services for personal consumption including:
 - A. Restaurants, including establishments with drive-through facilities, but not including outside seating areas.
 - B. Bars and/or taverns and similar establishments whose principal activity is dispensing intoxicating beverages, but not including outside seating areas.
 - C. Carry out food and beverage establishments with drive-through facilities
 - D. Banks, savings and loans, and credit agencies, including establishments with drive-through facilities.
 - E. Barber and beauty shops.
 - F. Dry-cleaning establishments.
 - G. Funeral services.
 - H. Human medical and dental clinics.
 - I. Radio, television, or small appliance repair.
 - J. Public and private parking areas.
 - K. On-premises duplication facilities.
 - L. Licensed Day Care Centers.
 - (12) Business Services engaged in the providing of services to business establishments on a fee or contract basis, including consulting services, protective services, office equipment rental, lease or purchase, commercial research and development.
 - (13) Commercial recreational facilities such as community and public swimming pools, skating rinks, bowling alleys, physical fitness centers.
 - (14) Lumber and home improvement sales.
 - (15) Automobile sales and service establishments, including gasoline service stations, but not including truck servicing establishments.
 - (16) Theatres and similar public assembly facilities.
 - (17) Hotels and motels.
 - (18) Garden centers.
- (c) Special Exception Uses.
- (1) Single-family detached dwellings and permanently sited manufactured homes, as defined in Section 1161.01, provided such structures comply with the requirements of the RM-2 District and with all other City codes and ordinances.
 - (2) Multi-family dwellings, subject to the requirements of the RM-2 District, including:
 - A. Single-family townhouse units, provided such structures are located on a separate lot within a townhouse development containing at least three (3) lots, are attached by a common party wall to another townhouse unit, are not located above any other dwelling unit, and comply with all other City codes and ordinances.
 - B. Apartment
 - C. Assisted Living Facility
 - D. Convent or Monastery
 - E. Rooming or Boarding House
 - F. Elderly/Retirement Housing
 - G. Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by the State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.
 - (3) Type A and/or Type B Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code.
 - (4) Class I Type A group residential facilities, subject to the requirements of Section 1123.18 of this Code.
 - (5) Class II Type A or Type B group residential facilities, subject to the requirements of Section 1123.18 of this Code.
 - (6) Structures containing separate small, self-serve storage facilities leased or rented to individuals or businesses, provided such facilities are located on a site with frontage on an arterial street, and that any such use, when located adjacent to an R District, shall be screened by erection and maintenance of a screening wall or fence along the lot line(s) which abut such R District.
 - (7) Restaurants, bars, taverns and similar facilities with outside seating facilities.
 - (8) Self-service car washes.
 - (9) Temporary or seasonal outdoor sales lots having a maximum operating duration of four (4) months, provided all other permits are obtained.
 - (10) Trade establishments primarily providing business and household maintenance services. Such establishments could offer incidental fabricating, processing, installation and repair, including:
 - A. Heating and air conditioning
 - B. Appliance repair
 - C. Plumbing
 - D. Extermination and pest control
 - E. Janitorial services

- F. Window cleaning
 - G. Contract construction services
 - (11) Motor vehicle sales and servicing, (including body repair and painting) not included in Section 1133.03(b)14 above.
 - (12) Intensive open air commercial recreational facilities, including arenas, race tracks, fairgrounds, golf driving ranges, stadiums, and water slides.
 - (13) Facilities for scientific research, development and testing, within enclosed buildings.
- (d) **Bulk and Area Requirements.** Bulk and area requirements for the permitted and accessory uses within the (CG) General Commercial District are shown in the following Table:

Minimum Frontage (feet)	
Arterial or Freeway Service Road	100
Not an Arterial or Freeway Service Road	50
Maximum Floor Area Ratio	.75
Minimum Setback from Property Line (feet)	
Arterial or Freeway Service Road	50
Not an Arterial or Freeway Service Road	25
Minimum Setback from Abutting R District (feet)	10*
Maximum Building Height	NA

* Plus two (2) feet for each additional foot of building height exceeding fifteen (15) feet, if abutting property is in RE or RS District. Front yard setbacks in the CG District shall comply with Ordinance 83-41 (see APPENDIX B).

(e) **Additional Standards.**

- (1) **Lighting.** Lighting fixtures within the CG District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
- (2) **Parking and loading.** Parking and loading requirements shall be as specified in Chapter 1151 of this Code. Mixed commercial centers shall require one parking space per 200 S.F. gross floor space regardless of individual unit use.
- (3) **Traffic circulation.** Traffic circulation for developments within the CG District is subject to review by the Engineering Department.
- (4) **Trash and garbage control.** All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances. (Ord. 7-21. Passed 3-8-21.)

1133.04 (CH) COMMERCIAL HIGH INTENSITY DISTRICT.

(a) **Purpose.** The (CH) Commercial High Intensity District is designed to provide for large commercial and mixed commercial/industrial developments which serve primarily a regional market and/or are characterized by a particularly high level of intensity. Such projects require large volumes of traffic, high demands for access and visibility, and will usually be insulated from residential uses.

(b) **Permitted Uses.** The uses specified as Permitted Uses in the CG District shall be permitted in the CH District. In addition, the following uses shall be permitted in the CH District:

- (1) Structures containing separate small, self-serve storage facilities leased or rented to individuals or businesses, provided such facilities are located on a site with frontage on an arterial street, and that any such use, when located adjacent to an R District, shall be screened by erection and maintenance of a screening wall or fence along the lot line(s) which abut such R District
- (2) Restaurants and similar facilities with outside seating facilities.
- (3) Self-service car washes.
- (4) Temporary or seasonal outdoor sales lots having a maximum operating duration of four (4) months, provided all other permits are obtained.
- (5) Trade establishments primarily providing business and household maintenance services. Such establishments could offer incidental fabricating, processing, installation and repair, including:
 - A. Heating and air conditioning
 - B. Appliance repair
 - C. Plumbing
 - D. Extermination and pest control
 - E. Janitorial services
 - F. Window cleaning
 - G. Contract construction services
- (6) Motor vehicle sales and servicing, body repair and painting, including new and used automobiles, trucks, and agricultural equipment.
- (7) Manufactured home sales.
- (8) Facilities for scientific research, development and testing, within enclosed buildings.
- (9) Warehousing, distribution and wholesaling establishments involved with the movement and/or storage of goods, including:
 - A. Warehouses used by retail stores
 - B. Food and hardware distributors
 - C. General freight storage
 - D. Truck terminals
 - E. Parcel and post office facilities

(c) **Special Exception Uses.**

- (1) Multi-family dwellings, subject to the requirements of the RM-2 District, including:
 - A. Single-family townhouse units, provided such structures are located on a separate lot within a townhouse development containing at least three (3) lots, are attached by a common party wall to another townhouse unit, are not located above any other dwelling unit, and comply with all other City codes and ordinances.
 - B. Apartment
 - C. Assisted Living Facility
 - D. Convent or Monastery
 - E. Rooming or Boarding House
 - F. Elderly/Retirement Housing
 - G. Life Care Retirement Center, provided the nursing or medical facility meets all applicable licensing requirements by the State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.
- (2) Type A and/or Type B Family Child Care Homes, subject to the requirements of Section 1123.17 of this Code.
- (3) Class I Type A group residential facilities, subject to the requirements of Section 1123.18 of this Code.
- (4) Class II Type A or Type B group residential facilities, subject to the requirements of Section 1123.18 of this Code.
- (5) Adult entertainment establishments.
- (6) Intensive open air commercial recreational facilities, including arenas, race tracks, fairgrounds, golf driving ranges, stadiums,

and water slides.

- (7) Manufacturing and/or industrial facilities which operate primarily within enclosed structures and have minimal adverse environmental and/or economic impact on adjacent non-industrial properties. Such uses must provide to the Board of Zoning Appeals documentation of anticipated levels of noise, dust, odor, light, glare and vibration from the proposed use and a plan for alleviation or control of such impacts.

(d) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (CH) Commercial High Intensity District are shown in the following Table:

Minimum Frontage (feet)

Arterial or Freeway Service Road NA
Not an Arterial or Freeway Service Road NA

Maximum Floor Area Ratio NA

Minimum Setback from Property Line (feet)

Arterial or Freeway Service Road 0
Not an Arterial or Freeway Service Road 0

Minimum Setback from Abutting R District (feet) 0

Maximum Building Height NA

Front yard setbacks in the CG District shall comply with Ordinance 83-41 (see APPENDIX B).

(e) Additional Standards.

- (1) Lighting. Lighting fixtures within the CH District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
- (2) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code. Mixed commercial centers shall require one parking space per 200 S.F. gross floor space regardless of individual unit use.
- (3) Traffic and circulation. Traffic circulation for developments within the CH District is subject to review by the Engineering Department.
- (4) Trash and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances.
(Ord. 7-21. Passed 3-8-21.)

1133.05 (CBD) CENTRAL BUSINESS DISTRICT.

(a) Purpose. The Central Business District (CBD) is designed to promote and foster the economic and physical revitalization of downtown Lancaster. The standards and requirements of the CBD District are based on the following principles:

- (1) The downtown should contain a healthy mix of land uses. The marketplace - not regulations - should be the primary force driving the mix of downtown uses.
- (2) The downtown should be particularly receptive to small local based entrepreneurship and start-up businesses.
- (3) The maintenance and improvement of the downtown physical environment is important in promoting an active and vital business environment.
- (4) Development standards and regulations should encourage the adaptive use of older structures.

(b) Permitted Uses.

- (1) Single-family detached dwellings and permanently sited manufactured homes, as defined in Section 1161.01, provided such structures comply with the Residential Standards requirements, established Historic Lancaster Design Guidelines, and with all other city codes and ordinances.
- (2) Public or private open land uses, such as arboretums, parks, playgrounds, flood management and storm water detention areas, reservoirs and wildlife preserves.
- (3) Residential dwellings, subject to RM-2 requirements and the Historic Lancaster Design Guidelines. Including:
 - A. Single-family townhouse units, provided such structures are located on a separate lot within a townhouse development containing at least three (3) lots, are attached by a common party wall to another townhouse unit, are not located above any other dwelling unit, and comply with all other City codes and ordinances.
 - B. Duplexes and triplexes, provided such structures comply with all other City codes and ordinances.
 - C. Multifamily dwellings, provided such structures comply with all other City codes and ordinances.
 - D. Apartment
 - E. Elderly/Retirement Housing
 - F. Life Care Retirement Centers, provided the nursing or medical facility meets all applicable licensing requirements by the State of Ohio and/or Ohio State Health Department as an intermediate care facility or as a skilled nursing home.
- (4) Churches and similar places of public assembly.
- (5) Public or private schools exclusive of correctional school facilities.
- (6) Colleges and/or Universities
- (7) Community services, such as community centers, museums, galleries, libraries and similar facilities
- (8) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
- (9) Off-street parking areas and garages as a principal use, subject to the requirements of Chapter 1151 of this code.
- (10) Administrative, business or professional offices, such as:
 - A. Brokers and dealers in securities, investments and associated services
 - B. Insurance agents, brokers and associated services
 - C. Real estate sales and associated services.
 - D. Doctor and Dental offices, but not including Veterinary offices or animal hospitals.
 - E. Professional, legal, engineering and architectural services, not including the outside storage of equipment.
 - F. Accounting, auditing and other bookkeeping services.
- (11) Performing Arts Theaters, Opera Houses, or Center for The Arts
- (12) Personal Services, involving the care of the person and his/her personal effects, including consumer services generally involving the care and maintenance of tangible property or the provision of tangible services for personal consumption including:
 - A. Restaurants, including establishments with outside seating areas but not including drive-through facilities
 - B. Bars and/or Taverns and similar establishments whose principal activity is dispensing intoxicating beverages, including outside seating areas as long as all city codes and ordinances, such as noise, are maintained.
 - C. Carry out food and beverage establishments but not including drive-through facilities.
 - D. Banks, savings and loans, and credit agencies.
 - E. Barbers and beauty shops.
 - F. Dry-cleaning establishments.
 - G. Funeral Services.

- H. Human medical and dental clinics exclusive of Residential, Institutional and Recovery Treatment centers/facilities
- I. Radio, television, broadcasting, and small appliance repair.
- J. Public and private parking areas.
- K. On-premises duplication facilities.
- L. Clubs, Social or Fraternal.
- M. Licensed Day Care Center.
- (13) Business Services engaged in the providing of services to business establishments on a fee or contract basis, including consulting services, protective services, office equipment rental, lease or purchase, commercial research and development
- (14) Commercial recreational facilities such as physical fitness centers, skating rinks, bowling alleys.
- (15) Retail Stores primarily engaged in selling merchandise for personal or household consumption, and rendering services incidental to the sale of these goods:
 - A. Food and food products, consisting of: grocery, meat, fish, fruit or vegetable markets or combinations thereof, dairy or bakery products, specialty food stores such as candy or confectionery, and miscellaneous food stores
 - B. General merchandise, including home furnishings and hardware and similar "hard lines"
 - C. Apparel, consisting of: clothing, furnishings, and accessory items for men, women and children, custom tailor shops and combined apparel and accessory stores.
 - D. Similar retail stores, including; drug stores, florists, gift and novelty stores, books and newspapers, camera, photographic and optical goods, jewelry, antique stores, specialty stores and other retail stores which conform to the purpose and intent of the CG District.
- (c) Special Exception Uses.
 - (1) Hotels and Motels
 - (2) Movie theaters and similar public assembly facilities.
 - (3) Residences in the upper stories of existing buildings, provided that each dwelling unit has at least 500 1,000 square feet of habitable floor area, and further provided that a specific Development Plan for the project is approved by the Board of Zoning Appeals.
 - (4) Processing, assembly and/or packaging of products or materials, provided such operations are carried out totally within the building, such operations do not produce levels of noise or odors perceptible outside the building, and such use promotes the purpose of the CBD District as stated in Section 1133.05 (a) above.
 - (5) Any combination of two or more individual Permitted or Special Exceptions on separate floors of an existing building.
 - (6) Similar uses, which conform to the purpose of the CBD District, as determined by the Board of Zoning Appeals.
- (d) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (CBD) Central Business District are shown in the following Table:

Minimum Frontage (feet)	
Arterial or Freeway Service Road	NA
Not an Arterial or Freeway Service Road	NA
Maximum Floor Area Ratio	NA
Minimum Setback from Property Line (feet)	
Arterial or Freeway Service Road	0*
Not an Arterial or Freeway Service Road	0*
Minimum Setback from Abutting R District (feet)	0*
Maximum Building Height	NA

* The distance between any building or structure and the right-of-way line of any public street shall be not greater than that of the most proximate building on the same side of the street. No minimum side yard setback shall be required, unless the building or structure is located adjacent to a district in which single-family residences are a permitted use, in which case the setback shall be twenty-five (25) feet.

- (e) Additional Standards.
 - (1) Lighting. Lighting fixtures within the CBD District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
 - (2) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code.
 - (3) Traffic and Circulation. Traffic circulation for developments within the CBD District is subject to review by the Engineering Department.
 - (4) Manufactured/modular buildings. The use of manufactured and/or modular buildings for business purposes in the CBD District shall be prohibited.
 - (5) Trash and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances.
- (f) Residential Standards.
 - A. Bulk and Area Requirements.
Bulk and area requirements will be determined based on the first floor use of the building. For residential uses, the bulk and area requirements are shown in the following table.

Minimum Lot Width			
Single Family Dwelling	40 ft		
Two Family Dwelling (Duplex)	60 ft		
Three Family Dwelling (Triplex)	60 ft		
Multi-Family Dwelling	NA		
Multi-Family located above Commercial Structure		NA	
Minimum Lot Area (S.F.)			
Single Family Dwelling	6,000		
Two Family Dwelling (Duplex)	6,900		
Three Family Dwelling (Triplex)	6,900		
Multi-Family Dwelling	10,000		
Multi-Family located above Commercial Structure		NA	
Minimum Land Area per Dwelling Unit (S.F)			
Single Family	6,000		
Two Family Dwelling (Duplex)	3,450		
Three Family Dwelling Dwelling (Triplex)		2,300	
Multi-Family Dwelling One Bedroom or less		600	
For each additional bedroom add	400		
Multi-Family located above Commercial Structure		NA	
Maximum Building Height			
Single Family Dwelling	35 ft		
Duplex Family Dwelling	35 ft		
Triplex Family Dwelling	39 ft		
Multi-Family Dwelling	NA		
Multi-Family located above Commercial Structure		NA	

B. Mandatory Front Yard.

Mandatory front yards shall comply with Chapter 1123.10. When a single-family or two family lot abuts a non-arterial street or roadway on two (2) sides, the owner may select the front yard, and the other yard abutting the non-arterial street shall have not less than fifteen (15) feet; provided that any garages which access this street shall have a setback of not less than twenty (20) feet.

C. Setback from Residential Districts.

Notwithstanding the above, all multi-family dwellings and their accessory buildings shall be located at least twenty-five feet from any property in the RE or RS District. All multi-family structures more than two stories in height shall be located at least seventy five (75) feet from any RE or RS District.

D. Accessory Uses shall be the same as in RS-4 District. In addition, management offices, private recreational, laundry and storage facilities for exclusive use by residents of the premises shall be allowed as accessory uses.

The following accessory commercial uses shall be allowed, provided such facilities are located entirely within the multifamily structure where located, shall not occupy more than ten percent (10%) of the floor area of the building, and contain no signs or advertising visible from the outside of the lot:

- Cafes, cafeterias, coffee shops, delicatessens, restaurants and similar eating establishments.
 - Retail convenience establishments including dairy and drug stores; food stores including bakeries, candy, grocery specialty foods, etc.; gift and/or novelty stores; newsstands and tobacco stores.
 - Personal service establishments, including animal grooming, barber and beauty shops, laundry, and tanning salons.
- (Ord. 7-21. Passed 3-8-21.)

CHAPTER 1135

Industrial Districts

- 1135.01 Establishment and purpose.**
- 1135.02 (IL) Industrial Light District.**
- 1135.03 (IM) Industrial Moderate District.**
- 1135.04 (IH) Industrial Heavy District.**

1135.01 ESTABLISHMENT AND PURPOSE.

There are hereby established three (3) Industrial Districts. These Industrial Districts are designed to:

- (a) Preserve and promote the development of a diverse range of efficient industrial and business environments within the community.
 - (b) Encourage the employment growth within the community.
 - (c) Promote a compatible relationship between industrial facilities and other land uses, and minimize the adverse effects of industrial activity on adjacent and proximate land uses.
 - (d) Facilitate the cost effective provision of streets, utilities, and other public facilities to serve industrial and business uses.
 - (e) Preserve the existing industrial base of the City.
- (Ord. 8-21. Passed 3-8-21.)

1135.02 (IL) INDUSTRIAL LIGHT DISTRICT.

(a) Purpose. The (IL) Industrial Light District is designed to provide for a wide range of industrial and other employment-generating business. The district provides areas for most industrial and industrial related activities, in addition to office, business and retail uses, while protecting and conforming with nearby residential areas. Permitted uses within the IL District must operate:

- (1) Primarily within enclosed structures.
- (2) With minimal adverse environmental or economic impact on adjacent properties.
- (3) Free from noise, odor, dust, smoke, light, glare or vibration at levels in excess of the average level on adjacent streets and properties.
- (4) Without imposing unusual burdens upon utility or governmental services.

(b) Permitted Uses.

- (1) Administrative, business or professional offices, including:
 - A. Brokers and dealers in securities, investments and associated services, including commercial banks and savings institutions.
 - B. Insurance agents and brokers, and associated services.
 - C. Real estate sales and associated services.
 - D. Medical and medical-related activities, including veterinary offices or animal hospitals.
 - E. Professional, legal, engineering and architectural services, not including the outside storage of equipment.

- F. Accounting, auditing and other bookkeeping services.
- (2) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
- (3) Structures containing separate small, self-serve storage facilities leased or rented to individuals or businesses, provided that:
- Exterior building walls shall consist of masonry construction using brick, stone, stucco or concrete panels. Metal or standard (smooth) concrete block exterior walls are not permitted.
 - Access doors to the storage units shall not be visible from the ground level from any abutting R District or public street.
 - No hazardous, toxic or explosive material are permitted to be stored in such facilities.
 - Open air storage of materials is allowed only on the interior of a lot if such storage is not visible from the ground level from any abutting R District or public street.
- (4) Retail sales and service, consisting of firms involved with the sale, lease or rent of products or goods to the general public and/or providing onsite product repair or services for such goods.
- (5) Vehicle sales and/or service, consisting of firms servicing automobiles, trucks and other commercial and/or consumer vehicles, including motorcycles, boats, recreational vehicles and/or agricultural equipment.
- (6) Trade establishments primarily providing business and household maintenance services. Such establishments could offer incidental fabricating, processing, installation and repair, including:
- Heating and air conditioning,
 - Appliance repair
 - Plumbing
 - Extermination and pest control
 - Janitorial services
 - Window cleaning
 - Contract construction services
- (7) Intensive commercial recreational facilities serving a regional market.
- (8) Manufacturing and production, consisting of firms involved in the manufacturing, processing, fabrication, packaging or assembly of goods, consistent with the purposes of the IL District.
- (9) Warehousing and distribution, consisting of firms involved with the storage and/or movement of goods.
- (10) Industrial product sales or service, consisting of firms engaged in the sale, rent or lease of products intended for industrial or commercial users, or the repair and/or servicing of industrial or commercial machinery, equipment or products.
- (11) Facilities for scientific research, development and testing, within enclosed buildings.
- (c) Accessory Uses. Accessory uses customarily incident to a principal permitted use shall be allowed in the IL District. Accessory buildings shall meet minimum building setback requirements for principal buildings. Signs must meet the requirements of Chapter 1317 of this Code.

(d) Special Exception Uses.

- Personal Services, involving the care of the person and his/her personal effects, including consumer services generally involving the care and maintenance of tangible property or the provision of tangible services for personal consumption including:
 - Restaurants, including establishments with drive-through facilities and/or outside seating areas.
 - Bars and/or taverns and similar establishments whose principal activity is dispensing intoxicating beverages.
 - Carry out food and beverage establishments including those with drive-through facilities.
 - Banks, savings and loans, and credit agencies, including establishments with drive-through facilities.
 - Dry-cleaning establishments.
 - On-premises duplication facilities.
 - Convict pre-release centers or correctional community centers, subject to the requirements of Section 1123.19 of this Code.
 - Temporary or seasonal outdoor sales lots having a maximum operating duration of four (4) months, provided all other permits are obtained.
 - Single family detached container dwellings or duplexes as defined in Section 1161.01, provided such structures occupy a single lot and comply with the requirements of an RS-4 District and all other City codes and ordinances. Screening along property lines adjacent to established industrial or commercial uses shall comply with Section 1123.11 of this Code. A scaled site plan must be submitted for review by the Board of Zoning Appeals.
 - Triplexes or multi-family container dwellings, as defined in Section 1161.01, provided such structures comply with the requirements of the RM-2 District and all other City codes and ordinances. Screening along property lines adjacent to established industrial or commercial uses shall comply with Section 1123.11 of this Code. A scaled site plan must be submitted for review by the Board of Zoning Appeals.
 - Other business or industrial uses meeting the objectives and standards of the IL District, as determined by the Board of Zoning Appeals.
- (e) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (IL) Industrial Light District are shown in the following Table:

Minimum Frontage (feet)	
Arterial or Freeway Service Road	150
Not an Arterial or Freeway Service Road	50
Maximum Floor Area Ratio	NA
Minimum Setback from Property Line (feet)	
Arterial or Freeway Service Road	50
Not an Arterial or Freeway Service Road	25
Minimum Setback	
from Abutting AG, R or O District (feet)	25
Maximum Building Height	NA

(f) Additional Standards.

- Exterior operations. Exterior operations, including the processing, assembly or fabrication of goods, the movement of goods not in containers or pipelines, and/or the repair and/or salvage of equipment, shall not be permitted in the IL District.
- Exterior storage. The outdoor storage of raw or finished goods including chemicals, gravel, building materials salvage goods, machinery, equipment, etc., shall not be permitted in the IL District unless an acceptable plan for screening is submitted.

- (3) Exterior display. The exterior display of products, vehicles, equipment and machinery for sale or lease shall be permitted in the IL District. Display items are intended to be viewed by customers and are not just being stored or parked. Exterior display does not include damaged vehicles, vehicles or equipment being serviced, bulk goods and materials, or other such products.
- (4) Lighting. Lighting fixtures within the IL District shall be arranged shielded and directed so as not to shine on any adjacent residential property.
- (5) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code.
- (6) Traffic and circulation. Traffic circulation for developments within the IL District is subject to review by the Engineering Department.
- (7) Trash and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances. (Ord. 8-21. Passed 3-8-21.)

1135.03 (IM) INDUSTRIAL MODERATE DISTRICT.

(a) Purpose. The (IM) Industrial Moderate District is intended to provide for a wider range of industrial uses. Non-industrial activities are limited and new residential uses are largely prohibited. The IM District is primarily intended for undeveloped areas having larger lots and irregular block patterns, but can also be used to encourage the redevelopment of existing older industrial areas.

(b) Permitted Uses.

- (1) Public protection facilities, including police, fire, and ambulance facilities and civil defense or storm shelters.
- (2) Structures containing separate small, self-serve storage facilities leased or rented to individuals or businesses, provided that no hazardous, toxic or explosive material are permitted to be stored in such facilities.
- (3) Manufacturing and production, consisting of firms involved in the manufacturing, processing, fabrication, packaging or assembly of goods.
- (4) Warehousing and distribution, consisting of firms involved with the storage and/or movement of goods.
- (5) Industrial product sales or service, consisting of firms engaged in the sale, rent or lease of products intended for industrial or commercial users, or the repair and/or servicing of industrial or commercial machinery, equipment or products.
- (6) Facilities for scientific research, development and testing, within enclosed buildings.
- (7) Vehicle sales and/or service, consisting of firms servicing automobiles, trucks and other commercial and/or consumer vehicles, including motorcycles, boats, recreational vehicles and/or agricultural equipment.
- (8) Trade establishments primarily providing business and/or household maintenance services. Such establishments could offer incidental fabricating, processing, installation and repair, including:
 - A. Heating and air conditioning,
 - B. Appliance repair
 - C. Plumbing
 - D. Extermination and pest control
 - E. Janitorial services
 - F. Window cleaning
 - G. Contract construction services

(c) Accessory Uses. Accessory uses customarily incident to a principal permitted use shall be allowed in the IM District. Accessory buildings shall meet minimum building setback requirements for principal buildings. Signs must meet the requirements of Chapter 1317 of this Code.

(d) Special Exception Uses.

- (1) Administrative, business or professional offices, including:
 - A. Professional, legal, engineering and architectural services, not including the outside storage of equipment.
 - B. Accounting, auditing and other bookkeeping services.
 - C. Real estate sales and associated services.
 - D. Medical and medical-related activities
- (2) Convict pre-release centers or correctional community centers, subject to the requirements of Section 1123.19 of this Code.
- (3) Junk and salvage yards, as defined in Chapter 1161, provided such uses meet applicable state requirements and local requirements related to fencing and other standards are met, and a site plan is submitted and approved by the Board of Zoning Appeals.
- (4) Contractor equipment and storage yards, provided adequate fencing and screening devices are installed.
- (5) Quarrying or mining operations, provided that all state and federal regulations are met and licenses are obtained and a site plan is submitted and approved by the Board of Zoning Appeals.
- (6) Plants for the mixing and/or processing of concrete and/or asphalt.
- (7) Single family detached container dwellings or duplexes as defined in Section 1161.01, provided such structures comply with the requirements of an RM-2 District and all other City codes and ordinances, within the CRA-3 Overlay. Screening along property lines adjacent to established industrial or commercial uses shall comply with Section 1123.11 of this Code. A site plan must be submitted for approval by the Board of Zoning Appeals.
- (8) Triplex and multi-family container dwellings, as defined in Section 1161.01, provided such structures comply with the requirements of the RM-2 District and all other City codes and ordinances. Screening along property lines adjacent to established industrial or commercial uses shall comply with Section 1123.11 of this Code.

(e) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (IM) Industrial Moderate District are shown in the following Table:

Minimum Frontage (feet)	
Arterial or Freeway Service Road	200
Not an Arterial or Freeway Service Road	50
Maximum Floor Area Ratio	NA
Minimum Setback from Property Line (feet)	
Arterial or Freeway Service Road	50
Not an Arterial or Freeway Service Road	25
Minimum Setback (feet)	
from Abutting AG, R or O District	25
Maximum Building Height	NA

(f) Additional Standards.

- (1) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code.
- (2) Traffic and circulation. Traffic circulation for developments within the IM District is subject to review by the Engineering Department.
- (3) Traffic and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances. (Ord. 8-21. Passed 3-8-21.)

1135.04 (IH) INDUSTRIAL HEAVY DISTRICT.

(a) Purpose. The (IH) Industrial Heavy District is intended to provide for a full range of industrial uses, including activities which may constitute substantial environmental influences or hazards by their operation and/or appearance.

(b) Permitted Uses. Permitted uses in the IH District shall be those uses specified as Permitted Uses and Special Exception Uses in the IM District, except no residential use shall be allowed.

(c) Accessory Uses. Accessory uses customarily incident to a principal permitted use shall be allowed in the IH District. Accessory buildings shall meet minimum building setback requirements for principal buildings. Signs must meet the requirements of Chapter 1317 of the Codified Ordinances.

(d) Special Exception Uses. Other unspecified uses of an industrial nature meeting the objectives and standards of the IH District, as determined by the Board of Zoning Appeals.

(e) Bulk and Area Requirements. Bulk and area requirements for the permitted and accessory uses within the (IH) Industrial Heavy District are shown in the following Table:

Minimum Frontage (feet)	
Arterial or Freeway Service Road	200
Not an Arterial or Freeway Service Road	50
Maximum Floor Area Ratio	NA
Minimum Setback from Property Line (feet)	
Arterial or Freeway Service Road	50
Not an Arterial or Freeway Service Road	25
Minimum Setback (feet)	
from Abutting AG, R or O District	25
Maximum Building Height	NA

(f) Additional Standards.

- (1) Parking and loading. Parking and loading requirements shall be as specified in Chapter 1151 of this Code.
- (2) Traffic and circulation. Traffic circulation for developments within the IH District is subject to review by the Engineering Department.
- (3) Trash and garbage control. All trash and garbage shall be stored and managed consistent with the requirements of Chapter 1303 and Chapter 937 of the Codified Ordinances. (Ord. 8-21. Passed 3-8-21.)

CHAPTER 1137

Sexually Oriented Businesses

1137.01 Rationale and findings.

1137.02 Definitions.

1137.03 Criteria.

1137.04 Severability.

CROSS REFERENCES

Sexually oriented business standards - see BUS. REG. Ch. 707

1137.01 RATIONALE AND FINDINGS.

(a) Purpose. It is the purpose of this ordinance to regulate sexually oriented businesses in order to promote the health, safety, moral, and general welfare of the citizens of the City, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the City. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

(b) Findings and Rationale. Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the City Council, and on findings, interpretations, and narrowing constructions incorporated in the cases of City of Littleton v. Z.J. Gifts D-4, L.L.C., 124 S.Ct. 2219 (June 7, 2004); City of Los Angeles v. Alameda Books, Inc., 535 U.S. 425 (2002); Pap's A.M. v. City of Erie, 529 U.S. 277 (2000); City of Renton v. Playtime Theatres, Inc., 475 U.S. 41 (1986), Young v. American Mini Theatres, 426 U.S. 50 (1976), Barnes v. Glen Theatre, Inc., 501 U.S. 560 (1991); California v. LaRue, 409 U.S. 109 (1972); and Deja Vu of Cincinnati, Inc. v. Union Township, Ohio, 411 F.3d 777 (6th Cir. 2005) (en banc); DLS, Inc. v. City of Chattanooga, 107 F.3d 403 (6th Cir. 1997); Brandywine, Inc. v. City of Richmond, 359 F.3d 830 (6th Cir. 2004); Currence v. City of Cincinnati, 2002 U.S. App. LEXIS 1258; Broadway Books v. Roberts, 642 F.Supp. 486 (E.D. Tenn. 1986); Bright Lights, Inc. v. City of Newport, 830 F.Supp. 378 (E.D. Ky. 1993); Richland Bookmart v. Nichols, 137 F.3d 435 (6th Cir. 1998); Center for Fair Public Policy v. Maricopa County, 336 F.3d 1153 (9th Cir. 2003); Déjà vu v. Metro Government, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); Bamon Corp. v. City of Dayton, 923 F.2d 470 (6th Cir. 1991); Triplett Grille, Inc. v. City of Akron, 40 F.3d 129 (6th Cir. 1994); O'Connor v. City and County of Denver, 894 F.2d 1210 (10th Cir. 1990); Déjà vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County, 274 F.3d 377 (6th Cir. 2001); Z.J. Gifts D-2, L.L.C. v. City of Aurora, 136 F.3d 683 (10th Cir. 1998); ILQ Investments, Inc. v. City of Rochester, 25 F.3d 1413 (8th Cir. 1994); Threesome Entertainment v. Strittmather, 4 F.Supp.2d 710 (N.D. Ohio 1998); Bigg Wolf Discount Video Sales, Inc. v. Montgomery County, 256 F. Supp. 2d 385 (D. Md. 2003); Kentucky Restaurant Concepts, Inc. v. City of Louisville and Jefferson County, 209 F.Supp.2d 672 (W.D. Ky. 2002); Lady J. Lingerie, Inc. v. City of Jacksonville, 176 F.3d 1358 (11th Cir. 1999); Restaurant Ventures v. Lexington-Fayette Urban County Gov't, 60 S.W.3d 572 (Ct. App. Ky. 2001); World Wide

Video of Washington, Inc. v. City of Spokane, 368 F.3d 1186 (9th Cir. 2004); Ben's Bar, Inc. v. Village of Somerset, 316 F.3d 702 (7th Cir. 2003);

and based upon reports concerning secondary effects occurring in and around sexually oriented businesses, including, but not limited to, Austin, Texas - 1986; Indianapolis, Indiana - 1984; Garden Grove, California - 1991; Houston, Texas - 1983, 1997; Phoenix, Arizona - 1979, 1995-98; Chattanooga, Tennessee - 1999-2003; Minneapolis, Minnesota - 1980; Los Angeles, California - 1977; Whittier, California - 1978; Spokane, Washington - 2001; St. Cloud, Minnesota - 1994; Littleton, Colorado - 2004; Oklahoma City, Oklahoma - 1986; Dallas, Texas - 1997; Greensboro, North Carolina - 2003; Amarillo, Texas - 1977; New York, New York Times Square - 1994; and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the City Council finds:

- (1) Sexually oriented businesses, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation.
- (2) Sexually oriented businesses should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other sexually oriented businesses, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of sexually oriented businesses in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the City has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the City's rationale for this ordinance, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the City's interest in regulating sexually oriented businesses extends to preventing future secondary effects of either current or future sexually oriented businesses that may locate in the City. The City finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

(Ord. 6-06. Passed 2-27-06.)

1137.02 DEFINITIONS.

The words in this chapter shall have the meanings therein respectively ascribed to them by Chapter 707 of the Lancaster Code of Ordinances unless a different meaning is clearly indicated by the context.

(Ord. 6-06. Passed 2-27-06.)

1137.03 CRITERIA.

Sexually oriented businesses shall be considered a Permitted Use in the Industrial Moderate (IM), subject to the following conditions:

- (a) No sexually oriented business shall be established within 500 feet of any R District including R, RMH, etc. or any single or multi-family use.
- (b) No sexually oriented business shall be established within a radius of 500 feet of any school, library, or teaching facility, whether public or private.
- (c) No sexually oriented business shall be established within a radius of 500 feet of a nursery, preschool or daycare facility.
- (d) No sexually oriented business shall be established within a radius of 500 feet of any park or recreational facility attended by persons under 18 years of age.
- (e) No sexually oriented business shall be established within a radius of 500 feet of any church, synagogue, or worship facility.
- (f) No sexually oriented business shall be established within a radius of 500 feet of any other sexually oriented business.
- (g) Lighting on the exterior of the building shall be arranged so as to illuminate the entire off-street parking area with sufficient intensity to provide illumination of not less than two (2.0) foot candles as measured at the floor level

The distances as cited in this Section above shall be measured by following a straight line, without regard to intervening buildings, from the nearest point of the building in which the proposed sexually oriented business is to be located, to the nearest point of the property line, or district from which the proposed sexually oriented business is to be separated.

(Ord. 6-06. Passed 2-27-06.)

1137.04 SEVERABILITY.

This ordinance and each section and provision of said chapter hereunder, are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of said chapter, or the application thereof to any person or circumstance is held to be invalid, the remaining sections or provisions and the application of such sections and provisions to any person or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such sections and provisions would have been passed independently of such section or provision so known to be invalid.

(Ord. 6-06. Passed 2-27-06.)

CHAPTER 1139

Landscape Requirements

1139.01 Purposes.

1139.02 Tree size definitions.

1139.03 Tree locations.

1139.04 Trees and public utility lines.

1139.05 Prohibited tree species for public use.

1139.01 PURPOSES.

The purposes of the landscape requirements are:

- (a) To promote the beautification of the City of Lancaster and to enhance its aesthetic quality;
- (b) To promote reasonable preservation and replenishment of valued trees and vegetation;
- (c) To aid in establishing the ecological balance by contributing to air purification, oxygen regeneration, ground water recharge and storm water runoff retardation; and
- (d) To achieve a meaningful urban forest while permitting economically feasible urban development to occur.

(Ord. 28-17. Passed 9-11-17.)

1139.02 TREE SIZE DEFINITIONS.

- (a) Large Trees--trees that will reach a mature height of 60 feet or better.
- (b) Medium Trees -- trees that will reach a mature height of 30-60 feet.
- (c) Small Trees -- trees that will reach a maximum height of 30 feet at maturity.

(Ord. 28-17. Passed 9-11-17.)

1139.03 TREE LOCATIONS.

(a) Trees within the public right of way shall not be planted in any location where the City Engineer determines that such placement would create a safety hazard. In no case shall a street tree be planted within:

- (1) 35 feet of the point of intersection of the street right of way. If the right of way contains a radius, the measurement shall be measured from the right of way line extended.
- (2) 20 feet of the point of intersection of the ally right of way. If the right of way contains a radius, the measurement shall be measured from the right of way line extended.
- (3) 10 feet from fire hydrants

(b) Where streets are designed with planting islands, trees may be planted in the right of way provided that the bottom of the tree canopy is higher than nine feet at the time of planting.

(c) Tree size shall be based on the size of the tree lawn planting strip as follows

Under 36 inches	Not recommended
36-60 inches	Small Trees
60-96 inches	Small and Medium Trees
Over 96 inches	Small Medium and Large Trees

(Ord. 28-17. Passed 9-11-17.)

1139.04 TREES AND PUBLIC UTILITY LINES.

No person shall cause to be planted any species of trees under any public utility line that has a mature height greater than the height of the utility line. Trees shall not interfere with underground utilities. (Ord. 28-17. Passed 9-11-17.)

1139.05 PROHIBITED TREE SPECIES FOR PUBLIC USE.

No person shall plant or cause to be planted any tree from the list below on any public property or public rights of way in the City of Lancaster, except upon written approval of the Municipal Arborist.

- Silver Maple Acer saccharinum
- Box Elder Acer negundo
- Horsechestnut Aesculus hippocastanum
- Tree of Heaven Ailanthus altissima
- Birches Betula sp. (except River Birch)
- Evergreen Conifer
- Catalpa Catalpa bignonioides
- Mulberry Morus sp.
- American Sycamore Platanus occidentalis
- Poplar, Aspen, Cottonwood Populus sp.
- Bradford Pear Pyrus calleryana ‘Bradford’
- Black Locust Robina pseudoacacia
- Willows Salix sp.
- European Mountain Ash Sorbus aucuparia
- Siberian Elm Ulmus pumila
- Nut and Fruit Trees
- Female Gingko

(Ord. 28-17. Passed 9-11-17.)

CHAPTER 1141

Historic Preservation (Repealed)

EDITOR’S NOTE: Former Chapter 1141 was repealed by Ordinance 52-08, passed November 10, 2008.

CHAPTER 1143

Wellhead Protection

EDITOR’S NOTE: Wellhead Protection is an overlay of basic zoning. It will be applied to only those areas designated as being within proximity of City of Lancaster well fields, where a spill of toxic or potentially dangerous substances could degrade the water supply of the City. The City currently has designated Wellhead Protection Districts and regulations. This Chapter incorporates the existing Wellhead Protection legislation from Chapter 1335 of the Lancaster Codified Ordinances.

CHAPTER 1145

Flood Damage Prevention

EDITOR'S NOTE: Flood Plain Zoning is an overlay of basic zoning. It will be applied to only those areas designated by Federal Emergency Management Agency as being subject to flooding. The City currently has Flood Damage Prevention legislation. The Flood Damage Prevention legislation is found in Chapter 1331 of the Lancaster Codified Ordinances. Chapter 1331 is included as part of the Zoning Ordinance in order to show the relationship of flood damage prevention to zoning and development issues within the City of Lancaster.

CHAPTER 1147

Planned Unit Development

1147.01 Description.

1147.02 Purposes.

1147.03 General provisions.

1147.04 Uses permitted in Planned Unit Development.

1147.05 Bulk and area requirements.

1147.06 Perimeter requirements.

1147.07 Off-street parking and loading.

1147.08 Administration of Planned Unit Development.

1147.01 DESCRIPTION.

Planned Unit Development (PUD) is an alternative to conventional development where the particular tract is under common ownership or control, and a development plan for the development of the tract as a unit is proposed and submitted for public review. The supplemental zoning district PUD must be approved by the City Council as a prerequisite to the Planned Unit Development.

(Ord. 14-00. Passed 5-22-00.)

1147.02 PURPOSES.

The purposes of the Planned Unit Development are to:

- (a) Permit and encourage innovative land development while maintaining appropriate limitation on the character and intensity of use and assuring compatibility with adjoining and proximate properties;
- (b) Permit greater flexibility within the development to best utilize the unique physical features of the particular site;
- (c) Permit creative land use design;
- (d) Provide and preserve meaningful open space;
- (e) Achieve a continuity of function and design within the development.

(Ord. 14-00. Passed 5-22-00.)

1147.03 GENERAL PROVISIONS.

Planned Unit Development is permitted on tracts having the supplemental zoning district designation PUD. In every instance, the PUD is to be reviewed as to the proposed location and character of the uses and the unified treatment of the development of the tract. The regulations of the general zoning district or districts remain applicable except as specifically modified pursuant to the provisions of this chapter. The City Council in approving or amending a PUD and the Planning Commission in approving a minor amendment, may impose restrictions as conditions of approval in addition to those imposed by the underlying zoning and the PUD chapter. No modification of use or bulk and area requirements of the applicable general use district or districts shall be permitted unless a subdivision plat incorporating the provisions and requirements of this chapter is submitted to and approved by the Planning Commission and the City Council and filed of record in the office of the County Recorder of Fairfield County. The LCPC may waive the platting requirements if the property is already platted and if the PUD conditions for approval are included in the form of restrictive covenants and filed of record with the County Recorder making the City of Lancaster beneficiary to said covenants as provided in Section 1147.08(f).

(Ord. 14-00. Passed 5-22-00.)

1147.04 USES PERMITTED IN A PLANNED UNIT DEVELOPMENT.

(a) Principal Uses. The development may consist of one or more of the uses permitted by right or exception within the general zoning district or districts within which the planned unit development is located, provided:

- (1) That if any part of the Planned Unit Development is located within a residential district, the permitted uses may additionally include single-family dwellings, two-family dwellings, single-family townhouse units and multi-family dwellings.
- (2) That manufactured homes, as defined in Chapter 1161, are a permitted use only within Planned Unit Developments which are located in whole or in part in an R or RMH District
- (3) That the permitted uses, whether principal or accessory uses, may be reallocated within the development irrespective of the general zoning district boundaries.
- (4) Outdoor advertising shall meet the use conditions set forth in Section 1317.08 (h) of this Code.

(b) Accessory Uses. Accessory uses customarily incidental to the principal uses within the PUD are permitted.

- (1) Accessory commercial. In addition to accessory uses customarily incidental to a permitted principal residential use, accessory commercial uses may be permitted within a multi-family development area, subject the provisions of Section 1129.04 (c). Accessory commercial uses may be permitted within an office development area subject to the provisions of Section 1131.03.

(2) Signs.

- A. Signs accessory to residential uses or uses permitted by exception in residential districts shall comply with the provisions of that residential district and Chapter 1317.
- B. Signs accessory to principal office uses shall comply with the restrictions in the OM District and Chapter 1317.
- C. Signs accessory to office or business uses in the C or I Districts shall comply with the requirements in those districts, Chapter 1317, and the following:
 1. No roof signs are permitted. Projecting signs, signs with movement or flashing illumination, revolving or rotating signs, signs with animation or changeable copy signs may be permitted if approved by Planning Commission.

2. Signs, if visible from an R District or a designated residential area, shall not be located closer than fifty (50) feet from such area. However, signs larger than 300 square feet visible from an R District or a designated residential area, shall not be located closer than 200 feet from such area.
 3. Any ground sign shall maintain a minimum separation of 100 feet from any other ground sign.
 4. Only one side of a double-faced sign shall be included in the computation of display surface area.
- D. In reviewing the sign components of the required Development Plan, the Planning Commission may impose additional restrictions as are necessary to ensure compatibility with adjacent and neighboring uses.
- (Ord. 43-05. Passed 6-27-05.)

1147.05 BULK AND AREA REQUIREMENTS.

(a) Intensity of Use. Within the development, the intensity may be reallocated irrespective of the general zoning district boundaries.

(1) Residential Intensity: The residential intensity shall not exceed a maximum number of dwelling units computed as follows:
Maximum number of Permitted Dwelling Units=

Gross area* of property located within a residential district divided by
Minimum land area per dwelling unit permitted in the applicable use district.

The minimum land area per dwelling unit, for the purpose of the above- described computation, shall be the least restrictive minimum land area per dwelling unit permitted in the applicable district as set forth in Chapter 1129. Each 600 square feet of a quasi-dwelling, such as a care home, shall constitute a dwelling unit. If the PUD is within two or more residential districts, the permitted density shall be the sum of the permitted dwelling units computed separately for the gross area within each district. For a PUD located totally within a residential district or districts, the gross area for the purposes of the above-described computation shall be reduced by the area or areas designated for any principal use other than dwelling, quasi- dwellings, residential open space and recreation areas.

(2) Nonresidential Intensity- The nonresidential intensity shall not exceed a maximum permitted floor area computed as follows:
Maximum Permitted Floor Area =

Gross area * of property located within a nonresidential district multiplied (X) by the floor area ratio permitted either by right or exception within the bulk and area requirements of the applicable use district, except where a floor area ratio is not specified, a floor area ratio of .75 shall apply.

The intensity of use of a PUD located within two or more zoning districts of the following differing general classifications:

Residential, Office, Commercial, and Industrial shall be separately calculated and allocated within the Planned Unit Development by said general classification.

*For the purpose of intensity computations, gross area shall mean the lot area plus ½ of the right-of-way of any abutting street to which the lot has access.

(b) Lot Width, Frontage and Area. Within a PUD, minimum requirements for lot width, frontage and area shall be prescribed.

(c) Livability Space. Within a PUD, livability space for a residential development area shall be provided in an aggregate amount of not less than the amount of livability space required by the applicable zoning district for conventional development of a comparable number of dwelling units. Required livability space shall be provided on the lot containing the dwelling unit or units on which computed, or in common areas. Common livability space shall be designed and located so as to be accessible to the dwelling units it is intended to serve. Provisions for the ownership and maintenance of common livability space as will insure its continuity and conservation shall be incorporated in the subdivision plat, in compliance with the provisions of Section 1147.08(f).

(d) Building Height, Setbacks and Yards. Within a PUD, the building height limitations, building setback requirements and minimum yards shall be prescribed and incorporated within the subdivision plat in compliance with the provisions of Section 1147.08(f). Every structure shall be set back from the centerline of an abutting public street designated on the Major Street and Highway Plan a horizontal distance of not less than ½ of the right-of-way designated on the Major Street and Highway Plan.

(e) Open Space. Within a PUD, minimum landscaped open space is required for each type of nonresidential development area as follows:

- (1) Office Use 15% of lot area
- (2) Commercial use 10% of lot area
- (3) Industrial Use 5% of lot area

(Ord. 14-00. Passed 5-22-00; Ord. 43-05. Passed 6-27-05.)

1147.06 PERIMETER REQUIREMENTS.

Within a PUD, perimeter requirements for screening, landscaping, and setbacks, as are necessary to assure compatibility with adjoining and proximate properties, shall be prescribed and shall be incorporated within the subdivision plat in compliance with the provisions of Section 1147.08(f).

(Ord. 14-00. Passed 5-22-00.)

1147.07 OFF-STREET PARKING AND LOADING.

Within a PUD, off-street parking and loading spaces shall be provided as specified in the applicable use units and in conformance with the requirements of Chapter 1151, Off-Street Parking and Loading; provided, however, that Section 1151.02(b) and Section 1151.03 shall not apply. Required spaces may be provided on the lot containing the uses for which it is intended to serve or in common areas. Common parking area shall be designed and located so as to be accessible to the uses it is intended to serve. Provisions for the ownership and maintenance of common parking space as will insure its continuity and conservation shall be incorporated in the subdivision plat, in compliance with the provisions of Section 1147.08(f).

(Ord. 14-00. Passed 5-22-00.)

1147.08 ADMINISTRATION OF PLANNED UNIT DEVELOPMENT.

(a) General.

(1) Any person, corporation, partnership, association, or combination thereof, owning or possessing a property right or interest in or

to a tract of land may make application for the supplemental district designation PUD. Such application shall be accompanied by a development plan processed in the manner set forth in subsections (b), (c), (d) and (e).

- (2) An application for the supplemental district designation PUD may be processed simultaneously with an application for an amendment to the general zoning district and made contingent upon approval of said application.

(b) Application and Development Plan. An application for a Planned Unit Development shall be filed with the Planning Commission. The applicant shall pay an application fee in accordance with the established fee schedule, and additionally shall pay the newspaper publishing cost and the cost of posting appropriate signs on the subject property which fee and costs shall accompany the application. The application shall be in such form and content as the Planning Commission may establish. Eight (8) copies of the development plan shall accompany the filing of the application.

The development plan shall consist of maps and text which contain:

- (1) Proposed development areas and requested land uses;
- (2) Proposed number of off-street parking and loading spaces, amount of open space and number and size of business signs;
- (3) Proposed maximum building heights and minimum building setbacks-;
- (4) Proposed public and private vehicular and pedestrian circulation systems,
- (5) Proposed landscaping areas and screening;
- (6) Proposed intensity of residential uses expressed in number of dwelling units and proposed intensity of nonresidential uses expressed in floor area, allocated to proposed development areas of the Planned Unit Development,
- (7) Sufficient surrounding area to demonstrate the relationship of the PUD to adjoining uses, both existing and proposed;
- (8) Existing topographic character of the land including identification of any floodplain areas and treed areas. In instances of probable development constraints due to slope and/or soil Conditions, the LCPC staff may require the submittal of slope and/or soil analysis;
- (9) An explanation of the character of the PUD; and
- (10) The expected schedule of development.

(c) Detail Plans. The City Council, as a condition of approval of a Development Plan, may require the following detail plans to be submitted to the City Council and/or the Planning Commission for approval.

- (1) Detail site plans for specific development areas within the PUD that comply with all approved development standards and which include-
 - A. Uses of land;
 - B. Location, size, height and setbacks for all buildings;
 - C. Location and number of off-street parking spaces, and
 - D. Private and public vehicular and pedestrian circulation.

If a detail site plan is required, approval shall be secured prior to the issuance of a building permit.

- (2) Detail sign plans that comply with all approved development standards and which include location, size, height and setbacks for all signs. If a detail sign plan is required, approval shall be secured prior to the issuance of a sign permit.
- (3) Detail landscape and/or fence plans that comply with all approved development standards and which include location, type and size of plant materials, and location and design of required screening fences or walls. If a detail landscape and/or fence plan is required, approval shall be secured and installation shall occur in accordance with approved plans prior to the issuance of an occupancy permit.
- (4) Exterior building detail plans which may include elevations and perspective drawings of the buildings to be constructed. This requirement shall not apply to platted single-family lots. If an exterior building detail plan is required, approval shall be secured prior to the issuance of a building permit.

When the Planning Commission is authorized by the City Council to approve detail plans, the Commission may delegate to members of its Staff, review and approval of Detail Sign and Landscape Plans and minor revisions to previously approved Detail Site Plans to determine if said plans comply with approved development standards of the PUD. Appeals to the Planning Commission from a decision of the Staff, with regard to detail plan, may be taken by any person or persons aggrieved by the filing of a notice of appeal with the Secretary of the Planning Commission within ten 10 days from the date of such Staff decision.

(d) Public Hearing and Planning Commission Action. The Planning Commission, upon the filing of an application for the supplemental district designation PUD shall set the matter for public hearing and give 20 days notice thereof by publication in a newspaper of general circulation, 20 days notice of a public hearing by mailing written notice to all owners of property within a 300 foot radius of the exterior of the boundary of the property and 20 days notice of public hearing by posting of a sign or signs on the property sought to be rezoned. Where there are more than ten (10) property owners to be notified, notification may be made by publication. (See Section 1159.04(c) for contents of notice.) Within 60 days after the filing of an application, the Planning Commission shall conduct the public hearing and shall determine:

- (1) Whether the PUD is consistent with the Future Land Use Plan;
- (2) Whether the PUD harmonizes with the existing and expected development of surrounding areas;
- (3) Whether the PUD is a unified treatment of the development possibilities of the project site-, and
- (4) Whether the PUD is consistent with the stated purposes and standards of this Chapter.

The Planning Commission shall forward its recommendation, the application, and the development plan to the City Council for further hearing as provided in subsection (e) hereof.

(e) City Council Action. Upon receipt of the application, development plan, and Planning Commission recommendation, the City Council shall hold a hearing, review the development plan and approve, disapprove, modify, or return the development plan to the Planning Commission for further consideration. Upon approval, the Zoning Map shall be amended to reflect the supplemental designation PUD, and the applicant shall be authorized to process a subdivision plat incorporating the provisions of the development plan.

(f) Planned Unit Development Subdivision Plat. A Planned Unit Development subdivision plat shall be filed with the Planning Commission and shall be processed in accordance with the Subdivision Regulations, and, in addition to the requirements of the Subdivision Regulations, shall include.

- (1) Details as to the location of uses and street arrangement;
- (2) Provisions for the ownership and maintenance of the common open space as will reasonably insure its continuity and conservation. Open space may be dedicated to a private association or to the public, provided that a dedication to the public shall not be accepted without the approval of the Parks Commission and City Council;
- (3) Such covenants as will reasonably insure the continued compliance with the approved development plan. In order that the public interest may be protected, the City of Lancaster shall be made beneficiary of covenants pertaining to such matters as the requirement of approval of detail plans prior to the issuance of any permits, location of uses, height of structures, setbacks, screening, open space, signage and access. Such covenants shall provide that the City of Lancaster may enforce compliance therewith, and shall further provide that amendment of such covenants shall require the approval of the Planning Commission and the filing of record of a written amendment to the covenants, endorsed by the Planning Commission.

(g) Issuance of Building Permits. After the filing of an approved PUD subdivision plat and notice thereof to the Building Inspector, no building permits shall be issued on lands within the PUD except in accordance with the approved plat and restrictive covenants.

(h) Amendments. Major amendments which would represent a significant departure from the approved development plan shall require compliance with the notice and procedural requirements of an original Planned Unit Development. Minor amendments to the PUD, however, may be authorized by the Planning Commission, which may direct the processing of an amended subdivision plat, incorporating such changes, so long as a substantial compliance is maintained with the approved Development Plan and the purposes and standards of the PUD provisions hereof.

The following may be considered minor amendments.

- (1) Adjustment of internal development area boundaries, provided the allocation of land to particular uses and the relationship of uses within the project are not substantially altered.
- (2) Limitation or elimination of previously approved uses, provided the character of the development is not substantially altered.
- (3) Increases in dwelling units, provided the approved number of dwelling units is permitted by the underlying zoning and the density of a development area is not increased more than 15%.
- (4) Increases in permitted non-residential floor area, provided the increased floor area is permitted by the underlying zoning and the floor area of a development area is not increased more than 15%.
- (5) Modification of the internal circulation system, provided the system is not substantially altered in design, configuration or location.
- (6) Changes in points of access, provided the traffic design and capacity are not substantially altered.
- (7) Addition of customary accessory buildings and uses within the delineated common open space of a residential PUD, including but not limited to swimming pools, cabanas, security buildings, club houses and tennis courts.
- (8) Location of customary residential accessory buildings and uses on an adjoining single-family residential lot within the PUD, including but not limited to swimming pools, cabanas, garages, and tennis courts, provided an agreement has been recorded by the owner prohibiting the conveyance of the lot containing the accessory use separate from the conveyance of the lot containing the principal use.
- (9) Changes in structure heights, building setbacks, yards, open spaces, building coverage and lot widths or frontages, provided the approved Development Plan, the approved PUD standards and the character of the development are not substantially altered.
- (10) Lot splits which modify a recorded plat and which have been reviewed and approved by the Lancaster City Engineer's Office.
(Ord. 14-00. Passed 5-22-00.)
- (11) Home occupations which meet the requirements of Section 1125.06 of the Zoning Code.

(Ord. 43-05. Passed 6-27-05.)

- (12) Modifications to approved signage, provided the size, location, number and character (type) of the sign(s) is not substantially altered.
- (13) Modification to approved screening and landscaping plans, provided the modification is not a substantial deviation from the original approved plan.
- (14) Changes reducing the number of permitted dwelling units.
- (15) Changes in an approved use to another use may be permitted, provided the underlying zoning on the particular site within the PUD would otherwise permit such use by right and the proposed use will not result in any increase of incompatibility with the present and future use of the proximate properties.

Ten (10) days notice of public hearing shall be given for minor amendments by mailing written notice to all owners of property within a three hundred foot (300') radius of the exterior boundary of the subject property.

In instances where the municipal legislative body has specifically imposed a PUD condition more restrictive than originally recommended by the Planning Commission, any minor amendment of that specific condition must be approved by the City Council.

If the Planning Commission determines that the proposed amendment, if approved, will result in a significant departure from the approved Development Plan or otherwise change the character of the PUD significantly or that the cumulative effect of a number of minor amendments substantially alters the approved Development Plan, then the amendment shall be deemed a major amendment to the Development Plan. Major amendments shall comply with the notice and procedural requirements of Section 1159.04.

(i) Appeal From Minor Amendment Determination. An appeal from any minor amendment decision by the LCPC may be taken by any person or persons aggrieved, or any taxpayer or any officer, department, board or bureau of the City, to the City Council by filing notice of appeal with the Clerk of Council and with the Secretary of the LCPC within ten days from the date of such action. Such notice of appeal shall specify the grounds of the appeal. No bond or deposit for costs shall be required for such appeal. Upon filing of the notice of appeal, the LCPC shall forthwith transmit to the City Council, the original or certified copies of all the papers constituting the record in file case, together with the decision of the LCPC. The City Council shall notify the applicant and all interested parties, as recorded in the minutes of LCPC, of the appeal hearing date.

(j) Abandonment. Abandonment of a Planned Unit Development shall require the City Council's approval, after recommendation by the Planning Commission, of an application for amendment to the Zoning Map repealing the supplemental designation of PUD. The

City Council may amend the underlying zoning upon abandonment of the PUD. Upon final action authorizing the abandonment of the Planned Unit Development, no building permit shall be issued except in accordance with the restrictions and limitations of the general zoning district or districts.

(Ord. 14-00. Passed 5-22-00; Ord. 12-01. Passed 4-23-01.)

CHAPTER 1149

Use Units (Repealed)

(EDITOR'S NOTE: Former Chapter 1149 was repealed by Ordinance 74-05, passed November 14, 2005.)

CHAPTER 1151

Off-Street Parking and Off-Street Loading

- 1151.01 Applicability of requirements.**
- 1151.02 General requirements.**
- 1151.03 Setbacks.**
- 1151.04 Design standards for off-street parking areas.**
- 1151.05 Design standards for off-street loading areas.**
- 1151.06 Shared parking.**
- 1151.07 Parking in the (CBD) Central Business District.**
- 1151.08 Required number of off-street parking spaces.**
- 1151.09 Schedule of required off-street parking spaces.**
- 1151.10 Landscaping and screening requirements.**

CROSS REFERENCES

Parking generally - see TRAF. Ch. 351

1151.01 APPLICABILITY OF REQUIREMENTS.

The off-street parking and off-street loading facilities whether they are principal uses, accessory uses, or a minimum requirement of the initiation, enlargement, or change of use, shall meet the requirements of this Chapter as follows, unless modified by Section 1151.06.

- (a) For all buildings and structures erected and all uses of land established after the effective date of this Code, parking and loading facilities shall be provided as required by the applicable use unit.
- (b) When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor area, seating capacity, or other units of measurement specified herein for required parking or loading facilities, parking and loading facilities as required herein shall be provided for such increase in intensity of use.
- (c) Whenever the existing use of a building or structure shall hereafter be changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the existing use is nonconforming as to parking requirements, then parking requirements for the change in use shall be established by the Board of Zoning Appeals.
- (d) Accessory off-street parking and loading facilities in existence on the effective date of this Code and located on the same lot as the building or use served shall not hereafter be reduced below or if already less than, shall not be further reduced below the requirements for a similar new building or use under the provisions of this Code.

(Ord. 8-21. Passed 3-8-21.)

1151.02 GENERAL REQUIREMENTS.

(a) Off-street parking and off-street loading facilities shall not occupy required livability space. Space allocated to any required off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facilities. Space allocated to any required off-street parking shall not be used to satisfy the space requirements for any off-street loading facilities.

(b) Within the front and exterior side yards in the RM District not more than one vehicle shall be parked for each 600 square feet of area contained in the front or exterior side yards.

(c) Required off-street parking spaces and required off-street loading berths shall not be used for the storage, sale, dismantling, or servicing of any vehicle, equipment, materials or supplies.

(d) Required off-street parking spaces and required off-street loading berths shall be located on the lot containing the use for which the required spaces or berths are to be provided except as modified by Section 1151.07(b) and (c).

(e) The capacity of an off-street parking area shall be the number of parking spaces, having minimum required dimensions, that are located thereon in such a manner that each space can be entered without passing through another space, except in an RE, RS and RMH District, where access may be obtained through another parking space. Stacked parking may be allowed in the Central Business District with the approval of the Board of Zoning Appeals.

(f) Required off-street parking surfacing shall be completed prior to the initiation of the use, unless an extension is granted based upon weather or unusual circumstances as determined by the Zoning Inspector. (Ord. 8-21. Passed 3-8-21.)

1151.03 SETBACKS.

(a) Off-street loading areas shall not be located within 50 feet of any abutting property which is within an R District unless it is wholly within an enclosed building or screened on all sides abutting the R District by a screening wall or fence.

(b) Unenclosed off-street parking and loading areas shall be set back from abutting streets as set forth in Table 1 below.

Table I
Off-Street Parking and Loading Area Setbacks From
Right of Way Line

	Parking Area 1 to 5 Spaces	Parking Area 6 or More Spaces	Loading Area
In an R District accessory to a dwelling accessory to another use	3 ft. 15 ft.	15 ft. 25 ft.	NA 25 ft.
Not in an R District, but within 50 feet of an R District	15 ft.	25 ft.	25 ft.

Table I

Off-Street Parking and Loading Area Setbacks From
Right of Way Line
(CONT.)

	Parking Area 1 to 5 Spaces	Parking Area 6 or More Spaces	Loading Area
Within the Central Business District			
Abutting Main Street/Broad Street/Columbus Street*	15 ft.	15 ft.	15 ft.
Not abutting Main Street/Broad Street/Columbus Street	5 ft.	5 ft.	5 ft.

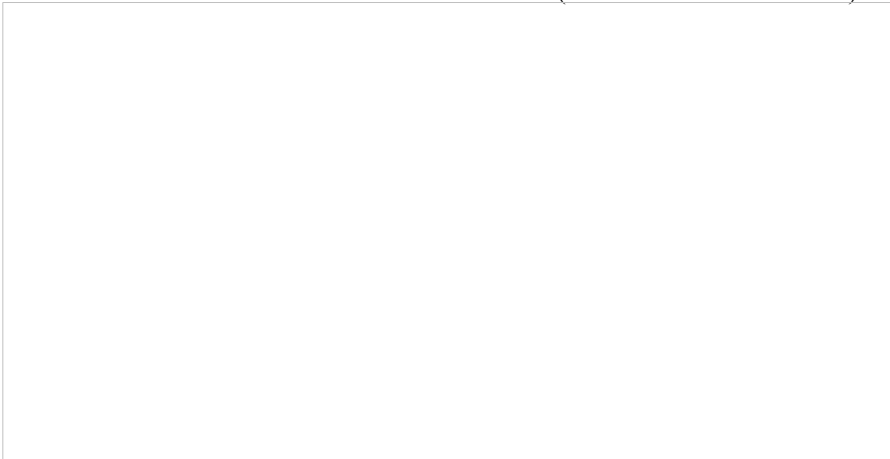
*Where a property abuts two of these streets, the Main Street setback shall be 15 feet and the other street setback shall be 5 feet.

(c) Unenclosed off-street parking areas (including parking lot aisles) which are accessory to any multi-family dwelling complex, assisted living facility, or similar use shall be set back at least twenty-five (25) feet from any abutting RE or RS District. (Ord. 8-21. Pssed 3-8-21.)

1151.04 DESIGN STANDARDS FOR OFF-STREET PARKING AREAS.

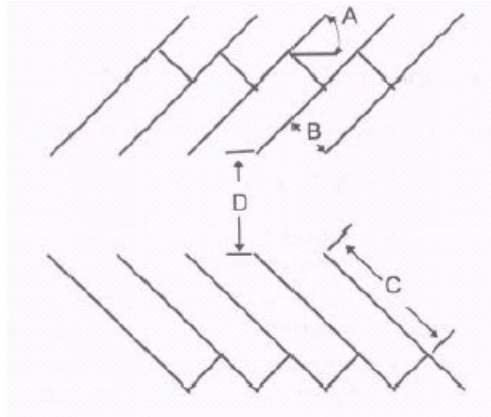
- (a) The following standards shall apply:
- (1) All off-street parking spaces shall have a vertical clearance of at least six (6) feet six (6) inches;
 - (2) Handicapped off-street parking spaces shall be provided in size and number as specified in the Ohio Basic Building Code;
 - (3) Off-street parking spaces shall be at least eight and five tenths (8.5) feet in width and eighteen (18) feet in length exclusive of access drives and aisles; and
 - (4) Parking layout dimensions for off-street parking spaces and aisles shall be in accordance with or in proportion to the standards set forth in Figures 1-4 below.

(Figure 1)
 PARKING LAYOUT DIMENSIONS
 FOR 8.5' AND 9.0' STALL WIDTHS
 AT VARIOUS ANGLES WITH ONE WAY AISLES
 (MINIMUM STANDARDS)

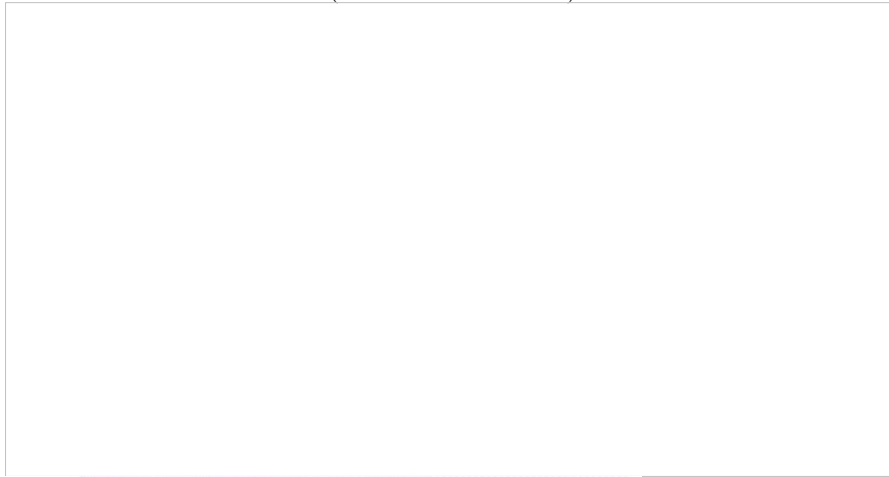


A	B	C	D
45	8.5	18.0	12.0
	9.0	18.0	12.0
60	8.5	18.0	16.0
	9.0	18.0	16.0
75	8.5	18.0	21.0
	9.0	18.0	21.0

A = Stall Angle
 B = Stall Width
 C = Stall Length
 D = Aisle Width

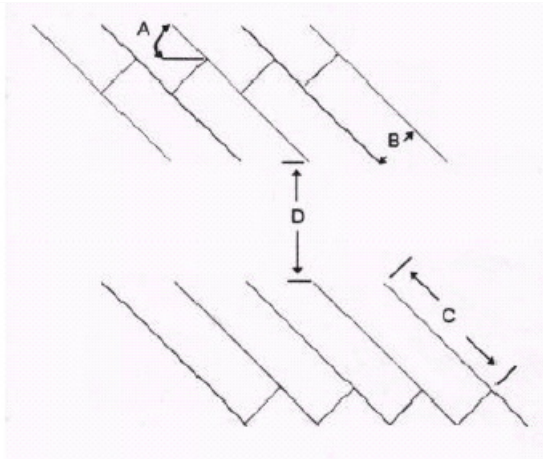


(Figure 2)
 PARKING LAYOUT DIMENSIONS
 FOR 8.5' AND 9.0 STALL WIDTHS
 AT VARIOUS ANGLES WITH TWO-WAY AISLES
 (MINIMUM STANDARDS)



A	B	C	D
45	8.5	18.0	20.0
	9.0	18.0	20.0
60	8.5	18.0	21.0
	9.0	18.0	21.0
75	8.5	18.0	22.0
	9.0	18.0	22.0

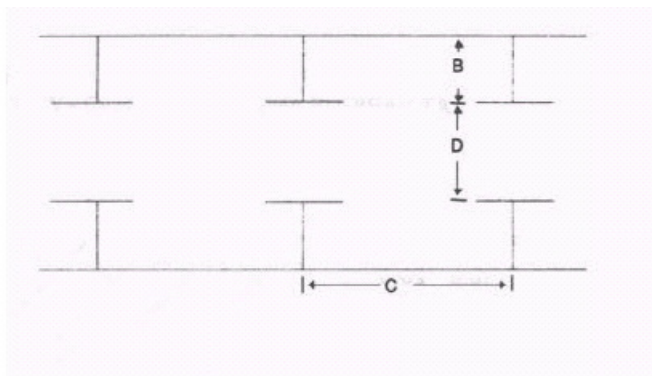
A = Stall Angle
 B = Stall Width
 C = Stall Length
 D = Aisle Width



(Figure 3)
 PARKING LAYOUT DIMENSIONS
 AT 0 AND 90 DEGREE ANGLES
 (MINIMUM STANDARDS)

A	B	C	D
0	8.5	24.0	12.0
			(24.0)
	9.0	24.0	12.0
			(24.0)

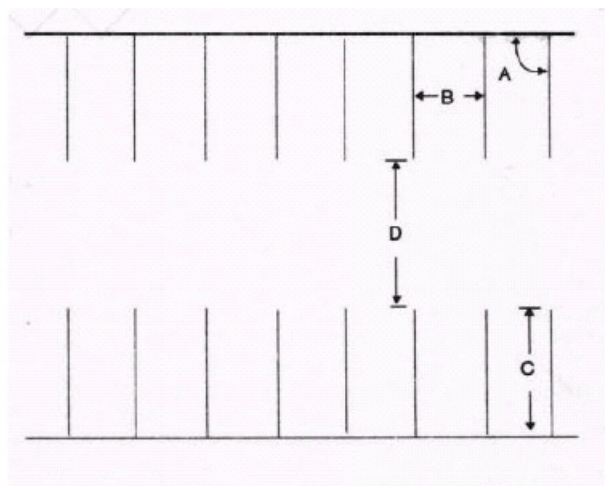
A = Stall Angle
 B = Stall Width
 C = Stall Length
 D = Aisle Width



(Figure 4)

A	B	C	D
90	8.5	18.0	24.0
	9.0	18.0	24.0

A = Stall Angle
 B = Stall Width
 C = Stall Length
 D = Aisle Width



(b) Each parking space shall be accessible from a public street without passing through another required space, except in the RE, RS, or RMH Districts. Stacked parking may be allowed in the Central Business District with the approval of the Board of Zoning Appeals.

(c) Lighting used to illuminate an off-street parking area shall be so arranged as to direct the light away from properties within an R District which do not contain uses for which the parking is being provided.

(d) Unenclosed off-street parking areas shall be surfaced with an all-weather material except non-required special event parking areas meeting the requirements of subsection (f) below.

(e) Unenclosed off-street parking areas which are principal uses shall be screened by the erection of a screening wall or fence on the lot line or lines in common with an R District. Unenclosed off-street parking areas, containing six (6) or more spaces, which are accessory to uses not required to provide screening shall be screened by the erection of a screening wall or fence on the lot line or lines in common with an RE or RS District, provided that if the parking area is located more than fifty (50) feet from the RE or RS lot line or lines, the screening requirement shall not apply.

(f) Special event parking areas shall comply with the following conditions:

(1) Special event parking shall not be used for more than thirty (30) days in any calendar year.

(2) Special event parking cannot occur for more than fifteen (15) consecutive days during any thirty (30) day period.

(3) Special event parking shall be set back at least fifty (50') feet from any off-site lot in any R District or any residential development area in a PUD.

(4) Special event parking areas shall be on the same lot or lots approved for the principal use to which they are accessory.

(g) Parking areas within the Historic District shall receive a certificate of appropriateness for screening along the street right of way. (Ord. 8-21. Passed 3-8-21.)

1151.05 DESIGN STANDARDS FOR OFF-STREET LOADING AREAS.

(a) Unless otherwise specified, a required off-street loading berth shall be at least ten (10) feet in width, thirty (30) feet in length, exclusive of aisles, and shall have a vertical clearance of at least fourteen (14) feet.

(b) Required off-street loading berths shall be provided access to and from a public street or alley by an access drive of at least ten (10) feet in width designed to permit convenient access by semi-trailer trucks.

(c) Unenclosed off-street loading areas shall be surfaced with an all-weather material.

(d) Unenclosed off-street loading berths shall not be located within fifty (50) feet of any property in an R District unless it is screened on all sides abutting the R District by a screening wall or fence.

(e) Lighting used to illuminate an off-street loading area shall be so arranged as to direct the light away from the properties which do not contain uses for which the loading area is being provided.

(Ord. 8-21. Passed 3-8-21.)

1151.06 SHARED PARKING.

Commercial mixed use developments with more than 400,000 total gross square feet shall be entitled to a ten percent (10%) reduction in the required number of off-street parking spaces.

(Ord. 8-21. Passed 3-8-21.)

1151.07 PARKING IN THE (CBD) CENTRAL BUSINESS DISTRICT.

The (CBD) Central Business District is characterized by higher development density, small lots, and minimal building setbacks. Historically, a significant portion of the parking needs of this area has been provided by on-street parking, an option that is typically not available for suburban-type locations. For this reason, special parking regulations are warranted.

(a) For non-residential uses located within the CBD District, only twenty-five percent (25%) of the required number of parking spaces as specified in Section 1151.08 below shall be required, provided that, in all cases, sufficient off-street spaces shall be provided for all employees of the establishment.

(b) Required parking spaces may be located within 1,000 feet of the principal use which they are intended to serve.

(c) Two (2) or more uses within the CBD District may meet the parking requirements by the joint provision of parking facilities, provided the number of spaces and location otherwise meet the requirements of this Chapter. In such case, the applicant shall provide a written agreement between the parties, stating the terms under which such joint parking is provided and maintained.

(Ord. 8-21. Passed 3-8-21.)

1151.08 REQUIRED NUMBER OF OFF-STREET PARKING SPACES.

Required off-street parking spaces shall be provided according to the following schedule of uses. If a use consists of more than one component use (e.g., a school with a stadium) the required number of parking spaces shall be the sum of the required spaces for those component uses. For uses not listed, the Planning Commission shall have the authority to establish the required number of spaces, bases on the required spaces for similar uses.

(Ord. 8-21. Passed 3-8-21.)

1151.09 SCHEDULE OF REQUIRED OFF-STREET PARKING SPACES.

<i>USE</i>	<i>NUMBER OF REQUIRED SPACES</i>	
(a) Residential.		
(1)	Single, duplex, or triplex residences	Two (2) per dwelling unit
(2)	Institutional housing, other residential uses	One (1) per three (3) occupants plus two (2) for each employee on the main work shift
(3)	Multi-family residences	
	Each unit < 1,000 S.F.	One (1) per dwelling unit
	Each unit > 1,000 S.F.	Two (2) per dwelling unit
<i>USE</i>	<i>NUMBER OF REQUIRED SPACES</i>	
(b) Commercial.		
(1)	Professional, administrative and business	One (1) for each 400 S.F. of gross floor area
(2)	Food, department, general merchandise, hardware, drugs, or other retail sales	One (1) for each 200 S.F. of gross floor area

(3)	Eating or drinking establishments without drive-through facilities	One (1) for each 100 S.F. of gross floor area
(4)	Eating or drinking establishments with drive-through facilities	One (1) for each 75 S.F. of gross floor area plus additional spaces in the drive-through lanes equal to twenty-five percent (25%) of the required number of parking spaces
(5)	Personal services, including banks, savings and loans, and repair services without drive-through facilities	One (1) for each 200 S.F. of gross floor area
(6)	Personal services, including banks, savings and loans, and similar services with drive-through facilities	One (1) for each 200 S.F. of gross floor area, plus additional space in drive-through lanes equal to eighty percent (80%) of the required number of parking spaces
(7)	Barber and beauty shops	Two (2) for each work station
(8)	Gasoline and service stations, automobiles	Two (2) for each service bay plus one (1) for each service pump, plus one (1) for each employee during the main shift
(9)	Self-service laundries	One (1) for each three (3) washers
(10)	Medical and dental offices, human clinics	Four (4) for each doctor or dentist
(11)	Veterinary clinics, animal hospitals	Three (3) for each doctor
(12)	Hotels, bed-and-breakfast establishments	One (1) for each sleeping room plus one (1) for each employee during the main shift
(13)	Funeral homes	One (1) for each 400 S.F. of gross floor area
<i>USE</i>		<i>NUMBER OF REQUIRED SPACES</i>

(c) Industrial.

(1)	Any manufacturing, processing, packaging, warehousing, distribution or service industry	Two (2) for each three (3) employees during work shift having greatest number of employees, plus one (1) for each vehicle maintained on the premises.
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(d) Institutional.

(1)	Churches and places of public worship	One (1) for each (4) seats in main sanctuary
(2)	Public or private elementary or secondary school	Four (4) for each classroom, or one (1) for each seat in main auditorium, whichever is greater
(3)	Business trade, or technical school, college or university	One (1) for each two (2) students and one (1) for each faculty member
(4)	Nursery School/Day Care	One (1) for each fifteen (15) students
(5)	Libraries, museums, community centers and similar facilities	One for each 400 S.F. of gross floor area
(6)	Civic, social and fraternal organizations	One (1) for each three (3) persons allowed in main meeting room at full capacity
(7)	Hospitals, nursing facilities	One (1) for each four (4) beds plus one (1) per employee on main shift

(e) Recreational.

(1)	Baseball, softball, football, soccer or similar organized sport playfield	Twenty (20) for each playfield, plus one for each six (6) seats in stands
(2)	Tennis, handball or racquetball courts	Three (3) for each court
(3)	Bowling alleys	Four (4) per lane, plus necessary spaces as required for auxiliary uses such as restaurants
(4)	Theaters, stadiums, sports arenas, or other assembly halls other than schools	One (1) for each four (4) seats

(Ord. 8-21. Passed 3-8-21.)

1151.10 LANDSCAPING AND SCREENING REQUIREMENTS.

(a) New Sites. No certificate of zoning compliance or building permit shall be issued hereafter for any development or the construction of any building, structure or vehicular use except where a final landscape plan for such development or construction has been approved.

(b) Existing Sites. No parking area or structure shall be constructed or expanded unless the minimum landscaping and screening required by this chapter is provided to the extent of the alteration or expansion, but not for the entire property of which the alteration or expansion is a part unless the alteration or expansion is substantial. An alteration or expansion to an existing property is substantial when:

- (1) In the case of a building or structure that does not involve additional land, the square footage of the expansion exceeds twenty-

- five percent (25%) of the existing building.
- (2) In the case where additional land is involved, the additional land or the expanded square footage of a structure exceeds twenty-five percent (25%) of the existing site or structure.
 - (3) Land as used herein includes land for open space, parking or building uses.
- (c) Single-family and two-family residences shall be exempt from landscaping and screening requirements.
- (d) Landscaping on the Interior of Parking Lots. All new parking spaces and their associated driving aisle shall be defined by landscaped curbed islands, as described. In addition to those parking lot islands, larger parking lots shall provide additional intervening or midway islands to break up the sea of asphalt, to provide shade for cars and pedestrians, and to be areas to absorb run-off. As such, additional interior landscaping of parking lots shall be provided in accordance with the following requirements:
- (1) For any parking area designed to accommodate forty (40) or more vehicles, a minimum of five percent (5%) of the parking lot shall be planted as landscaped island areas.
 - A. Landscaped islands shall be developed and distributed throughout the parking lot to:
 1. Define major circulation aisles and driving lanes; and
 2. Provide visual and climatic relief from broad expanses of pavement.
 - B. Each island shall be a minimum of ten (10) feet in any horizontal dimension;
 - C. Within the landscaped islands, one (1) shade tree shall be provided for every ten (10) parking spaces. Each tree, at the time of installation, shall have a minimum caliper of 3.0 inches and a clear trunk height of at least six (6) feet. Two (2) 1.75-inch trees may be substituted for each 3.0-inch tree.
 - D. Shrubs or low, spreading plant materials shall be planted within required landscaped islands in such a way that there is no impairment to the visibility of motorists or pedestrians.
 - E. Landscaped areas adjacent to the perimeter of the parking area shall not be counted as interior parking lot landscaped areas.
 - (2) For the purpose of this section the area of a parking lot shall be the total vehicular surface area including circulation aisles.
- (e) Screening Along Public Streets and Perimeter of Parking Areas. Whenever parking areas consisting of five (5) spaces or more are located such that the parked cars will be visible from a public street, screening, in addition to the interior landscaping required in subsection (a) above, shall be provided and maintained between the parking area and the street right-of-way.
- (1) All shrubs, berms, walls and fences shall have a minimum height of three (3) feet.
 - (2) Such landscaping and/or screening shall be located parallel to and within five (5) feet of the edge of the parking lot.
 - (3) Berms, with vegetation, are preferred.
- (Ord. 8-21. Passed 3-8-21.)

CHAPTER 1153

Nonconformities

1153.01 Intent.

1153.02 Existing land or buildings.

1153.03 Construction commenced.

1153.04 Substitution.

1153.05 Extension.

1153.06 Discontinuance.

1153.07 Damage and/or destruction of a nonconforming building or use.

1153.08 Maintenance and repair.

1153.09 Nonconforming lots of record.

1153.01 INTENT.

Within the districts established by this Zoning Ordinance, or amendments hereinafter adopted, there may exist lots, structures, uses of land and structure which were lawful before this Zoning Ordinance was passed or amended, but which would be prohibited, regulated or restricted under the terms of this Zoning Ordinance or future amendments. It is the intent of this Zoning Ordinance to permit such nonconformities to continue until they are removed and to allow reasonable expansion and/or substitution.

(Ord. 28-17. Passed 9-11-17.)

1153.02 EXISTING LAND OR BUILDINGS.

Any use of land or buildings existing on the effective date of this Zoning Ordinance may be continued, even though such use does not conform to the provisions herein, so long as such building or use was existing prior to the establishment of this Zoning Ordinance. No non-conforming building, structure, or use shall be moved, extended, enlarged, reconstructed, or structurally altered, except as provided in this Zoning Ordinance.

(Ord. 28-17. Passed 9-11-17.)

1153.03 CONSTRUCTION COMMENCED.

Any property purchased or acquired in good faith for any nonconforming use prior to the adoption of this Zoning Ordinance, upon which property the work of changing, remodeling or construction of such nonconforming use has been legally commenced at the time of adoption of this Zoning Ordinance, may be used for the nonconforming use for which such changing, remodeling or construction was undertaken, provided that such work is completed within two (2) years from the date of adoption of this Zoning Ordinance or amendment thereto making said use nonconforming.

(Ord. 28-17. Passed 9-11-17.)

1153.04 SUBSTITUTION.

The Board of Zoning Appeals may allow the nonconforming use of a building or structure to be changed to another nonconforming use of the same or of a more restricted classification, provided no structural alterations except those required by law or ordinance are made. However, in an "R" District, no change shall be authorized by the Board of Zoning Appeals to any use which is not a permitted or conditional use in any "R" District.

(Ord. 28-17. Passed 9-11-17.)

1153.05 EXTENSION.

No nonconforming use shall be enlarged, extended, reconstructed, or structurally altered, except as follows:

- (a) The extension of a nonconforming building on the lot occupied by such building, or onto an adjacent lot if such lot is owned by the same person or persons, may be permitted on a once-only basis by the Board of Zoning Appeals, provided that such extension is necessary and incidental to such existing nonconforming use; that the extension will not increase the ground floor area of the building by more than twenty-five percent (25%); and that such extension will not result in an extension which would result in a violation of any provision of this Ordinance with respect to any adjoining premises, or which would occupy ground space required for meeting yard, setback or other requirements.
- (b) No nonconforming building or structure shall be moved in whole or in part to any other location unless such building or structure and the yard and other open spaces provided are made to conform to all of the regulations of the district in which such building or structure is to be located.
- (c) Any residential structure which is nonconforming due to the fact of its being in a non-residential zoning district may be enlarged, extended, reconstructed or structurally altered provided it meets the requirements of the adjacent or most proximate R-District.
- (d) Any structure which is nonconforming due to its location or configuration on the lot, resulting in lot coverage or yards inconsistent with the requirements of the zoning district where it is located, may be enlarged, extended or structurally altered in a manner that decreases or maintains its existing degree of nonconformity, but in no case shall such structure be enlarged, extended or structurally altered in a manner that increases its degree of nonconformity.

(Ord. 28-17. Passed 9-11-17.)

1153.06 DISCONTINUANCE.

A nonconforming use which has been discontinued or abandoned shall not thereafter be returned to a nonconforming use. A nonconforming use shall be considered abandoned whenever either of the following conditions exist:

- (a) When the use has been voluntarily discontinued for a period of two (2) years. It is the responsibility of the applicant to prove the non-conforming use has not been discontinued.
- (b) When the nonconforming use has been replaced by a conforming use.

(Ord. 28-17. Passed 9-11-17.)

1153.07 DAMAGE AND/OR DESTRUCTION OF A NONCONFORMING BUILDING OR USE.

When a building or structure, the use of which does not conform to the provisions of this Ordinance, is damaged by fire, explosion, public enemy or act of God, it may be restored or rebuilt and continued in such nonconforming use provided that the restoration or rebuilding is commenced within twelve (12) months of the time of damage, that construction is completed within twenty-four (24) months, and that such restoration or rebuilding would not extend or expand the existing use, except as may be permitted in Section 1153.05 above.

If any part of the damaged or destroyed building encroaches or intrudes on an adjacent property, the locations of the restored or rebuilt structure is subject to approval by the Board of Zoning Appeals. If the restoration or rebuilding of the structure involves extension or expansion of the use, the provisions of Section 1153.05 shall apply.

(Ord. 28-17. Passed 9-11-17.)

1153.08 MAINTENANCE AND REPAIR.

Nothing in this chapter shall be deemed to prevent normal maintenance and repair of a building or structure containing a nonconforming use. Structural alterations may be made to a building or structure containing a nonconforming use when at least one of the following conditions exist:

- (a) When required by law.
- (b) To convert to a conforming use.
- (c) A building or structure containing residential nonconforming uses may be so altered as to improve interior livability. However, no structural alterations shall be made which exceed the area or height requirements or which would extend into any yard required in the district in which such building is located.

(Ord. 28-17. Passed 9-11-17.)

1153.09 NONCONFORMING LOTS OF RECORD.

In any district where dwellings are permitted, a one-family detached dwelling (or an accessory building if the lot is already occupied by a one-family dwelling) may be erected on any lot of official record on or before April 17, 1939, even though such lot does not comply with the lot area and width requirements of the district in which it is located, provided such lot has at least thirty (30) feet of lot width with frontage on a public street; and further provided that the following conditions are complied with:

- (a) If the owner of such lot does not own adjacent property and did not own such property at the time this Ordinance became effective, each side yard shall not be less than ten percent (10%) of the width of the lot, but in no case shall such side yard be less than three (3) feet.
- (b) If the owner of such lot owns two (2) or more adjacent lots, or other adjacent property, such owner shall redivide the property in such a manner that they conform to the minimum width of such lots in the most proximate single-family district. However, if such redivision would result in lots that exceeds width requirement of lots in the most proximate district, such redivision shall provide for one (1) more building lot than would otherwise be allowed.

(Ord. 28-17. Passed 9-11-17.)

CHAPTER 1155

Enforcement

1155.01 Duty of Zoning Inspector(s) and other officials.

1155.02 Zoning clearance permit.

1155.03 Penalties for violation.

1155.04 Construction and use to be as provided in applications, plans and permits.

1155.01 DUTY OF ZONING INSPECTOR(S) AND OTHER OFFICIALS.

The Mayor shall designate a Zoning Inspector to oversee the Zoning Code. It shall be the duty of the Zoning Inspector(s) to enforce this Code. If the Zoning Inspector(s) shall find that any of the provisions of this Code are being violated, they shall notify in writing the persons responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it, and shall take such action to ensure compliance with or to prevent violation of its provisions as is authorized by law. All departments, officials, and employees of the City of Lancaster vested with the duty or authority to issue permits or licenses shall comply with the provisions of this Code, and shall issue no permit or licenses for any use, purpose, excavation, construction, structure, building, or sign in conflict with the provisions of this Code.

(Ord. 14-00. Passed 5-22-00.)

1155.02 ZONING CLEARANCE PERMIT.

(a) Zoning Clearance Permit Required. It shall be unlawful for any person, firm or corporation to erect, move, add to or structurally alter any building or structure, or to use or change the use of any building or land or to permit the aforementioned actions, until a Zoning Clearance Permit has been issued by the Zoning Inspector.

(b) Application for Zoning Clearance Permit. Application for a Zoning Clearance Permit shall be accompanied by a legal description of the lot and plans in duplicate, drawn to scale in black line or blueprint, showing the actual shape and dimension of the lot; the location and dimensions of all easements, the location, size and height of any existing buildings or structures to be erected or altered; the existing and intended use of each building, structure or portion of the lot; the number of dwellings and buildings the lot is intended to accommodate, if any; and such other information with regard to the lot and neighboring lots as may be necessary to determine and provide for the enforcement of this Code.

(c) Response to Application for Zoning Clearance Permit. After an application for a Zoning Clearance Permit is filed in compliance with the provisions herein, the Zoning Inspector shall issue a Zoning Clearance Permit, and return one copy of submitted plans or shall notify the applicant, in writing, of his refusal to issue a permit setting forth the reasons therefore.

(d) Fees for Zoning Clearance Permits. No Zoning Clearance Permit shall be issued until a fee shall have been paid in accordance with the schedule of fees adopted by resolution of the Council of the City of Lancaster.

(Ord. 14-00. Passed 5-22-00.)

(e) Permit Expiration. A Zoning Clearance Permit shall expire twelve months after issuance date.

(Ord. 36-07. Passed 7-16-07.)

1155.03 PENALTIES FOR VIOLATION.

(a) Any person, firm or corporation who violates any provisions of the Lancaster Zoning Code, or who otherwise fail to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variance or special exceptions, is guilty of a minor misdemeanor on a first offense and of a misdemeanor of the fourth degree on each subsequent offense. Each day that a violation continues shall be deemed a separate offense.

(b) Nothing herein contained shall prevent the City of Lancaster or its authorized officials from taking other action, authorized by law, to remedy a violation.

(Ord. 16-16. Passed 4-11-16.)

1155.04 CONSTRUCTION AND USE TO BE AS PROVIDED IN APPLICATIONS, PLANS AND PERMITS.

Zoning Clearance permits, Variances, or Special Exception uses issued on the basis of approved plans and applications authorize only the uses, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Use, arrangement, or construction varying from that authorized shall be deemed a violation of this Zoning Ordinance, and punishable as provided by Section 1155.03.

(Ord. 14-00. Passed 5-22-00.)

CHAPTER 1157

Board of Zoning Appeal

- 1157.01 Establishment of the Board.**
- 1157.02 Powers of the Board.**
- 1157.03 Proceedings of the Board.**
- 1157.04 Conflict of interest.**
- 1157.05 Notice of public hearing.**
- 1157.06 Fees.**
- 1157.07 Appeals from an Administrative Official.**
- 1157.08 Interpretation.**
- 1157.09 Variances.**
- 1157.10 Special exception.**
- 1157.11 Appeals to the District Court.**
- 1157.12 Compensation.**

1157.01 ESTABLISHMENT OF THE BOARD OF ZONING APPEAL.

(a) There is hereby established a Board of Zoning Appeal of the City of Lancaster with the powers and duties hereinafter set forth. The Board of Zoning Appeal shall consist of five members, who shall be nominated by the Mayor and confirmed by the City Council, and shall serve with pay for a term of three years. Initial appointments will be as follows: two members serving for three years; two members serving for two years; and one member serving for one year. Thereafter all full term appointments shall be for three years.

(b) Vacancies shall be filled for an unexpired term of any member in the manner set forth for appointments to a full term. A Board member may be removed for cause, by the appointing authority after notice, written charges and public hearing. The Board shall

organize, elect its chairman, and appoint a secretary and adopt rules necessary to the conduct of its affairs.
(Ord. 28-16. Passed 10-24-16.)

1157.02 POWERS OF THE BOARD.

The Board shall have the power to hear appeals from the determinations of an administrative official in enforcing this Code, to grant special exceptions and/or variances, and to make interpretations of the zoning map and text, in accordance with the substantive and procedural standards hereinafter set forth.
(Ord. 28-16. Passed 10-24-16.)

1157.03 PROCEEDINGS OF THE BOARD.

Meetings shall be held monthly at the call of the Chairman, and at such other times as the Board may determine. The Chairman, or in his absence, the acting Chairman, may administer oaths and compel attendance of witnesses. A quorum shall consist of three members of the Board. A minimum of three affirmative votes shall be required to pass a measure. All meetings and voting of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record. In all matters, the Board shall decide at the conclusion of the hearing on the application for relief. The notice, filing, and substantive requirements of the Board shall be set forth in the following sections concerning the Board's exercise of a particular power.
(Ord. 32-21. Passed 10-25-21.)

1157.04 CONFLICT OF INTEREST.

In the event a member of the Board of Zoning Appeals finds himself or herself in a "conflict of interest" with regard to any matter coming before the Board, said member shall at the beginning of the proceeding declare that a conflict exists and refrain from participating in the hearing and in voting on the issue. If a member of the Board does not declare a conflict, and the petitioner or other Board members perceive that a conflict exists, they may request that the Board member be excluded from the hearing process. If the Board member declines to step down, the matter will be heard by the Board prior to undertaking the scheduled hearing, and the Board by majority vote will determine whether a conflict exists. If the Board finds a conflict to exist, the Board member in conflict will be prohibited from participating in the hearing and voting on the petition.
(Ord. 28-16. Passed 10-24-16.)

1157.05 NOTICE OF PUBLIC HEARINGS.

(a) The Board of Zoning Appeal shall give notice and conduct a public hearing before acting on any appeal from an administrative official enforcing this Code, or before granting any special exception, or variance, or minor variance, or exception. The Board shall set forth in an adopted statement of policy a list of variances and exceptions which constitute minor variances or exceptions and such statement of policy shall be approved by the Council of the City of Lancaster.

(b) Ten days notice of public hearing shall be given as follows:

(1) For special exception, variance or appeal from a determination of an administrative official enforcing this Code:

A. By publication in a newspaper of general circulation.

B. By mailing written notice via first class mail to all owners of property within and contiguous to and directly across the street from such parcel or parcels for which a special exception, variance or appeal from a determination of an administrative official enforcing this Code.

(2) For minor variance or exception by mailing written notice to all owners of abutting property of the subject property. Nothing herein shall preclude the Board of Zoning Appeal from requiring the giving of public notice of hearings to all owners of property within and contiguous to and directly across the street from such parcel or parcels for which a minor variance or exception is sought.

(3) The failure of delivery of such notice as provided in (b)(1) and (b)(2) above shall not invalidate any subsequent action of the Board of Zoning Appeals.

(c) The notice shall contain:

(1) The legal description of the property and the street address or approximate location of the property.

(2) The present zoning classification of the property and the nature of the relief sought.

(3) The date, time and place of the hearing.

(d) The applicant shall furnish the names and mailing addresses of all owners of property within and contiguous to and directly across the street from subject parcel or parcels, or in the case of a minor variance or exception, the owners of abutting property of the subject property. Costs of publication shall be billed to the applicant.

(Ord. 28-16. Passed 10-24-16.)

1157.06 FEES.

An application for an appeal from an administrative official enforcing this Code, or any variance or special exception shall be accompanied by the payment of a fee in accordance with the schedule of fees adopted by resolution of City Council of the City of Lancaster. Additionally, the applicant shall pay a fee to cover the costs of publishing notice.

(Ord. 28-16. Passed 10-24-16.)

1157.07 APPEALS FROM AN ADMINISTRATIVE OFFICIAL.

(a) General. An appeal to the Board of Zoning Appeal may be taken by any person aggrieved or by any officer, department, board or bureaus of the city affected, where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this Code.

(b) Notice of Appeal. An appeal shall be taken within 30 days from the determination complained of by filing with the appropriate administrative official and with the Clerk of the Board, a notice of appeal, specifying the grounds thereof. The administrative official, upon receipt of notice, shall forthwith transmit to the Clerk of the Board, certified copies of all the papers constituting the record of said matter. Upon receipt of the record the Clerk shall set the matter for public hearing within 30 days of the filing of the notice of appeal.

(c) Board of Zoning Appeal Action. The Board shall hold the public hearing. At the conclusion of the public hearing the Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the

appeal is taken. The concurring vote of three members of the Board shall be necessary to reverse any order, requirement, decision or determination of an administrative official enforcing this Code. The Board shall make its findings within 45 days of the filing of the notice of appeal.

(d) Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the administrative official from whom the appeal is taken certifies to the Board of Zoning Appeal, after the notice of appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would in his opinion cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order granted by the Board on due and sufficient cause shown.
(Ord. 28-16. Passed 10-24-16.)

1157.08 INTERPRETATION.

(a) The Board shall interpret the text of this Code or the Official Zoning Map upon an appeal from a determination of an administrative official after compliance with the procedural standards of Section 1157.07.

(b) Where a question arises as to the zoning district classification of a particular use, the Board of Zoning Appeal, upon written request of an administrative official may find and determine the classification of the use in question and may, prior to such determination, order the giving of notice and hold a public hearing. Such public hearing shall be held within 30 days of the date of request from the administrative official. At the conclusion of the public hearing, the Board shall rule upon the question. Costs of publication shall be borne by the City.

(Ord. 28-16. Passed 10-24-16.)

1157.09 VARIANCES.

(a) General. The Board of Zoning Appeals, upon application, and after hearing and subject to the procedural and substantive standards set forth herein, may grant variances from the terms of this Code. Variances are distinguished as either "use" variances or "area" variances. A "use" variance is an application for a deviation from the permitted uses in a zoning district as opposed to a variance from a zoning restriction on set-backs, bulk, height, etc. An "area" variance is an application for a deviation from the zoning restrictions on set-backs, bulk, height, etc. in a zoning district.

(b) Application.

- (1) A request for a variance may be initiated upon denial of a Zoning Clearance Permit, by completing a Zoning Variance Application. Zoning Variance Applications will be provided by the Zoning Inspector(s) upon request.
- (2) The applicant for a Zoning Variance will pay the required fee as referenced in Section 1157.06 at the time of submitting the application.
- (3) Upon payment of the required fee, the Zoning Inspector(s) will forward the application for the Zoning Variance to the Clerk of the Zoning Board of Appeals. The Clerk shall set a date and time for a public hearing in accordance with the rules established by the Board.

(c) Board of Zoning Appeal Action. The Board shall hold the hearing and upon the concurring vote of three members may grant a variance after finding:

- (1) The Board of Zoning Appeals may grant a use variance only upon a finding by clear and convincing evidence of an "unnecessary hardship". The factors to be considered and weighed by the Board in determining whether and unnecessary hardship exists include, but are not limited to, the following:

- A. Whether the requested use variance stems from a condition which is unique to the property at issue and not ordinarily found in the same zone or district;
- B. Whether the claimed hardship was created by actions of the applicant;
- C. Whether granting the variance will adversely affect the rights of adjacent property owners;
- D. Whether granting the variance will adversely affect the public health, safety or general welfare;
- E. Whether the variance will be consistent with the general spirit and intent of the Zoning Code;
- F. Whether the variance sought is the minimum which will afford relief to the applicant; and
- G. Whether there is an economically viable use of the property which is permitted in the zoning district.

- (2) The Board of Zoning Appeals may grant an area variance upon a finding by clear and convincing evidence of "practical difficulty" in meeting Code requirements. The factors to be considered and weighed by the Board in determining whether a property owner has encountered practical difficulties include, but are not limited to, the following:

- A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
- B. Whether the variance is substantial;
- C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;
- D. Whether the variance would adversely affect the delivery of governmental services, for example, water, sewer, garbage, etc.;
- E. Whether the property owner purchased the property with knowledge of the zoning restriction;
- F. Whether the property owner's practical difficulty can be eliminated through some method other than a variance, and;
- G. Whether the spirit and intent behind the zoning requirement can be observed and substantial justice can be done by granting a variance.

(d) Time Limitation on Variances. A variance which has not been utilized within 24 months from date of the order granting the variance shall thereafter be void, provided that the Board has not extended the time for utilization. For the purpose of this provision, utilization shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.

(Ord. 28-16. Passed 10-24-16.)

1157.10 SPECIAL EXCEPTION.

(a) Powers.

- (1) To grant Special Exception zoning clearance permits for uses listed as Special Exceptions in the various zoning districts, where it is shown that the special use can be granted without substantial detriment to the public good, without substantial impairment of the general purpose and intent of the zoning district in which the use is to be located, and without

significant incompatibility with the general character of the neighborhood. In granting a Special Exception, the Board of Zoning Appeal shall have the authority to prescribe appropriate conditions and safeguards in conformance with the purposes and intent of this Code.

- A. Special exception uses as designated and regulated within the permitted principal or accessory use provisions of the zoning districts;
 - B. Modification of restrictions as provided within Section 1123.09;
 - C. The change of a nonconforming use as provided in Section 1153.03(f);
 - D. The restoration of a partially destroyed structure, containing a nonconforming use as provided in Section 1153.03(g);
 - E. The restoration of a partially destroyed nonconforming structure as provided in Section 1153.06;
 - F. The modification of a screening requirement, as provided in Section 1123.12(e);
 - G. The modification of a screening requirement, as provided in Section 1149.32 (e)(3);
 - H. The modification of the parking and loading requirements as provided in Section 1153.08(c);
 - I. The modification of the requirements and conditions of Section 1149.05 (c) regarding antennas and towers;
 - J. The modification of permitted yard obstructions as provided in Section 1123.10(b);
 - K. Permit residential accessory uses and structures on abutting residentially zoned lots which are under common ownership;
 - L. (EDITOR'S NOTE: This subsection was deleted by Ordinance 50-03.
 - M. Reduction of the number of required off-street parking spaces on a lot or may allow the required off-street parking on a lot other than the lot which contains the adult business as provided in Section 1153.08(c);
 - N. Increases in the number of days per year and the number of days within a 30 day period that special event parking is permitted as provided in Section 1149.03 (c)(8)F.;
 - O. Sexually oriented businesses that apply for a special exception permit enjoy First Amendment Protection not given other business and therefore the following procedures shall apply in addition to all others:
 1. The Board of Zoning Appeals shall issue its written decision with 30 days of the filing of the application.
 2. The Board of Zoning Appeals shall consider the following criteria:
 - A. Compliance with all applicable fire and life safety codes.
 - B. Assure that lighting on exterior would illuminate the entire parking lot.
 - C. Meet requirements of Section 1133.06 of this code.
- (2) The grant special exception permits for the enlargement or expansion of non-conforming buildings, except for the floodway as governed by Lancaster Codified Ordinance 1331, where it can be shown that the expansion or enlargement of the nonconforming use can be granted without substantial impairment of the general purpose and intent of the underlying zoning district or floodway ordinance where appropriate, and without significant incompatibility with the general character of the neighborhood. No enlargement or expansion to any nonconforming use shall be more than fifty percent of the total floor area of the original nonconforming building.
- (3) To impose such requirements and conditions regarding the location, character, and other features of the proposed uses or structures as the board deems necessary to carry out the intent and purpose of the Zoning Code and to otherwise safeguard the public safety and welfare.
- (4) Upon application by the City Law Director, to revoke any special permit whose condition has been violated after notice and opportunity to conform have been given.
- (b) Application.
- (1) A request for a Special Exception may be initiated upon denial of a Zoning Clearance Permit, by completing a Special Exception Application. Special Exception Applications will be provided by the Zoning Inspector(s) upon request.
 - (2) The applicant for a Special Exception will pay the required fee as referenced in Section 1157.06 at the time of submitting the application.
 - (3) Upon payment of the required fee, the Zoning Inspector(s) will forward the application for the Special Exception to the Clerk of the Zoning Board of Appeals. The Clerk shall set a date and time for a public hearing in accordance with the rules established by the Board.
- (c) Board of Zoning Appeal Action. The Board of Zoning Appeal shall take action within thirty (30) days from submittal of the application as specified in Section 1157.10 (b) (3) above, unless the applicant and the Board mutually agree to waive this requirement. The Board of Zoning Appeal shall hold the hearing as specified above and, upon concurring vote of at least three members may grant the special exception after finding that the special exception will be in harmony with the spirit and intent of the Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. Provided that the Board in granting the special exception shall have the authority to prescribe appropriate conditions and safeguards, may limit the grant of the special exception to a specified period of time, and may require such evidence and guarantee or bond as it may deem necessary to enforce compliance with the conditions attached. The Board shall not entertain any appeal applied for more than thirty (30) days after the date of the order, requirement, decision or determination appealed from or within such different time as may be specifically provided in this Code.
- (d) Time Limitation on Special Exceptions. A special exception which has not been utilized within 24 months from date of the order granting same shall thereafter be void, provided that the Board has not extended the time for utilization. For the purposes of this provision, utilization shall mean actual use or the issuance of a building permit, when applicable, provided construction is diligently carried to completion.

(Ord. 28-16. Passed 10-24-16.)

1157.11 APPEALS TO THE COMMON PLEAS COURT.

(a) Procedure. An appeal from any action, decision, ruling, judgment, or order of the Board of Zoning Appeal may be taken by any person or persons aggrieved, or any taxpayer or any officer, department, board or bureau of the City to the Common Pleas Court of Fairfield County by filing with the City Clerk and with the Clerk of the Board within 30 days from the date of such action, a notice of appeal, which notice shall specify the grounds of such appeal. No bond or deposit for costs shall be required for such appeal. Upon filing of the notice of appeal, the Board shall forthwith transmit to the Court Clerk of the County, the original or certified copies of all the papers constituting the record in the case, together with the order, decision or ruling of the Board. Said case shall be heard and tried de novo in the Common Pleas Court of Fairfield County, Ohio. An appeal shall be from the action of the Common Pleas Court as in all

other civil actions. Costs shall not be allowed against the Board unless it shall appear to the Court that it acted with gross negligence or in bad faith, or with malice in making the decision appealed from.

(b) Stay of Proceedings. An appeal to the Common Pleas Court stays all proceedings in furtherance of the action appealed from unless the Chairman of the Board certifies to the Court Clerk, after notice of appeal shall have been filed, that by reason of facts stated in the certificate, a stay would cause imminent peril of life or property. In such case, proceedings shall not be stayed other than by a restraining order granted by the Common Pleas Court.

(Ord. 28-16. Passed 10-24-16.)

1157.12 COMPENSATION.

Compensation for members of the Board of Zoning Appeals shall be established as ten dollars (\$10.00) per application for each member in attendance at the meeting for all meetings beginning September 18, 2001.

(Ord. 28-16. Passed 10-24-16.)

CHAPTER 1159

Amendments

1159.01 General.

1159.02 Policy on Zoning Map Amendments.

1159.03 Zoning Text Amendments.

1159.04 Zoning Map Amendments.

1159.01 GENERAL.

The regulations, restrictions, prohibitions and limitations imposed, and the districts created may from time to time be amended, supplemented, changed, modified or repealed by ordinance, but no change shall be made until the Planning Commission, after notice and public hearing, files with the Clerk of City Council a report and recommendation on the proposed change. In addition to the procedural provisions hereinafter set out, the Planning Commission shall adopt procedural rules for the conduct of zoning public hearings.

(Ord. 14-00. Passed 5-22-00.)

1159.02 POLICY ON ZONING MAP AMENDMENTS.

It is the policy of the City of Lancaster that in the consideration of proposed amendments to this Code that:

Amendments will be adopted to recognize changes in the Future Land Use Plan, to correct error, or to recognize changed or changing conditions in a particular area or in the jurisdictional area generally.

(Ord. 14-00. Passed 5-22-00.)

1159.03 ZONING TEXT AMENDMENTS.

The Planning Commission upon its own motion may, or at the direction of the City Council shall hold a public hearing, giving notice thereof, of a proposed text amendment. After holding the public hearing, the Planning Commission shall within 30 days transmit its report and recommendation to the Clerk of City Council.

(Ord. 14-00. Passed 5-22-00.)

1159.04 ZONING MAP AMENDMENTS.

(a) Initiated by Application.

(1) Any person, corporation, partnership, association, or combination thereof, having a legal or equitable interest in or to real property, may file an application for a change in the zoning classification of such property by amendment of the Zoning Map. An application shall be filed with the Planning Commission and shall be in such form and content as the Planning Commission may by resolution establish. The applicant shall pay an application fee in accordance with the fee schedule established by resolution adopted by the Planning Commission and approved by the City Council. Additionally, the applicant shall pay a fee to cover the costs of publishing notice and posting of signs.

(2) An application shall be filed with the Planning Commission at least 30 days prior to the date of public hearing and shall be set for public hearing, provided the Planning Commission upon written request may set the matter for an early public hearing for cause shown.

(b) Initiated by Planning Commission. In any instance, the Planning Commission, upon its own motion may, or on the written request of any person may, or at the direction of the City Council shall, hold a public hearing, giving notice thereof, of a proposed map amendment. After holding the public hearing, the Planning Commission shall within 15 days transmit its report and recommendation to the Clerk of City Council.

(c) Notice Required.

(1) The Planning Commission shall give notice of public hearing on any proposed zoning changes as follows:

A. At least 20 days notice of the date, time, and place of the hearing by publication in a newspaper of general circulation in the City of Lancaster. Said notice shall include a map of the area to be affected which indicates street names or numbers, streams, or other significant landmarks in said area.

B. By posting of the affected property at least 20 days before the date of the hearing. The notice shall state;

1. The date, time, and place of public hearing; and
2. Who will conduct the public hearing; and
3. The present and desired zoning classifications; and
4. The proposed use of the property; and
5. Other information as may be necessary to provide adequate and timely public notice.

C. Twenty days notice by mailing written notice to all owners of real property included in the proposed change and all owners contiguous to and directly across the street from the property included in the proposed change. The notice

shall contain:

1. The legal description of the property and the street address or approximate location in the City of Lancaster; and
2. The present zoning of the property and the zoning sought by the applicant; and
3. The date, time and place of the public hearing.

D. Provided that, if the City of Lancaster proposes zoning reclassification in order to revise its Future Land Use plan or official map or to identify areas which require specific land use development due to topography, geography or other distinguishing features, including but not limited to floodplain, drainage, historic preservation and blighted areas, mailing of notice as above provided shall not be required and notice shall be given at least 20 days before the date of the hearing by publication as above provided and by posting on designated properties within the area affected by the proposed zoning reclassification. The sign and the lettering thereon shall be of sufficient size so as to be clearly visible and legible from the public street or streets toward which it faces and shall state:

1. The date, time and place of the public hearing; and
2. Who will conduct the public hearing; and
3. The desired zoning classification; and
4. The proposed use of the property; and
5. Other information as may be necessary to provide adequate and timely public notice.

(2) EDITOR'S NOTE: Former subsection (c)(2) was repealed by Ordinance 46-05.

(d) Planning Commission Action on Zoning Map Amendments. After notice and public hearing, the Planning Commission shall vote to:

- (1) Recommend to the City Council that the application be approved as submitted, or as amended, or be approved subject to modification or;
- (2) Recommend to the City Council that the application be denied.

An application recommended for approval, or approval subject to modification shall be transmitted, with the report and recommendation of the Planning Commission, to the City Council within 15 days from the date of Planning Commission action.

An application recommended for denial, shall not be considered further unless the applicant within 15 days from the date of the Planning Commission action, files a written request with the Clerk of City Council for a hearing by the City Council. The request for hearing shall be accompanied by the payment of a fee pursuant to the adopted fee schedule. Upon notice of such request, the Planning Commission shall forthwith transmit the application and its report and recommendations to the Clerk of City Council.

In the event the Planning Commission arrives at a tie vote, the application shall be transmitted with a report and notation of the tie vote, to the Clerk of City Council within 15 days from the date of Planning Commission action.

(e) City Council Action on Zoning Map Amendments. The City Council shall hold a hearing on each application transmitted from the Planning Commission and on any proposed Zoning Map amendment initiated pursuant to subsection (b) hereof. The City Council shall approve the application as submitted, or as amended, or approve the application subject to modification, or deny the application. Prior to the hearing on the proposed rezoning ordinance before the City Council, the applicant shall remit to the office of the Clerk of City Council a publication fee, said fee to be in accordance with the schedule of fees adopted by resolution of the City Council of the City of Lancaster. In case of a protest against such zoning change filed at least three days prior to said public hearing by the owners of 20% or more of the area of the lots included in such proposed change, or by the owners of 50% or more of the area of the lots contiguous to and directly across the street from the property included in the proposed change, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the City Council.

(Ord. 14-00. Passed 5-22-00.)

CHAPTER 1161

Definitions

1161.01 Definitions.

1161.01 DEFINITIONS.

(1) **Abutting:** In the context of notice and a screening or enclosure requirement, abutting shall mean contiguous or separated there from only by a nonarterial street, alley or railroad right-of-way. In other instances, abutting shall mean contiguous.

(2) **Accessory Use or Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

(3) **All-Weather Material:** A hard surface, dust-free material capable, during ordinary use, of withstanding without substantial deterioration, normal weather conditions. Gravel, rock, or screenings alone, without use of a petroleum or cement binder, does not meet the definition of an all-weather, dust-free material. All-weather material does not apply to non-residential parking areas and drive areas less than 12,000 square feet in total area that do not abut an arterial street.

(4) **Alley:** A public right-of-way ten (10) to twenty (20) feet wide which provides only secondary means of access to abutting property.

(5) **Animation:** The presentation of pictorials and graphics on signs displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shape.

(6) **Arterial:** A street designated on the Major Street and Highway Plan as an arterial, thoroughfare, parkway or special traffic way.

(7) **Assisted Living Center:** A residential facility designed to meet housing and care needs of older persons and individuals with disabilities in a residential rather than institutional environment, while maximizing independence, choice, and privacy. Assisted living programs provide personal care for persons with needs for assistance in the activities of daily living, and can respond to unscheduled needs for assistance. Services typically provided include: meals, housekeeping, laundry and linen service, medication monitoring, transportation, and activities. Assisted living settings also typically provide features that enhance resident autonomy, such as lockable doors, full bathrooms, temperature control, and single occupancy, and may provide limited cooking facilities in individual units. Assisted Living Centers exclude nursing homes and other special housing facilities as elsewhere defined.

(8) **Average Ground Elevation:** The mid-point between the highest and lowest ground elevations at the building wall.

- (9) Bar/Tavern: A commercial establishment open to the general public which sells and serves intoxicating beverages (as defined herein) for consumption on the premises.
- (10) Bed and Breakfast Inn: Every establishment that provides four (4) or fewer guest rooms with or without meals for guests and/or transient guests who pay a fee for such services. Said structure may also be rented for special events, such as weddings, receptions, anniversaries, private dinner parties, business seminars, etc., as may be approved by the Board of Zoning Appeals.
- (11) Board of Zoning Appeals (BZA): The Board of Zoning Appeals of the City of Lancaster.
- (12) Building: A structure which is permanently affixed to the land, and has one or more floors and a roof, and is bounded by either another building with a common party wall, open air, or the lot lines of a lot.
- (13) Building Setback: The horizontal distance, from the point of measurement, such as the right-of-way line of an abutting street or the boundary line of an abutting zoning district to the nearest building wall.
- (14) Bulk and Area Requirements: The term "bulk and area requirements" as used in this code refers to lot widths, lot areas, structure heights, front, rear and side yard setbacks and floor area ratios.
- (15) Caliper: The diameter of the tree trunk measured at six (6") inches above ground level for a tree trunk having a diameter of four (4") inches or less and the diameter of the tree trunk measured at twelve (12") inches above ground level for a tree trunk having a diameter exceeding four (4") inches.
- (15a) Change of Use: means any alteration in the primary use of a lot or building on the lot from its existing use at the time of the adoption of this code or as modified by a zoning clearance, special exception or use variance issued under this code or which may entail the need for additional parking, loading, screening or other zoning restrictions.
- (16) Changeable Copy: A sign which, in whole or in part, provides for periodic changes in the material or message composing the sign. This definition includes both electronically and manually changeable signs.
- (17) Character: Any letter of the alphabet or numeral.
- (17a) Child Day Care Center: Any place in which child care or publicly funded child care is provided for thirteen or more children at one time or any place that is not the permanent residence of the licensee or administrator in which child care or publicly funded child care is provided for seven to twelve children at one time. In counting children for the purpose of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises of the center shall be counted.
- (18) City Council: The City Council of the City Lancaster.
- (19) Commercial Mixed Use Development: shall mean any development containing a combination of uses permitted by right or special exception in a CN zoning district.
- (19a) Community Reinvestment Area Three (CRA-3): The third Community Reinvestment Area as designated on City of Lancaster CRA maps created by Permanent Resolution 71-19. Within the CRA-3 Overlay District a developer may apply for and receive exemption from real property tax for the construction of an approved residential development of up to three family dwelling units, also known as a triplex. Tax exemption is subject to Mayoral approval and determined on a case by case basis.
- (20) Condominium New: A form of ownership of property where each owner has title to a percentage of a project and the project's common areas and the actual ownership is of the interior surfaces established by the perimeter walls, floor and ceilings of a unit. Because of the unique ownership of the lot or lots, condominiums shall be included in PUD zoning. Copies of the ownership structure shall be filed with the Certified Building Department prior to issuance of an occupancy permit. A new condominium is a new development that is not currently in existence and is not a conversion of any existing structure.
- (20a) Condominium Conversion: A form of ownership of property where each owner has title to a percentage of a project and the project's common areas and the actual ownership is of the interior surfaces established by the perimeter walls, floor and ceilings of a unit. Copies of the ownership structure shall be filed with the Certified Building Department prior to issuance of an occupancy permit. A condominium conversion contemplates the conversion of an existing structure.
- (21) Convict Pre-Release Center or Correctional Community Treatment Center: means a facility for supervision and rehabilitation of persons placed therein by the Department of Rehabilitation and Correction, Federal Bureau of Prison, a court, or otherwise for parole, probation, furlough, treatment of drug or alcohol abuse and addition, vocational training and counseling, or adjustment to private life and noninstitutional society and which may be licensed and inspected by the Ohio Department of Rehabilitation and Correction, the Adult Parole Authority, the Ohio Department of Health or a similar agency. Prisoners in these facilities are not in the custody of local law enforcement and the facilities are often privately owned.
- (22) Curb Level: The mean level of the established curb at the frontage of a lot. Where no curb has been established, the City Engineer shall establish such curb level or its equivalent for the purposes of this Code.
- (23) Customary Residential Exterior Finishing Materials: Roof and siding materials traditionally used to provide the finished exterior of single-family dwellings. Customary roofing materials include composition shingles, fiberglass shingles, wood shingles (shakes), and clay tile applied according to the manufacturers specifications. Customary siding materials include aluminum lap or vinyl lap siding, cedar or other wood siding, masonry (stucco, brick, stone, block, tilt-up panel) and wood grain weather resistant pressboard siding.
- (24) Dance Hall: A commercial establishment open to the general public which provides a dance area of 1,000 square feet or more.
- (25) Day Care Center: A facility providing child day care as defined by Ohio Law to seven or more children of any age. Such a facility must be licensed by the Ohio Department of Human Services.
- (26) Designated Residential Development Area: An area specifically designated for residential development by conditions imposed in a Planned Unit Development (PUD) or Corridor District (CO).
- (27) Detention/Correctional Facility: A facility for the detention, confinement, treatment and/or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail and prison. These facilities house prisoners who are in the custody of City/county/law enforcement and the facilities are typically government owned.
- (28) Development: Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.
- (29) Display Surface: The surface of a sign as defined in Section 1317.10.
- (30) Drip line: The periphery of the area underneath a tree which would be encompassed by perpendicular lines extending from the exterior edges of the crown of the tree.
- (31) Dwelling: A building or structure used in whole or in part for human habitation.
- (31a) Dwelling, Container: A residential unit built from one or more standard shipping container(s) which meets the requirements of the Planning and Zoning Code of the City of Lancaster, Ohio and the current Ohio building codes.
- (32) Dwelling, Duplex: A building containing two (2) dwelling units, designed for occupancy by not more than two (2) families.
- (32a) Dwelling, Triplex: A building containing three (3) dwelling units, designed for occupancy by not more than three (3) families.
- (33) Dwelling, Manufactured Home: See Manufactured Home.
- (34) Dwelling, Multifamily: A building containing four (4) or more dwelling units.
- (35) Dwelling, Townhouse: A building containing two or more attached dwelling units with no unit above another unit and each unit located on a separate lot within a townhouse development.
- (36) Dwelling, Single-Family Detached: See Single Family Dwelling.
- (37) Dwelling Unit: A room or group of rooms arranged, intended, or designed as a habitable unit, containing kitchen, bath and sleeping facilities, for not more than one family living independently of any other family.
- (38) Elderly/Retirement Housing: A residential complex containing multifamily dwellings designed for and principally occupied by

senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care and are distinguished from life care retirement centers as elsewhere defined.

(39) Emergency and Protective Shelter: A residential facility which provides room and board for a temporary (30 days or less) period, protection, counseling, and pre-placement screening for abused, displaced, or transient children or adults.

(40) Essential services: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and other similar equipment and accessories-in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare.

(41) Family: One (1) or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption or marriage, no such family shall contain more than five (5) persons.

(42) Family Child Care Home (Type B): The provider's personal residence used to house and provide supervision and care for one (1) to six (6) children, said total to include those children of the provider under six (6) years of age who reside in the residence. No more than three (3) children may be under the age of two years. A "Type B" home does not require licensing. Certification by Department of Human Services is required if child care is publicly funded.

(43) Family Day Care Home (Type A): The provider's personal residence used to house and provide supervision and care for seven (7) to twelve (12) children, said total to include those children of the provider under six years of age who reside in the residence. The facility must be licensed by the Ohio Department of Human Services.

(44) Flashing Illumination: A light source or other image which in whole or in part physically changes in light intensity or gives the appearance of such change.

(45) Floor area: The sum of the horizontal areas of a building as measured by the outside dimensions of the building at each floor area intended for occupancy or storage, provided that for the purposes of calculating required parking spaces, basements shall not be included.

(46) Floor Area Ratio (FAR): The floor area of a building or buildings on a lot divided by the lot area.

(47) Freeway: A street designated as a freeway on the Major Street Plan.

(48) Freeway Sign Corridor: Reserved.

(49) Frontage: The lineal measurement of a lot boundary which abuts a public street or the lineal measurement of the building setback line when the boundary of the lot abuts a curved nonarterial street or cul-de-sac.

(50) Group Residential Facility: A community facility, licensed and/or authorized by the State of Ohio, which provides rehabilitative or habilitative services in a residential setting. "Group residential facility" shall include the terms "adult group home", as defined in Ohio Revised Code 37722.01(A) (8) and "group home", as defined in Ohio Revised Code 5123.19(A)(3). There are two (2) classes of group residential facilities:

A. "Class I group residential facility" means any state, federal or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a place for the care or rehabilitation of dependent or predelinquent children, for the physically handicapped or disabled, or for those with mental illness or developmental disabilities. A Class I Type A facility contains more than five (5) residents, exclusive of staff. A Class I Type B facility contains five (5) or fewer residents, exclusive of staff.

B. "Class II group residential facility" means any state, federal or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional institutions; and residential rehabilitation centers for alcohol and/or drug abusers, provided that detoxification is expressly prohibited on such premises. A Class II Type A group residential facility contains more than five (5) residents, exclusive of staff. A Class II Type B facility contains five (5) or fewer residents, exclusive of staff.

(51) Habitable Floor: Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor".

(52) Handicap means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance. For purposes of these guidelines, an individual shall not be considered to have a handicap solely because that individual is a transvestite. As used in this definition:

A. "Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism. These guidelines are designed to make units accessible or adaptable for people with physical handicaps.

B. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

C. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

D. "Is regarded as having an impairment" means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;
2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or
3. Has none of the impairments in paragraph A. of this definition but is treated by another person as having such an impairment.

(53) Height, building: The vertical distance measured from the average ground elevation at the building wall to the highest point of the structure, not including the height exceptions cited in Section 1123.09 of this Code.

(54) Height, Sign: The vertical distance measured from the curb level to the highest point of the sign.

(55) Home Occupation: That accessory use of a dwelling which constitutes some or all of the livelihood of a person living in the dwelling.

(55a) Hotel: The term "Hotel" shall have the same meaning as Lancaster Codified Ordinance 185.02(3).

(56) Intoxicating Beverages: As used in the Ohio Revised Code, 4301.01.

- A. "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether the same are medicated, proprietary, or patented. The phrase includes wine even if it contains less than four percent (4%) of alcohol by volume, mixed beverages even if they contain less than four per cent alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.
- B. "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origins may be, and includes synthetic ethyl alcohol.
- C. "Beer", "malt liquor", or "malt beverages" includes all brewed or fermented malt products containing one-half of one per cent or more alcohol by volume but not more than six per cent of alcohol by weight.
- D. "Cider" means all liquids fit to use for beverage purposes that contain one-half of one per cent of alcohol by volume, but not more than six per cent of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.
- E. "Wine" includes all liquids fit to use for beverage purposes containing no less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume, which is made from fermented juices of grapes, fruits, or other agricultural products. "Wine" does not include cider.
- F. "Mixed beverages" such as bottled and prepared cordials, cocktails, and highballs are products obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one per cent of alcohol by volume and not more than twenty-one percent (21%) of alcohol by volume.

(57) Junk and salvage yard: An establishment providing an open area where wastes or second hand materials are bought, sold, exchanged, stored, processed or handled. Materials include but are not limited to scrap iron and other metals, paper, plastic, rags, tires, salvaged, inoperable and/or dismantled vehicles and/or parts, and bottles or cans.

(58) Kennel: The use of land or buildings for the purpose of selling, breeding, boarding or training cats or dogs, or both.

(59) Land Area: The area of a lot.

(60) Land Coverage: The land area of a lot covered by building or buildings, except structural parking.

(61) Landscaped Area: The unpaved area within a lot which contains grass, shrubs, flowers, ground cover, trees or native plant materials and which may include decorative fixtures such as rock, pools and planters.

(62) Life Care Retirement Center: A residential facility containing dwellings designed for and principally occupied by senior citizens in a planned retirement community which includes a residential complex, an activity or community center, and a medical or nursing facility which is licensed by the State of Ohio as an Intermediate Care Facility or a Skilled Nursing Center.

(63) Loading Berth, Off-Street: A space of at least ten (10) feet in width and thirty (30) feet in length and having a vertical clearance of at least fourteen (14) feet, designed and located on a lot for the temporary parking of commercial vehicles while loading or unloading merchandise or materials. Where a property is served by an alley, the alley may be counted as the loading space for loading and unloading where the loading or unloading occurs in less than 20 minutes.

(64) Lot: A lot of record.

(65) Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of the County in which the lot is located or a parcel of land, the deed of which is recorded in the office of the County Recorder of the County in which the parcel is located.

(66) Lot Line: Any boundary of a lot.

(67) Lot Line, Front: The boundary of a lot which abuts a public street. Where the lot abuts more than one street, the owner may select the front lot line.

(68) Lot Line, Rear: The boundary of a lot which is most distant from and most nearly parallel to the front lot line.

(69) Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

(70) Lot Width: The average horizontal distance between the side lot lines.

(71) Major Appliance: Includes, but is not limited to, washers, dryers, refrigerators, ovens/ranges, dishwashers, and other appliances not easily carried without assistance.

(72) Major Street Plan: The City of Lancaster Thoroughfare Plan Update, as adopted by the City of Lancaster on June 14, 2004, Resolution 90-04, as may be subsequently amended.

(73) Manufactured home: A building unit or assembly of closed construction that is fabricated in an off-site facility, that conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the Manufactured Housing Construction and Safety Standards Act of 1974, and has a label or tag permanently affixed to it, certifying compliance with all applicable federal construction and safety standards.

(74) Manufactured Home Community: A development constructed primarily for manufactured homes, with continuing local general management and with special facilities for common use by occupants, including such items as common recreational buildings and/or common open space.

(75) Mini Storage: A building containing small partitioned storage spaces which are separately and individually rented or leased for the storage of personal goods or merchandise, excluding commercial warehousing.

(76) Mobile Home: Any non-self-propelled vehicle transportable in one or more sections which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or, when erected on the site, is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, and built in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

(77) Modular Home: A non-site-built home that is certified as meeting the requirements of the State of Ohio Building Code for modular housing. For the purposes of this Ordinance, once certified by the State of Ohio, modular homes shall be subject to the same standards as site-built homes.

(78) Movement: Physical movement or revolution of a sign or portion of a sign up or down, around or sideways.

(79) NA: Not applicable.

(80) Nameplate: A sign, attached flush against a building identifying the name of the building or the name of an occupant thereof.

(81) NEC: Not elsewhere classified.

(82) Neighborhood Park: A park or open space of less than fifteen (15) acres owned either privately by an owners association or publicly by the City and whose function is to serve local residents. Neighborhood parks may include passive recreation areas and such active areas as jogging and bike paths, playgrounds and small athletic facilities. Neighborhood parks do not include intensive recreation facilities such as swimming pools, community centers, concession stands or lighted athletic facilities.

(83) Night Club: A commercial establishment open at night to the general public, usually serving intoxicating beverages, having a floor show, and providing music and a space for dancing.

(84) Non-Arterial: A street designated on the Major Street and Highway Plan as a collector or minor street.

(85) Nursing Home: A residential health care facility, licensed by the State of Ohio, which provides institutional lodging, nursing

care, personal care and supervision to aged, chronically ill, physically infirm, or convalescent patients who are not related to the owner or administrator of the facility.

(86) Parking Space, Off-Street: A space on a lot intended and reserved for the parking of an automobile.

(87) Parking Space, Required Off-Street: A space on a lot reserved for parking required by this Code.

(88) Permanent Foundation: A foundation which meets the requirements of the City of Lancaster regulations for one and two family dwellings.

(89) Permanently sited manufactured home: A manufactured home that meets all of the following criteria:

- A. The structure is affixed to a permanent foundation and is connected to appropriate facilities;
- B. The structure, excluding any addition, has a width of at least twenty-two (22) feet at one point, and a length of at least twenty-two (22) feet at one point, and a living area of at least 900 square feet, excluding garages, porches, or attachments;
- C. The structure has a minimum 4: 12 roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;
- D. The structure was manufactured after January 1, 1995;
- E. The structure is not located in a manufactured home community or manufactured home park as defined herein.

(90) Personal Care: Assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person.

(91) Planning Commission: The Lancaster City Planning Commission (LCPC).

(92) Planned Unit Development (PUD): A discretionary type of development for a tract of land under single ownership or control, based upon an approved development plan permitting flexibility of principal land uses, lot sizes, and accessory uses not otherwise available under conventional development standards.

(93) Principal Use Restaurant: An eating establishment which employs at least one full-time cook, has a menu, a fully equipped kitchen for cooking and preparation of meals and which eating establishment, including the kitchen area but excluding the bar area, occupies at least 75% of the total floor area of the business.

(94) Private Club: A private commercial establishment, not open to the general public, but which is operated for profit and which sells and serves intoxicating beverages (as defined herein) for consumption on the premises.

(95) Right-of-Way: A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalk, lighting and drainage facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

(96) Recreational Vehicle (RV): A vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreation, and vacation uses and is classed as follows:

- A. "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and includes a tent-type fold-out camping trailer as defined in Section 4517.01 of the ORC.
- B. "Motor Home" means a self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.
- C. "Truck camper" means a non-self propelled recreational vehicle that does not have wheels for road use and designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers than consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.
- D. "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.
- E. "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A 119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(97) Residential Treatment Center: A community-based residential facility providing diagnostic or therapeutic services, counseling, or treatment and long-term room and board in a highly structured environment for its residents for alcoholism, drug abuse, or behavioral disorders.

(98) Rooming and Boarding House: A facility wherein congregate meals and lodging are provided for its residents exclusive of a supervised living or residential care facility as elsewhere defined (e.g. Nursing Homes, Group Homes, Transitional Living Center, Residential Treatment Center, etc.), and exclusive of a hotel or motel.

(99) Screening Fence: Screening Fence means a barrier at least six feet in height, constructed of non-transparent material, and maintained so as to obscure the facility from the ordinary view of persons passing upon adjacent streets. Such screening fence can be a combination of barrier fence and landscape plantings if approved by the Zoning Board of Appeals. (See Section 1123.12)

(100) Setback: A horizontal distance determining the location of a building with respect to a street, use district boundary line, or another use. Where the term "setback" is used in conjunction with a modifying word or words such as "parking area", the setback shall in its application include, but not be limited to, buildings.

(101) Signs: See Chapter 1317 of the Codified Ordinances.

(102) Single Family Dwelling: A detached individual dwelling unit designed and intended for occupancy by one family unit.

(103) Special Exception: A use or a design element of a use which is not permitted by right in a particular district because of potential adverse effects, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the Board of Zoning Appeal, where specifically authorized by the Code, and in accordance with the substantive and procedural standards of the Code.

(103A) Storable Swimming Pool: A pool capable of holding water to a maximum depth of forty two inches (42") and is constructed of non-metallic, molded polymeric or fabric walls supported on a rigid frame or by an inflatable ring and entirely on or above ground, and is designed and constructed to be readily disassembled for storage and re-assembled to its original integrity.

(104) Story: A room or set of rooms on one floor level of a building.

(105) Street: A way for vehicular traffic defined as the area from the back of curb to the back of curb or the area from the backslope of the drainage ditch to the backslope of the drainage ditch.

(106) Street Yard: The minimum required yard (residential) abutting a public street or the area of a lot contained between the minimum required building setback line (nonresidential) and an abutting public street.

(107) Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, and includes buildings, walks, fences, and signs.

(108) Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been

damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration affects the external dimensions of the structure. The term does not, however; include either (1) any project for improvement of a structure to comply with the existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(109) Supplemental District: A zoning district to be mapped as an overlay to a use district and which modifies or supplements the regulations of the general district in recognition of distinguishing circumstances such as historic preservation, wellhead protection, flood plain or unit development while maintaining the character and purposes of the general use district area over which it is superimposed.

(110) Tent: Any structure, enclosure, or shelter constructed of fabric or other pliable material supported by any manner except by air or the contents protected by the material. The horizontal area covered by the fabric or other pliable material shall be considered building floor area. In residential district a tent shall be considered a detached accessory building.

(111) Top Plate: The horizontal timber directly carrying the trusses of a roof or the rafters.

(112) Townhouse Development: A subdivision containing at least three townhouse lots.

(113) Transitional Living Center: A community-based residential facility that provides short-term (120 days or less) room and board in a supervised living environment utilizing counseling and rehabilitation services for persons with a history of juvenile delinquency, behavioral disorders, alcoholism or drug abuse.

(113a) Use means an activity permitted by the zoning classification applicable to the district in which the property is situated or by a Special Exception or Variance issued by the City. Whether a particular use exists depends on the nature and purpose of the activity involved. That must be determined from the whole of the activity concerned, not merely with reference to one of its constituent's parts.

(114) Variance: A relaxation of a restriction of the Code, granted by the Board of Zoning Appeal, where by reason of exceptional narrowness, shallowness, shape, topography, or other extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of the Code restriction, would result in unnecessary hardship.

(115) Veterinarian Clinic: A building used exclusively for the care and treatment of animals, including incidental overnight boarding of animals within the enclosed building, but excluding outside animal runs or boarding services.

(116) Wind Device: Any flag, banner, pennant, streamer or similar device that moves freely in the wind.

(117) Word: For the purpose of this Code, one word shall be deemed to be any of the following.

- A. Any word in any language found in any standard unabridged dictionary or dictionary of slang.
- B. Any proper noun or any initial.
- C. Any separate symbol or abbreviation, such as "&", "S", "1", "%", and "INC".
- D. Any telephone number, street number or commonly used combination of numerals and/or symbols such as "\$5.00, or "50%".
- E. Any symbol or logo which is a registered trademark, but which itself contains no word or character.
- F. Otherwise, each separate character is considered to be a word.

(118) Yard: An open unoccupied space on a lot between a building and a lot line measured from the right-of-way.

(119) Yard, Front: A yard extending along the full length of the front lot lines between the side lot lines.

(120) Yard, Required: The minimum permitted distance of open unoccupied space between a building and a lot line.

(121) Yard, Rear: A yard extending along the full length of the rear lot line between the side lot lines.

(122) Yard, Side: A yard extending along a side lot line between the front yard and the rear yard.

(Ord. 8-21. Passed 3-8-21.)

APPENDIX B

To amend the Zoning attached to Ordinance No. 1866, passed on the 18th., day of Nov. 1939, and as subsequently amended as herein provided.

BE IT ORDAINED by the Council of the City of Lancaster, State of Ohio.

SECTION 1: That the Zoning Map attached to Ordinance No. 1866 passed November 18, 1939, and as subsequently amended by and the same is hereby revised by changing the zoning of the following described territory, to-wit:

Beginning at the Northwest corner of Forest Rose Ave., and Fifth Ave.; thence North along the West line of Forest Rose Ave., to the alley North of North Street; thence west in the alley North of North Street to the alley west of Forest Rose Ave.; thence North in the alley West of Forest Rose Ave. to the South-East corner of Lot No. 14 of Dickson's Subdivision; thence West along the South line of Lots 14 and 15 of Dickson's Subdivision to the East line of Front Street; thence Northwestwardly along the East line of Front Street to the alley South of Fair Ave.; thence East in the alley South of Fair Avenue to the Southeast corner of Lot No. 11 of Mumaugh's Addition; thence North along the East line of Lot No. 11 of Mumaugh's Addition to Fair Ave.; thence west in Fair Ave., to the alley east of Front Street; thence North in the alley east of Front Street to Reber Avenue; thence in Reber Ave. to a point 260' East of Center line of Front Street as surveyed by the State Highway Department for State Highway No. 49; thence parallel to and 260' northeast of said highway center line to Schryver Ave.; thence in Schryver Avenue and Wildwood Avenue to the Northeast corner of Lot No. 34 of Avondale Addition; thence west along the North line of the Avondale Addition to the West Corporation line; thence South along the west corporation line to a point 260' feet South of and perpendicular to the center line of the State Highway Department Survey; thence Southeastwardly parallel to and 260' distance from the center line of said Highway Survey to the Bolenbaugh land; thence Southwestwardly along the Bolenbaugh land to Hocking River; thence Eastwardly along Hocking River to Sixth Ave.; thence East in Sixth Ave., to Front Street; thence South in Front Street to Fifth Avenue; thence East in Fifth Avenue to the place of beginning.

That the territory above described be changed from Class Residential "A" and Class Residential "B" to Class "C" Commercial.

SECTION 2: That the "Set Back" of "Front Building Line" of all property abutting on Front Street from Union Street Northwestwardly to the Northwest Corporation line be fixed at 60 feet from the Center line of the Proposed State Highway.

SECTION 3: That the City Engineer be and is hereby authorized and directed to make said change on the said Original Zoning Map of said City.

SECTION 4: That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

APPENDIX C

WIRELESS TELECOMMUNICATIONS

Wireless Communications as it relates to antenna and antenna support structures is referenced throughout the zoning code. Because the City has recently adopted specific legislation with regard to wireless telecommunications no effort was made to directly incorporate specific language into the Zoning Code. The City currently has designated Wireless Communications rules and regulations. This Appendix incorporates the existing Wireless Communications legislation from Chapter 1339 of the Lancaster Codified Ordinances.

CODIFIED ORDINANCES OF LANCASTER

PART THIRTEEN - BUILDING CODE

Chap. 1301. Building Codes.

- Chap. 1302. National Electrical Code. (Repealed)
- Chap. 1303. Technical Codes.
- Chap. 1311. Permit to Obstruct Streets.
- Chap. 1317. Signs.
- Chap. 1318. Fencing.
- Chap. 1323. Gas Piping and Appliances. (Repealed)
- Chap. 1327. Historic Preservation/Design Review.
- Chap. 1331. Flood Damage Reduction.
- Chap. 1335. Wellhead Protection Plan.
- Chap. 1339. Wireless Telecommunications.
- Chap. 1341. Registration of Contractors.
- Chap. 1345. Impact Fees.

CHAPTER 1301

Building Codes

- 1301.01 Adopting standards.**
- 1301.02 Definitions.**
- 1301.03 Scope.**
- 1301.04 Plan approval.**
- 1301.05 Time limitation of application.**
- 1301.06 Permit application.**
- 1301.07.1 Permit expiration for Ohio Building Code and Residential Code of Ohio.**
- 1301.07.1.1 Permit/tap expiration.**
- 1301.07.2 Permit extension.**
- 1301.07.3 Demolition permit.**
- 1301.08 Lot regulations for removal of structures.**
- 1301.09 Permit, demolition and renewal fees.**
- 1301.10 Nonqualification for permit.**
- 1301.11 Residential climatic and geographic design criteria.**
- 1301.12 Accessory structures.**
- 1301.13 Reserved.**
- 1301.14 Violation.**
- 1301.15 Notice.**
- 1301.16 Appeals.**
- 1301.17 Transfer of ownership.**
- 1301.18 Fees.**
- 1301.99 Penalty.**

CROSS REFERENCES

Adoption by reference - see Ohio R.C. 731.231

Ohio Building Code applicable to other structures - see Ohio R.C. 3781.06

1301.01 ADOPTING STANDARDS.

- (a) The City enforces the Ohio Building Code's latest version as promulgated by the Ohio Board of Building Standards.
 - (b) The City enforces the Residential Code of Ohio's latest version as promulgated by the Ohio Board of Building Standards.
- (Ord. 18-07. Passed 3-12-07.)

1301.02 DEFINITIONS.

- (a) Whenever the term "jurisdiction" is used in the adopted Ohio Building Code and the Residential Code of Ohio, it shall mean the City of Lancaster.
 - (b) Whenever the term "Building Official" is used in the adopted Codes or this chapter, it shall mean the officer or other designated authority charged with the administration and enforcement of the adopted Codes or this chapter, as designated by the provisions of the Ohio Building Code and the Residential Code of Ohio respectively.
 - (c) Whenever the term "OBC" is used in the adopted Code or this chapter, it shall mean "Ohio Building Code" as designated through the Ohio Administrative Code Chapters 4101:1-1 to 4101:1-35.
 - (d) Whenever the term "RCO" is used in the adopted Codes or this chapter, it shall mean "Residential Code of Ohio" as designated through the Ohio Administrative Code Chapters 4101:8-1 to 4101:8-43.
- (Ord. 18-07. Passed 3-12-07.)

1301.03 SCOPE.

- (a) The Ohio Building Code shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures with the following exceptions:
 - (1) Detached one-, two- and three-family dwellings and structures incidental to those dwellings which are not constructed as industrialized units shall comply with the Residential Code of Ohio adopted by the City of Lancaster. This exception does not include the energy provisions required in Chapter 13, Energy Efficiency, of the OBC.
 - (2) Buildings owned by and used for a function of the United States government.
 - (3) Buildings and structures which are incident to the use for agricultural purposes of the land on which said buildings or structures are located, provided such buildings or structures are not used in the business of retail trade. For the purposes of

this section, a building or structure is not considered used in the business of retail trade if fifty percent (50%) or more of the gross income received from sales of produce in the building or structure by the owner or operator is from sales of products produced or raised in a normal crop year on farms owned or operated by the seller (see Ohio R.C. 3781-06 and 3781.061).

- (4) Agricultural labor camps.
- (5) Type A or Type B family daycare homes.
- (6) Buildings or structures which are designed, constructed and maintained in accordance with Federal standards and regulations and are used primarily for Federal and State military purposes, where the U.S. Secretary of Defense has acquired by purchase, lease, or transfer, and constructs, expands, rehabilitates as he determines to be necessary to carry out the purpose of Chapter 1803 of the U.S.C.
- (7) Manufactured homes constructed under 24 CFR Part 3280, "Manufactured Home Construction and Safety Standards".

(b) The Residential Code of Ohio shall apply to the construction, alteration, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every residential building or structure, any appurtenances connected or attached to such buildings or structures, or any accessory structures of every 1, 2, or 3 family residential structure. No buildings, or its equipment or accessories to which the rules of the board apply, shall be erected, constructed or installed, except in conformity with the rules of the board.

(Ord. 18-07. Passed 3-12-07.)

1301.04 PLAN APPROVAL.

Any owner or authorized agent who intends to construct, enlarge, alter, move, or change the occupancy of a building or structure, or portion thereof, or to erect, install, enlarge, alter, repair, remove, convert, or replace any electrical, gas, mechanical, plumbing system, other building service equipment or piping system the installation of which is regulated by the OBC or RCO, or to cause any such work to be done, shall first make application to the Building Official and obtain the required approval.

(Ord. 18-07. Passed 3-12-07.)

1301.05 TIME LIMITATION OF APPLICATION.

(a) The approval of construction documents under this rule is a "license" and the failure to approve such plans as submitted within thirty days after filing or the disapproval of such plans is an "adjudication order denying the issuance of a license" requiring the opportunity for an "adjudication hearing" as provided by Ohio R.C. 199.07 to 199.13 and as modified by Ohio R.C. 3781.031 and 3781.19. An adjudication order denying the issuance of a license shall specify the reasons for such denial.

(b) If construction documents have been reviewed for compliance with the rules of the Board, a correction letter-adjudication order has been issued to the owner, and the owner has neither exercised the right to appeal nor resubmitted corrected documents, the application is invalid six months from the date of the issuance of the correction letter-adjudication order.

(Ord. 18-07. Passed 3-12-07.)

1301.06 PERMIT APPLICATION.

(a) By Whom Application Is Made. Application for a building permit shall be made by the owner or lessee of the building or structure, or agent of either or by the licensed engineer or architect employed in connection with the proposed work. If the application is made by a person other than the owner of record, it shall be accompanied by a duly verified affidavit of the owner or the qualified person making the application that the proposed work is authorized by the owner of record and that the applicant is authorized to make such application. The full names and addresses of the owner, building contractor, lessee, applicant and of the responsible officers, if the owner or lessee is a corporate body, shall be stated in the application.

(b) Site Plan. A site plan is required to be submitted showing to scale the size and location of all existing structures on the site including setback and side yard dimensions, all property and interior lot lines, distances from lot lines, and the location of the nearest streets. The site plan shall also show elevations of the finished floor, lot grading, corners, swales and storm water routes. In case of demolition, the site plan shall show construction to be demolished and the location and size of existing structures and construction that are to remain on the site or plot. The Building Official is authorized to waive or modify the requirement for a site plan when the application for approval is for alteration or repair or when otherwise warranted.

(Ord. 18-07. Passed 3-12-07.)

1301.07.1 PERMIT EXPIRATION FOR OHIO BUILDING CODE AND RESIDENTIAL CODE OF OHIO.

(a) The approval of construction documents and specifications or data in accordance with this section is invalid if construction, erection, alteration or other work upon a building or structure has not commenced within twelve months of the approval of the construction documents and specifications.

(b) One extension shall be granted for an additional twelve-month period if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of an extension fee.

(Ord. 37-07. Passed 7-16-07.)

1301.07.1.1 PERMIT/TAP EXPIRATION.

Permit/tap expiration periods other than Ohio Building Code, Residential Code of Ohio and demolition shall be established by administrative order of the Mayor.

(Ord. 37-07. Passed 7-16-07.)

1301.07.2 PERMIT EXTENSION.

If in the course of construction work is delayed or suspended for more than six months, the approval of plans or drawings and specifications or data is invalid. Two extensions shall be granted for six months each if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of a fee for each extension.

(Ord. 18-07. Passed 3-12-07.)

1301.07.3 DEMOLITION PERMIT.

- (a) Service Connections. Before a structure can be demolished or removed, the owner or agent shall notify all utility companies

having service connections within the structure such as water, electric, gas, sewer, cable TV and other connections. A permit to demolish or remove a structure shall not be issued until their respective service connections and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner acceptable to the Building Inspector.

(b) Owner's Responsibility. The owner or owner's agent is responsible for the safety and health of the work site during demolition and during removal of debris. Traffic control, EPA abatement permits, security, and safety fencing shall be the owner or owner's agent responsibility.

(c) Historic Property. The Lancaster Building Department shall determine if a structure or building is a listed property which is protected by the Historic Preservation Chapter 1327. If that is the case, the appropriate certificate shall be obtained from the Historic Lancaster Commission before a permit may be issued.

(d) Accessory Buildings. Accessory buildings less than 200 square feet do not require a demolition permit and may be removed at the discretion of the property owner.

(e) Demolition Permit. A demolition permit expires 45 days after its issue date. A demolition permit may be renewed for the standard renewal fee as with other permits if approved by the Building Official.

(Ord. 18-07. Passed 3-12-07.)

1301.08 LOT REGULATIONS FOR REMOVAL OF STRUCTURES.

Whenever a structure is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, the restoration of established grades and the erection of the necessary retaining walls and fences.

(Ord. 18-07. Passed 3-12-07.)

1301.09 PERMIT, DEMOLITION AND RENEWAL FEES.

No permit as required by the Building Code shall be issued until the fee prescribed in the adopted fee schedule has been paid. No amendment to a permit shall be approved until the additional fee, if any, has been paid. The Fee Schedule shall be adopted by an administrative action of the Mayor.

(Ord. 18-07. Passed 3-12-07.)

1301.10 NONQUALIFICATION FOR PERMIT.

A permit shall not be issued, or, if already issued a permit shall be terminated by the Building Inspector or Building Official, where the building contractor listed in the permit application, or contractor hired subsequent to the issuance the permit, is one who is not a registered contractor with the City of Lancaster per the rules of the contractor registration program. (Ord. 18-07. Passed 3-12-07.)

1301.11 RESIDENTIAL CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.

All residential buildings or structures regulated by the RCO shall be designed and constructed in accordance with the provisions of the RCO using the design criteria set forth in that code and the conditions set forth below:

- (a) Ground Snow Load 25 psf
- (b) Wind Speed 90 mph
- (c) Seismic Design Category B
- (d) Winter Design Temperature 5 degrees F.
- (e) Ice Shield Underlayment Req. Yes
- (f) Flood Hazards Nov 1979, FDPO, NFIP
- (g) Air Freezing Index 1,000
- (h) Mean Annual Temperature 50 degrees F.
- (i) Subject to Damage From:
 - (1) Weathering Severe
 - (2) Frost Line Depth 32 inches
 - (3) Decay Slight to Moderate
- (j) Termitec Moderate to Heavy

(Ord. 18-07. Passed 3-12-07.)

1301.12 ACCESSORY STRUCTURES.

(a) Commercial Accessory Structures (OBC).

(1) More than 120 square feet. Detached utility structures larger than 120 square feet require a construction permit.

(2) 120 square feet or less. Detached utility structures 120 square feet or less require a zoning permit and inspection to ensure emergency egress, ADA compliance of site, and ensure structure is anchored to the ground in an approved manner.

(b) Residential Accessory Structures (RCO).

(1) More than 200 square feet. Residential detached utility structures more than 200 square feet require a construction permit. Plans submitted must include construction plans, site plans including compliance with zoning regulations.

(2) 200 square feet or less. Detached utility buildings 200 square feet or less require a zoning permit and inspected to ensure the structure is anchored in an approved manner.

(Ord. 18-07. Passed 3-12-07.)

1301.13 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

1301.14 VIOLATION.

(a) Prosecution of Violation. Any person, firm, or corporation that is in conflict of this code or fails to comply with a notice of violation or order shall be deemed guilty of a first degree misdemeanor. If the notice of violation is not complied with, the Code Official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto.

(b) Assessment. Any action taken by the authority having jurisdiction on such premises may be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(Ord. 18-07. Passed 3-12-07.)

1301.15 NOTICE.

(a) Notice to Person Responsible. Whenever the Code Official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in this section to the person responsible for the violation.

(b) Form. Such notice prescribed in subsection (a) hereof shall be in accordance with all of the following:

- (1) Be in writing;
- (2) Include a description of the real estate sufficient for identification;
- (3) Include a statement of the violation or violations and why the notice is being issued;
- (4) Include a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code;
- (5) Inform the property owner of the right to appeal;
- (6) Include a statement of the right of the City to file a lien in accordance with Section 1301.14;

(c) Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally;
- (2) Sent by certified or first class mail addressed to the last known address; or
- (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

(Ord. 18-07. Passed 3-12-07.)

1301.16 APPEALS.

(a) Ohio Residential Code Appeals. An appeal of an order under the Residential Code of Ohio shall be to the Structural Appeals Board pursuant to Section 1303.06. An appeal must be filed within twenty days after service of the notice.

(b) Ohio Building Code Appeals. An appeal of an order under the Ohio Building Code must be filed within 30 days of the mailing of the notice to the Ohio Board of Building Standards, pursuant to the Ohio Revised Code and Ohio Administrative Code.

(Ord. 18-07. Passed 3-12-07.)

1301.17 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of a dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of an compliance order or notice of violation issued by the Code Official and shall furnish to the Code Official a signed and notarized statement from the grantee, transferee, mortgagee, or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. 18-07. Passed 3-12-07.)

1301.18 FEES.

The permit fees for this chapter shall be adopted by administrative action of the Mayor. All fees must be paid prior to issuance of a permit.

(Ord. 18-07. Passed 3-12-07.)

1301.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. Each day that a violation continues shall constitute a separate offense.

(Ord. 18-07. Passed 3-12-07.)

CHAPTER 1302

National Electrical Code (Repealed)

(EDITOR'S NOTE: Former Chapter 1302 was repealed by Ordinance 28-05, passed May 23, 2005.)

CROSS REFERENCES

Adoption by reference - see Ohio R.C. 731.231, Chapter 3783

Electrical - see CABO One and Two Family Dwelling Code Part VI (S-26.6000)

CHAPTER 1303

Technical Codes

1303.01 Adoption by reference.

1303.02 Permit fees.

1303.02.1 Failure to pay reinspection fee.

1303.03 Permit expiration.

1303.04 Demolition permit.

1303.05 Lot regulations for removal of structure.

1303.06 Appeal; membership and qualifications of Appeal Board members.

1303.07 Reserved.

1303.08 Nonqualification for permit.

- 1303.09 Reserved.**
- 1303.10 Reserved.**
- 1303.11 Violation.**
- 1303.12 Notice.**
- 1303.13 Reserved.**
- 1303.14 Transfer of ownership.**

1303.15 **Return to County Auditor for assessment.**

1303.16 **Administrative processing fee.**

1303.99 Penalty.

1303.01 ADOPTION BY REFERENCE.

- (a) Lancaster Fire Code.
(Ord. 12-21. Passed 4-26-21.)
- (b) (EDITOR'S NOTE: Former subsection (b) was repealed by Ordinance 12-21, passed April 26, 2021.)
- (c) (EDITOR'S NOTE: Former subsection (c) hereof was repealed by Ordinance 12-07, passed 3-12-07.)
- (d) 2021 International Property Maintenance Code.
(Ord. 13-21. Passed 4-26-21.)
- (e) (EDITOR'S NOTE: Former subsection (e) was repealed by Ordinance 12-21, passed April 26, 2021.)
- (f) (EDITOR'S NOTE: Former subsection (f) hereof was repealed by Ordinance 13-07, passed 3-12-07.)
- (g) (EDITOR'S NOTE: Former subsection (g) was repealed by Ordinance 12-21, passed April 26, 2021.)

- (h) Standards for gas piping on customer's premises, March 15, 2007.
(Ord. 19-07. Passed 3-12-07.)

1303.02 PERMIT FEES.

That Permit Fees for all of the codes mentioned in Chapter 1303 shall be adopted by administrative action of the Mayor. All fees must be paid prior to issuance of a permit.

(Ord. 33-05. Passed 5-23-05.)

1303.02.1 FAILURE TO PAY REINSPECTION FEE.

A reinspection fee as established within the adopted Lancaster Fee Schedules may be assessed by the Code Enforcement Officer. Reinspection fees must be paid within ten days of the inspection. Failure to pay reinspection fee shall be subject to penalties of Section 1303.99.

(Ord. 17-07. Passed 3-12-07.)

1303.03 PERMIT EXPIRATION.

All permits issued under Chapter 1303 shall expire twelve months after they have been issued. The permit holder may apply for one twelve month renewal prior to the permit's expiration. (Ord. 33-05. Passed 5-23-05.)

1303.04 DEMOLITION PERMIT.

(a) Service Connections. Before a structure can be demolished or removed, the owner or agent shall notify all utility companies having service connections within the structure such as water, electric, gas, sewer and other connections. A permit to demolish or remove a structure shall not be issued until a release is obtained from the utility companies stating that their respective service connection and appurtenant equipment, such as meters and regulators, have been removed or sealed and plugged in a safe manner.

(b) Historic Property. The City Manager shall determine if the structure or building in issue is a listed property which is protected by the Historic Preservation Chapter 1327. If that is the case, the appropriate certificate shall be obtained from the Historic Lancaster Commission before a permit may be issued.

(c) A demolition permit expires 45 days after its issue date.

(Ord. 35-05. Passed 5-23-05.)

1303.05 LOT REGULATIONS FOR REMOVAL OF STRUCTURES.

Whenever a structure is demolished or removed, the premises shall be maintained free from all unsafe or hazardous conditions by the proper regulation of the lot, the restoration of established grades and the erection of the necessary retaining walls and fences.

(Ord. 35-05. Passed 5-23-05.)

1303.06 APPEAL; MEMBERSHIP AND QUALIFICATIONS OF APPEAL BOARD MEMBERS.

(a) Right to Appeal. Any person affected by a decision of a Code Official or a notice or order issued under any of the specified model codes except the Ohio Building Code shall have the right to appeal to the Structural Board of Appeals, provided that a written application for appeal is filed within thirty (30) days after the day the decision, notice or order was served. Appeals from a decision under the Ohio Building Code shall be filed with the Industrial Compliance Commission pursuant to the requirements of the Ohio Building Code, the Ohio Revised Code, and the Ohio Administrative Code.

(Ord. 8-19. Passed 4-22-19.)

(b) Conflicts. Where any conflicts occur between the currently adopted Ohio Building Code and any of the technical codes adopted in Lancaster Codified Ordinance 1301.01 and 1303.01, the Ohio Building Code shall control.

(c) Limitation on Authority. An application for appeal shall be based on a claim that the true intent of the applicable code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of the applicable code do not apply, or the requirements of this code are adequately satisfied by other means.

(d) Board Structure. The Board of Appeals shall consist of three members appointed by the Mayor as follows: one for four years, one for three years, and one for two years. Thereafter, each new member shall serve for five years or until a successor has been appointed. The Mayor may also reappoint a board member at the expiration of the Board member's term.

(e) Vacancies. The Mayor shall fill a vacancy for an unexpired term in the manner in which the original appointment was made.

(f) Board Member Qualifications. The Board of Appeals shall consist of three individuals, each of which shall meet one of the following professions or disciplines:

- (1) A firefighter or law enforcement officer retired or from a jurisdiction other than the City of Lancaster.
- (2) A state licensed tradesman (plumbing, HVAC, electrical, retired or current). (Ord. 30-05. Passed 5-23-05.)
- (3) An engineer or architect, retired or current with a current or former state license or four (4) year degree in engineering or architecture.

(Ord. 78-05. Passed 11-28-05.)

- (g) Board Meetings. The Board shall meet within thirty days of the filing of an appeal, or at stated periodic meetings.
- (h) Board Decisions. The Board shall modify or reverse the decision of the code official by a majority vote.
- (i) Board Procedures. The Board shall elect a chairman. The Chairman shall be a voting member. The Board shall adopt rules and forms of procedure for conducting the business of the Board.
- (j) Removal from Office. Members shall be removed from office prior to the end of their terms only for cause. Continued absence of any member from regular meetings of the board shall, at the discretion of the Mayor, render any such member liable to immediate removal from office.
- (k) Quorum. Two members of the board shall constitute a quorum.
- (l) Secretary of Board. The Law Director or his/her designee shall act as secretary of the board and keep a detailed record of all its proceedings, which shall set forth the reasons for its decisions, the vote of each member, the absence of a member and any failure of a member to vote pursuant to rule procedures adopted by the board.
- (m) Legal Counsel. The Law Director shall furnish legal counsel to the Board to provide members with general legal advice concerning matters before them for consideration. Members shall be represented by legal counsel at the City's expense in all matters arising from services within the scope of their duties.
- (n) Conflict of Interest. Members with a material or financial interest in a matter before a board shall declare such interest and refrain from participating in discussions, deliberations, and voting on such matter.
- (o) Decisions. Every decision shall be promptly filed in writing in the office of the code official and shall be open to public inspection. A certified copy shall be sent by mail or otherwise to the appellant.
- (p) Any model code provision not effected by this section or any other Lancaster Codified Ordinance shall remain in full effect.

(Ord. 30-05. Passed 5-23-05.)

1303.07 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

1303.08 NONQUALIFICATION FOR PERMIT.

A permit shall not be issued or, if already issued, a permit shall be terminated by the Building Inspector, where the building contractor listed in the permit application, or a contractor hired subsequent to the issuance of the permit, is one who is not a registered contractor with the City of Lancaster.

(Ord. 30-05. Passed 5-23-05.)

1303.09 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

1303.10 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

1303.11 VIOLATION.

(a) Prosecution of Violation. Any person, firm, or corporation that is in conflict of this code or fails to comply with a notice of violation or order shall be deemed guilty of a first degree misdemeanor. If the notice of violation is not complied with, the code official shall institute the appropriate proceeding at law or in equity to restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of this code or of the order or direction made pursuant thereto. Any action taken by the authority having jurisdiction on such premises may be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

(b) Ohio Building Code Violations. Violations of the Ohio Building Code shall be governed by the rules and regulations prescribed in said code.

(Ord. 35-05. Passed 5-23-05.)

1303.12 NOTICE.

(a) Notice to Person Responsible. Whenever the code official determines that there has been a violation of this code other than under the Ohio Building Code or has grounds to believe that a violation has occurred, notice shall be given in the manner prescribed in this section to the person responsible for the violation.

(b) Form. Such notice prescribed in subsection (a) shall be in accordance with all of the following:

- (1) Be in writing.
- (2) Includes a description of the real estate sufficient for identification.
- (3) Include a statement of the violation or violations and why the notice is being issued.
- (4) Includes a correction order allowing a reasonable time to make the repairs and improvements required to bring the dwelling unit or structure into compliance with the provisions of this code.
- (5) Inform the property owner of the right to appeal.
- (6) Include a statement of the right of the City to file a lien in accordance with Section 1303.11.

(c) Method of Service. Such notice shall be deemed to be properly served if a copy thereof is:

- (1) Delivered personally;
- (2) Sent by certified or first-class mail addressed to the last known address; or
- (3) If the notice is returned showing that the letter was not delivered, a copy thereof shall be posted in a conspicuous place in or about the structure affected by such notice.

(Ord. 35-05. Passed 5-23-05.)

1303.13 RESERVED.

(EDITOR'S NOTE: This section is reserved for future legislation.)

1303.14 TRANSFER OF OWNERSHIP.

It shall be unlawful for the owner of a dwelling unit or structure who has received a compliance order or upon whom a notice of violation has been served to sell, transfer, mortgage, lease or otherwise dispose of such dwelling unit or structure to another until the provisions of the compliance order or notice of violation have been complied with, or until such owner shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any compliance order or notice of violation issued by the code official and shall furnish to the code official a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such compliance order or notice of violation and fully accepting the responsibility without condition for making the corrections or repairs required by such compliance order or notice of violation.

(Ord. 35-05. Passed 5-23-05.)

1303.15 RETURN TO COUNTY AUDITOR FOR ASSESSMENT.

Upon the performance of the labor under the provisions of Chapter 1303, the Law Director's Office shall make a return in writing to the Auditor of Fairfield County of such charges, which shall be entered upon the tax duplicate of the County.

(Ord. 9-09. Passed 5-11-09.)

1303.16 ADMINISTRATIVE PROCESSING FEE.

(a) The fee charged by a contractor, contracted by the City to remove, abate, or create compliance with the technical codes adopted in Lancaster Codified Ordinance 1303.01 shall be presented to the Fairfield County Auditor per Section 1303.15. In addition, an Administrative Processing Fee shall be charged by the City and added to the tax duplicate of the County.

(b) The Administrative Processing Fee shall be adopted pursuant to Section 1301.18.

(Ord. 9-09. Passed 5-11-09.)

1303.99 PENALTY.

Any person, firm or corporation, failing to comply with any order issued pursuant to any code provision or section thereof, shall be guilty of a misdemeanor of the first degree, and upon conviction thereof, shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both. The imposition of the penalties herein described shall not prevent the Director of Law from instituting appropriate action: to prevent an unlawful construction or restrain, correct or abate a violation; or to prevent illegal occupancy of a building, structure or premises; or to stop an illegal act, conduct of business or use of a building or structure in or about any premises. Each day a violation continues constitutes a new offense.

(Ord. 35-05. Passed 5-23-05.)

CHAPTER 1311

Permit to Obstruct Streets

1311.01 Twelve-hour restriction on street obstruction.

1311.02 Permit issuance; deposit.

1311.03 Forfeit of deposit.

1311.99 Penalty.

CROSS REFERENCES

Piling earth on streets - see Ohio R. C. 5589.10

Street and sidewalk obstructions - see GEN. OFF. 553.03

Street excavation permit - see S.U. & P. S. Ch. 901

Disposal of building construction refuse - see S.U. & P. S. 937.05

1311.01 TWELVE-HOUR RESTRICTION ON STREET OBSTRUCTION.

No person shall place or cause to be placed any wood, scantling, boards, shavings, stone, bricks or scraps of leather or rags, or pile any empty boxes, barrels, hogsheads or other conveniences capable of containing goods, wares or merchandise, or that may have contained goods, wares or merchandise, or put, place or cause to be placed any other materials whatsoever upon any of the public streets or commons within the City, whereby the full and free use of the same may be in any way obstructed, and not cause the same to be removed within the space of twelve hours thereafter.

(1939 R.O., 1:03)

1311.02 PERMIT ISSUANCE; DEPOSIT.

Any resident desirous of improving his property, in the process of which brick, stone, timber or other building materials shall be necessary, may, upon application to the Safety- Service Director and upon depositing with him the sum of fifty dollars (\$50.00), obtain a permit in writing to use and occupy any part of the public grounds, streets or sidewalks not exceeding fifteen feet from the curb line as a place of deposit for the materials aforesaid. The Safety- Service Director is authorized at his discretion to grant permits for the purpose aforesaid, for such length of time and to as great an extent as the safety or convenience of the public will permit.

(1939 R. O., 1:03)

1311.03 FORFEIT OF DEPOSIT.

Whoever obtains a permit to use the streets and neglects to cause all materials to be entirely removed within two weeks from the streets, sidewalks or commons after the expiration of such permit and fails to restore such public ways to their former condition shall forfeit the sum deposited.

(1939 R.O., 1:03)

1311.99 PENALTY.

Whoever violates this chapter shall be deemed guilty of a misdemeanor and shall be fined not more than fifty dollars (\$50.00).

(Ord. 72-55. Passed 11-28-55.)

CHAPTER 1317

Signs

- 1317.01 Purpose.**
- 1317.02 Definitions.**
- 1317.03 Prohibited signs.**
- 1317.04 Signs excluded from regulations.**
- 1317.05 Sign permits and administration.**
- 1317.06 Signs which do not require a permit.**
- 1317.07 General requirements; temporary signs.**
- 1317.08 Permanent signs.**
- 1317.09 Sign matrix.**
- 1317.10 Measurement of signs.**
- 1317.11 Nonconforming signs.**
- 1317.12 Variances.**
- 1317.13 Registration.**
- 1317.14 Registration fee.**
- 1317.15 Enforcement.**
- 1317.16 Maintenance and removal of signs.**
- 1317.99 Penalty.**

CROSS REFERENCES

Power to regulate billboards and signs - see Ohio R.C. 715.27

1317.01 PURPOSE.

The purpose of these regulations is to prevent signs from becoming a distraction or obstruction to the safe and efficient flow of pedestrians and vehicular traffic, to prevent signs from having an adverse impact on adjacent properties or uses, to encourage the development of signage system that promote an active economic and business environment, and thereby protection of the general health, safety, and welfare of the citizens of the City of Lancaster.

(Ord. 23-18. Passed 11-26-18.)

1317.02 DEFINITIONS.

As used in this chapter, the following words or phrases shall have the meaning herein:

- (a) "Sign" means any device for visual communication which is designed, intended, or used to convey a message, advertise, inform or otherwise direct attention to a person, institution, organization, activity, business, place, object or product.
- (b) Other Definitions.
 - (1) "Animation" means the presentation of pictorials and graphics on signs displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shapes.
 - (2) "Awning" means a shelter projecting from and supported by the exterior wall of a building constructed of nonrigid materials on a supporting framework. An 'awning sign' is a sign that is attached to or a part of such structure.
 - (3) "Banner" means a nonrigid cloth, plastic or canvas sign with no enclosing framework typically related to a special event or promotion. For the purposes of this Article, the term "banner" shall not include official flags of public entities, or civic, philanthropic, educational or religious organizations.
 - (4) "Billboard" means an off-premises sign more than two hundred (200) square feet in area, which is owned by a person, corporation or other entity that engages in the business of selling the advertising space on that sign.
 - (5) "Canopy" means a structure separate from, but associated by use with a principal building. Such structure is supported independently by posts or columns, is open on all sides, and is intended only for shelter or ornamentation. A 'canopy sign' is a sign that is attached to or a part of the roof of such a structure.
 - (6) "Changeable copy sign" means a sign which, in whole or in part, provides for periodic changes in the material or message composing the sign. This definition includes both electronically and manually changeable signs.
 - (7) "Character" means any letter of the alphabet or numeral.
 - (8) "Curb Level" means the mean level of the established curb at the frontage of a lot. Where no curb has been established, the City Engineer shall establish such curb level or its equivalent for the purposes of this Code.
 - (9) "Directional sign" means any sign which indicates the direction of the specific location of an institution, organization or business, which does not include advertising or any information regarding product lines or services offered.
 - (10) "Flashing Illumination" means a light source or other image which in whole or in part physically changes in light intensity or gives the appearance of such change.
 - (11) "Freestanding sign" means a sign which is mounted to the ground and is wholly independent of any building for support.
 - (12) "Ground sign" means a freestanding detached sign whose support structure is embedded in the ground in such a manner that the sign appears to be resting directly on the ground.
 - (13) "Height, Sign" means the vertical distance measured from the curb level to the highest point of the sign.
 - (14) "Marquee" means a multisided overhead structure or architectural projections supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. 'Marquee sign' means a sign that is attached, mounted to, or made a part of a marquee.
 - (15) "Menu board" means a freestanding sign not more than forty (40) square feet in area, which is located so as to be primarily

visible by persons in vehicles within the internal circulation driveway or parking area on the site.

- (16) "Movement" means physical movement or revolution of a sign or portion of a sign up or down, around or sideways.
- (17) "Mural" means a large picture or graphic illustration that is painted or mounted directly to the surface of an existing building, and covers more than thirty percent (30%) of the building face on which it is displayed.
- (18) "Nameplate" means a sign, attached flush against a building identifying the name of the building or the name of an occupant thereof.
- (19) "Off-premises sign" means any sign that identifies or provides information related to a good, service or event that is not located on the property where such sign is located.
- (20) "Pennant" means a triangular shaped banner displaying no image or words.
- (21) "Permanent sign" means a sign intended to be erected or used, or in fact which is used for a time period in excess of sixty (60) days.
- (22) "Portable sign" means a sign designed or constructed in such a manner that it can be moved or relocated without involving any structural or support changes and shall include trailer and A-frame signs.
- (23) "Projecting sign" means a sign which extends outward perpendicular to the building face.
- (24) "Public sign post" means a post, pole, or other structure on which a public safety sign or traffic control device is located.
- (25) "Roof sign" means a sign mounted on, and supported by, the main roof portion of a building, or above the uppermost edge of a parapet wall of a building and which is wholly or partially supported by such a building.
- (26) "Sign" means any object, device, structure or part thereof used to advertise, identify, display or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination or projected images.
Signs as defined herein do not include the flag or emblem of any nation, organization of nations, state, city or any fraternal, religious or civic organizations; one corporate flag; works of art which in no way identify a product; temporary holiday decorations; or landscape features which display no words or symbols.
- (27) "Sign, Business" means any sign which directs attention to a business, commodity, service, or entertainment conducted on the premises.
- (28) "Sign, Construction" means a temporary sign erected during the period of construction advertising the construction of improvements on the property.
- (29) "Sign Illuminated" means any sign which is directly lighted by any electrical light source, internal or external, except light sources specifically and clearly operated for the purpose of lighting the general area in which the sign is located rather than the sign itself.
- (30) "Sign, Real Estate" means a temporary sign advertising the sale, rental, or lease of the lot or portion thereof on which the sign is located.
- (31) "Sign, Revolving or Rotating" means a sign or sign part which rotates or revolves.
- (32) "Streamer" means a ribbon or cord-like rope, which may have multiple pennants or ribbons attached, which is stretched between two (2) supports.
- (33) "Temporary sign" means a sign intended to be used, or in place used, for a time period of sixty (60) days or less.
- (34) "Wall sign" means a sign attached to a building face, with the exposed face in a plane parallel to the plane of the wall. Wall signs including painted murals, messages, graphics and other designs painted along with any letters or numerals mounted directly on buildings.
- (35) "Wind Device" means any flag, banner, pennant, streamer or similar device that moves freely in the wind.
- (36) "Window sign" means a sign, graphic, poster, symbol or other identification which is physically affixed to or painted on the glass or other structural component of the window.

(Ord. 23-18. Passed 11-26-18.)

1317.03 PROHIBITED SIGNS.

Signs that are not specifically permitted in this chapter shall be considered as prohibited. Without restricting or limiting the generality of the foregoing provision the following signs are specifically prohibited:

- (a) Flashing or high intensity lights mounted on a sign.
- (b) Any sign that obstructs any part of or direct access to a doorway, exit or fire escape.
- (c) Any sign that resembles or is intended to resemble a traffic control device, or is located in such a manner so as to obscure or impact the effectiveness of such traffic control device or signal, pursuant to Ohio R.C. 4522.26 and Section 313.07 of the Codified Ordinances of the City of Lancaster.
- (d) Any permanent or temporary sign located on a utility pole, public sign post or otherwise displayed within the public right-of-way, pursuant to Section 541.09 of the Codified Ordinances, except as may be specifically controlled herein.
- (e) Any sign located so as to obscure the clear vision within thirty feet (30') from the curb face of any street and/or alley intersection.
- (f) Portable or temporary signs that are not anchored or secured so as to prevent collapse or unintended movement.
- (g) Roof signs.

(Ord. 23-18. Passed 11-26-18.)

1317.04 SIGNS EXCLUDED FROM REGULATIONS.

The following signs are excluded from the regulations and requirements of this chapter:

- (a) Signs not exceeding four (4) square feet in area that are customarily associated with residential use, including address and/or name of occupants of the structure, signs on mailboxes or newspaper tubes, signs posted on property related to private parking, signs denoting security systems being used on the site, and signs warning against trespassing or danger from animals. Signs associated with home occupations and/or any non-residential use of the property shall not be excluded from these regulations.
- (b) Signs erected by a governmental entity for a recognized public purpose and duly authorized by any law, statute or ordinance. Such signs including legal notices and traffic control or safety devices, provided such signs carry no supplementary advertising.
- (c) Signs located on the inside of a structure or building, that are not designed or located so as to be typically visible from outside the building.

- (d) Signs which are in the nature of cornerstones, commemorative tables and historic designation, provided such signs are less than twelve (12) square feet in size and not illuminated.
- (e) Signs clearly in the nature of decorations customarily associated with a national, local or religious holiday. Such signs shall be of any illumination or animation provided that a safety and/or visibility hazard is not clearly created.
- (f) Flags or insignias of any governmental entity when not displayed as an advertising device or in connection with any commercial promotion.

(Ord. 23-18. Passed 11-26-18.)

1317.05 SIGN PERMITS AND ADMINISTRATION.

(a) Permit Required. No sign, except as exempted in Section 1317.04 or 1317.06 shall hereafter be erected, constructed, replaced, changed out, or maintained within the City of Lancaster unless a permit for the same has been issued by the Zoning Inspector. Application for a permit to construct or erect a sign shall be made by the owner of sign, or the property owner upon which the sign is proposed, or his/her agent. An application for the placement of a sign shall be made by the owner of the sign, the property owner upon which the sign will be placed, or their agent and shall include:

- (1) The name and address of the sign installer shall be included.
- (2) A site plan, drawn to scale, shall accompany the application that includes the type sign applied for.
- (3) Color graphics of the sign including the dimensions of the sign and its elements.
- (4) The proposed setbacks from the property line(s).
- (5) A fee shall be paid for each sign submitted as set forth by the Fee Schedule maintained by the City of Lancaster Building Department.
- (6) A building permit application shall be submitted to the Certified Building Department for plan review for all signs requiring a foundation, have special anchoring requirements, must meet special wind load capabilities, require electrical connection to an electrical source. Fees for this type permit are set forth by the Fee Schedule.

(b) Action on Sign Permit. The Zoning Inspector shall issue a sign permit upon submittal of a completed application and payment of applicable fees if he/she determines that the provisions of this chapter have been met. If the application for a sign permit is denied, the applicant shall be given written notice of such denial, along with the reasons therefore.

(c) Appeals. Any decision made by the Zoning Inspector under the terms of this chapter may be appealed to the Board of Zoning Appeals in the manner set forth in Chapter 1157 of the Codified Ordinances.

(d) Permit Expiration. Sign permits must be acted upon within one year from the date of issue or will expire.

(e) Administrative Approval. The zoning official or building official may, after reviewing an application for sign placement, determine if the sign installer must register as a contractor with the City of Lancaster.

(Ord. 23-18. Passed 11-26-18.)

1317.06 SIGNS WHICH DO NOT REQUIRE A PERMIT.

The following signs may be erected without a permit. Such signs, however, shall be subject to all other provisions of this chapter:

- (a) Any temporary sign, as defined in Section 1317.02(b)(33), except for those temporary signs that exceed the standards cited in the sections below.
- (b) Signs or posters concerning candidates for elective office, public issues and similar matter to be decided by public election, to be removed no later than one (1) week after such election, subject to penalty. Such signs shall not exceed eight (8) square feet in area, shall not be illuminated, and shall not be located within a public right-of-way nor be affixed to any public utility pole or street tree. In addition, such sign shall not be located in any manner so as to create a safety or visibility hazard. Signs that exceed the standard of this section shall require a sign permit.
- (c) Signs that indicate the sale, development, rental or lease of a particular structure or land area, provided such sign does not exceed eight (8) square feet in area. One such sign shall be allowed per street front. Such signs shall not be located in a public right-of-way.
- (d) Credit card decals, store hour specifications, "open" or "closed" signs, or similar signs that do not display any advertising message, and do not exceed an aggregate area of eight (8) square feet.
- (e) Signs, which do not exceed eight (8) square feet in size and mounted or attached flat or parallel onto a building face of an administrative, business or professional office building where more than one tenant is located and which has individual and separate entities.
- (f) A sign which advertises the sale of personal property, such as a garage sale, yard, porch or moving sale sign, provided such sign is displayed for a time period not greater than three (3) consecutive days, and is not to be located in a public right-of-way or affixed to any public utility pole or street tree. Such signs shall not be located in such a manner so as to create a safety or visibility hazard.
- (g) Temporary construction signs which display the identification of the construction project, including identification of the contractors, architects and other construction principals. Such construction signs shall be limited to one (1) per construction site, shall not exceed thirty-two (32) square feet in area and shall be removed upon completion of construction or the commencement of occupancy, whichever event occurs first. Such signs shall not be located within the public right-of-way.
- (h) Signs promoting community events and programs which last for a time period of fourteen (14) days or less and which are sponsored by nonprofit, public, educational, religious and charitable organizations. All such signs shall be removed not later than three (3) days after the scheduled activity.
- (i) Signs erected in parks or play fields, denoting sponsorship or support for youth sports or similar activities.
- (j) Signs determined by the Board of Zoning Appeals to be similar to those specified in subsections (a) - (i) herein.

(Ord. 23-18. Passed 11-26-18.)

1317.07 GENERAL REQUIREMENTS; TEMPORARY SIGNS.

Temporary signs shall be subject to the following general requirements:

- (a) Not more than two (2) temporary signs, not including signs as specified in Section 1317.04 and 1317.06 herein, shall be permitted on any individual property at one time. One (1) additional temporary sign may be erected on a property that has frontage

on more than one (1) street.

- (b) Temporary signs shall be constructed of such material that will allow the sign to be maintained in good repair for the period it is to be displayed. Generally, the use of unprotected cardboard or paper products as sign material shall be prohibited, unless it is demonstrated that this standard is met.
- (c) Banners less than forty (40) square feet in area are permitted as temporary signs, provided such banners are secured to prevent movement which would allow any portion of the banner to extend into the street right-of-way. Pennants, feather signs and/or streamers are permitted only as temporary signs and may be displayed for two (2) sixty (60) day periods in a calendar year.
- (d) Temporary freestanding changeable copy signs and portable signs shall be considered as Special Exception in nonresidential districts only, and shall require the specific approval of the Board of Zoning Appeals. Such signs shall not be displayed for more than two (2) time period(s) of sixty (60) days each during any calendar year and shall comply with other requirements of this chapter.
- (e) Folding portable A-frame signs, shall be permitted as temporary signs in the CN, CG, CH and CBD Districts, provided such signs are secured and/or anchored so as to prevent accidental collapse or unintended movement.
- (f) Temporary signs proposed in the Lancaster Historic District as designated by City Council shall be subject to additional standards as applicable.

(Ord. 23-18. Passed 11-26-18.)

1317.08 PERMANENT SIGNS.

Permanent signs shall be subject to the following requirements:

- (a) Wall Signs. Wall signs may be erected on any building wall or extension of a building wall which faces a street, parking lot or service drive. Wall signs shall be attached parallel to the building face and may extend outward perpendicular from the building face a maximum of fifteen (15) inches; however, an internally illuminated wall sign may be erected not more than twenty-four (24) inches from the wall surface, provided such distance is required for enclosure of the necessary electrical components. The other requirements for wall signs shall be as cited in the Sign Matrix in Section 1317.09.
- (b) Canopy, Marquee and/or Awning Signs. Canopy and/or awning signs may be painted on an awning area or attached to a canopy or roof which projects beyond the building, provided that no part of such sign may extend above the eave of the roof. Canopy, awning or marquee signs shall be a minimum of nine (9) feet above ground level. The other requirements for canopy, marquee or awning signs shall be as cited in the Sign Matrix in Section 1317.09.
- (c) Projecting Signs. Projecting signs shall be placed not less than nine (9) feet above the sidewalk or ground level, and project not more than eight (8) feet outward from the building face. The other requirements for projecting signs shall be as cited in the Sign Matrix in Section 1317.09.
- (d) Freestanding Signs. No portion of any freestanding sign shall be erected over the street right-of-way. Not more than one (1) freestanding or ground sign shall be erected on any single lot, per one hundred (100) feet of lot frontage or fraction thereof and shall meet all other district setbacks. The other requirements for freestanding signs shall be as cited in the Sign Matrix in Section 1317.09.
- (e) Ground Signs. The requirements for ground signs shall be as cited in the Sign Matrix in Section 1317.09.
- (f) Permanent Window Signs. Permanent window signs shall be limited to signs denoting the identification of the occupant, the address of the premises, and not more than one (1) logo sign for each product or each service offered. The total of all permanent window signs shall be as cited in the Sign Matrix in Section 1317.09.
- (g) Off-Premises Signs. Off-premises signs as defined in Section 1317.02 (b)(19), not including billboards, shall be considered as an accessory use in the zoning districts as identified in the Sign Matrix. The location of such sign(s) shall be approved by the Board of Zoning Appeals. Not more than one (1) off-premises sign with a maximum sign face area as specified in the Sign Matrix is permitted on a single lot.
- (h) Billboards. Billboards as defined in Section 1317.02(b)(4), shall be considered as a permitted and accessory use in the districts as specified in the Sign Matrix. Billboards shall also be allowed within the PUD District, if included in the approved development plan, subject to the approval of the Planning Commission. The erection of billboards shall comply with all federal and state requirements, as well as the following.
 - (1) Height. Any billboard shall maintain a maximum height of forty-five feet (45') and not less than ten feet (10') above ground level of the surface directly below the sign. Notwithstanding the above, if the elevation of the roadway from which the billboard is intended to be viewed (as measured at the centerline of the roadway at the point in closest proximity to the billboard) is more than fifteen feet (15') different from the elevation of the ground level directly below the sign, then such roadway elevation shall be used for measuring the permitted height of the billboard.
 - (2) Area. The maximum display area for any one face of any billboard shall not exceed four hundred (400) square feet. Billboards may be back to back, double faced, "V" type and/or multiple faced with not more than two faces facing the same direction, and such structure shall be considered as one billboard, provided that the area of all faces toward one direction shall not exceed six hundred (600) square feet. In areas not adjacent to roadways on the Federal Aid Primary Highway System, billboards shall not have more than one face per structure toward each direction.
 - (3) Spacing. A minimum distance of five hundred feet (500') shall be maintained between billboards.
 - (4) Changes/Alterations. Nothing contained in this chapter shall prohibit the changing or alteration of the display surface of any billboard using mechanical, electronic or other available technology.
- (i) General Requirements for Permanent Signs.
 - (1) Illumination. Illumination for signs shall be from a concealed or indirect light source and shall not flash, blink, fluctuate in intensity, travel, move or in any manner fail to provide constant illumination, and shall not create a hazard or visibility problem or interfere with or impair vehicular traffic. The level of illumination emitted from a sign shall not be of an intensity to constitute a safety hazard to vehicular movement on any street. Illuminated signs shall be constructed and maintained so that the source of illumination is shielded or otherwise prevented from beaming directly onto adjacent properties or streets.
 - (2) Construction. All signs and parts thereof, including any electrical wiring, shall be erected, constructed, and maintained so as to

not constitute a safety hazard. The construction and installation of all signs shall be subject to inspection by the City and/or State of Ohio.

- (3) Location in Right-of-Way Prohibited. No part of any sign shall be placed in, over, or extended onto any public right-of-way, except as specified in Section 1317.08(i)(10) herein.
- (4) Pennants and/or Streamers. No permanent sign shall contain or consist of banners, streamers, pennants, ribbons, balloons or similar devices.
- (5) Changeable Copy Signs. Changeable copy signs, as defined in Section 1317.02(b)(6) above, shall be permitted in the districts as specified in the Sign matrix. The number, height and area of changeable copy signs shall be determined by the structural type of the sign, i.e., freestanding, wall, projecting, etc. The light and/or perceived movement from such sign shall not be of such intensity to constitute a safety hazard to vehicular traffic.
- (6) Permanent Subdivision Identification Signs. Such signs shall be limited to wall mounted or freestanding signs only, with placement on walls, columns or similar architectural or landscaped entrance features used to denote the entrance to the subdivision. Such sign shall be not more than six (6) feet in height and shall set back at least five (5) feet from the right-of-way of both streets.
- (7) Joint Identification Signs. Joint identification signs shall be limited to wall or freestanding signs, and to premises where there are two (2) or more uses located on one (1) or more public street(s). If the property fronts on one (1) public street, only one (1) joint identification sign is permitted. If the property fronts on two (2) public streets, two (2) joint identification signs shall be permitted. Each joint identification sign shall not exceed the requirements of the zoning district in the Sign Matrix.
- (8) Murals. Murals, as defined in Section 1317.02(b)(17) herein shall be allowed as a Special Exception in the districts as specified in the Sign Matrix, subject to approval by the Board of Zoning Appeals. In addition, if such mural(s) is located within the designated Historic District, such mural(s) shall be approved by the Historic Lancaster Commission.
- (9) Maintenance and Copy Change. Signs shall be maintained in good repair. Such maintenance and repair including, changes of copy, shall be permitted provided the size and structural shape of the sign is not be changed or altered.
- (10) Signs In CBD Central Business District. Notwithstanding the provisions of Section 1317.03 (d) herein, a proposed sign within the CBD may extend into the right-of-way, provided the applicant demonstrates that, due to the location of the building or other physical characteristics of the lot, the erection of an alternate sign outside the right-of-way is not feasible. In addition, such applicant shall obtain a Right-Of-Way Permit from the City of Lancaster, and shall certify that such sign shall be subject to removal at the owner's expense, if so subsequently required by the City.
- (11) PUD District. Signs in the PUD District shall reflect the standards for similar uses in other districts. The applicant shall submit a total signage plan for the proposed non-residential portions of the development as part of the required site plan for the development.

(Ord. 23-18. Passed 11-26-18.)

1317.09 SIGN MATRIX.

The area, height and setback requirements for signs within the various districts shall be as specified in the Sign Matrix set forth at the end of this chapter, which is hereby made a part of this Chapter or as approved in a final development plan. The area requirements for particular sign types shall be based on permitted square feet per linear foot (sf/lf) of building wall or total square footage as listed.

(Ord. 23-18. Passed 11-26-18.)

1317.10 MEASUREMENT OF SIGNS.

For the purposes of this Chapter, the measurement of sign area shall comply with the following standards:

- (a) Sign area shall include the face of all the display area of the sign not including bracing, framing and structural supports of the sign, unless such support members are made part of the message or face of the design.
- (b) The display surface area of a ground, freestanding, projecting, off-premise directional, changeable copy, joint identification, directory, temporary or similar signs shall mean the area enclosed by the minimum imaginary rectangles which fully contains all extremities of the sign, exclusive of its supports. This rectangle is to be calculated from an orthographic projection of the sign viewed horizontally. A view point for this projection is to be taken which gives the largest rectangle of that kind as the viewpoint is rotated horizontally around the sign. If elements of the sign are movable or flexible, the measurement shall be taken when the elements are fully extended and parallel to the plane of view.
- (c) The display surface area of a wall, awning, marquee, canopy or similar sign shall be measured as the sum of the areas of the minimum imaginary rectangles enclosing each work attached to any particular façade.
- (d) The display surface area for window signs shall mean the sum of the areas of the minimum imaginary rectangles enclosing each word, figure, design and symbol if the window or other transparent material forms the background, or the entire area of the background material when such material is translucent or opaque.
- (e) The display surface area for permanent subdivision or similar signs shall mean the area of the minimum imaginary rectangle enclosing the sign including the support except when the support a wall, building or other architectural feature. In those cases, the sign shall be measured as a wall sign.
- (f) Where a sign has two or more display faces, the area of all faces of the sign shall be included in determining the area of the sign, unless two (2) display faces join back to back and parallel to each other. Back to back sign faces shall be located not more than twenty-four inches (24") apart. For purposes of these regulations, a V-shaped sign with an angle of separation not exceeding 30 degrees shall be considered a back-to-back sign. Billboards shall be exempt from this requirement, but shall comply with the requirements of Section 1317.08 (h)(2).
- (g) For spherical signs, the sphere shall be bisected by an imaginary line through the center of the sphere, and the surface area of the half sphere shall be counted as the sign face. For cubical signs, the area of all display faces shall be included in determining the area of the sign.
- (h) The area of the letters, numbers or emblems mounted directly on a building wall or wall extension shall be computed by enclosing the entire word or words formed by such letters, numbers or emblems with the smallest single continuous perimeter consisting of rectangular or series of rectangles, and determining the area within such perimeter.

(Ord. 23-18. Passed 11-26-18.)

1317.11 NONCONFORMING SIGNS.

(a) Abandonment. An existing sign which was lawfully existing at the time of enactment of this chapter, but does not meet the regulations and requirements of this chapter, shall be deemed a nonconforming sign. The continuance of such nonconforming sign shall terminate by abandonment when any of the following conditions exist:

- (1) When the sign is associated with an abandoned use.
- (2) When the sign remains after the termination of a business. A business is considered terminated if it has ceased operations and/or if it is closed to the public for at least ninety (90) consecutive days. Seasonal businesses are exempt from this requirement.
- (3) When the sign is not maintained or does not conform to the following:
 - A. All signs, together with all supports, braces, guys and anchors shall be kept in a proper state of repair.
 - B. Every sign and the immediate surrounding premises shall be maintained by the owner, or his agent, in a clean, sanitary and inoffensive condition, free from all obnoxious substances, rubbish and weeds.
- (4) When the sign is damaged or partially destroyed to the extent of more than fifty percent (50%) of its current replacement cost at the time of damage.

Upon finding that the sign is abandoned, the right to maintain and use such sign shall terminate immediately.

(b) Relocation or Replacement. A nonconforming sign shall not be structurally relocated or replaced unless it is brought into compliance with the provisions of this Section. Should any replacement or relocation occur without being brought into compliance, the sign shall be subject to removal.

(c) Maintenance. A nonconforming sign shall be maintained or repaired, provided the size and structural shape of the sign is not be changed or altered.

(d) Inspection and Removal. If any sign is found, upon inspection by the Zoning Inspector, to constitute a hazard to public safety, such sign shall be subject to immediate removal by order of the Zoning Inspector.

(Ord. 23-18. Passed 11-26-18.)

1317.12 VARIANCES.

Variations to this Chapter may be granted by the Board of Zoning Appeals pursuant to the procedures and policies set forth for area variances in Chapter 1157.09 of the Codified Ordinances.

(Ord. 23-18. Passed 11-26-18.)

1317.13 REGISTRATION.

No person or company shall install a sign requiring a permit unless a sign installer is registered as a contractor with the Certified Building Department. The zoning inspector or building official may decline the need to register as a contractor as set forth in Section 1317.05(e) of this code.

(Ord. 23-18. Passed 11-26-18.)

1317.14 REGISTRATION FEE.

A registration fee shall be required of persons or companies installing a sign that requires a permit.

(Ord. 23-18. Passed 11-26-18.)

1317.15 ENFORCEMENT.

(a) Any violation of the provisions of this chapter shall be enforced by the Zoning Inspector after serving notice. The Zoning Inspector shall give to the owner or person in charge of the sign written notice specifying the violation, ordering the cessation thereof and requiring either the removal of the sign or the carrying out of remedial work in the time and in the manner that the notice shall specify. Such notice shall be posted by registered mail, return receipt requested.

(b) In the event of failure to comply after thirty days from receipt of such notice, the Zoning Inspector may remove or cause such remedial work to be done and the costs thereof shall be recoverable by the Municipality by summary process at law in any court of competent jurisdiction. In the event of default of payment of such assessed costs, then a charge shall be placed upon the property and such costs, when certified by the Treasurer, shall be entered in the Collector's Roll and collected in the same manner as taxes shown thereon.

(c) If a sign which has been removed is not reclaimed and fines paid within ninety days of its removal, such sign may be sold or otherwise disposed of by the City. If a sign is found to be an immediate and serious danger to the public because of its unsafe condition, it may be removed without notice and written notice of removal and the reasons for such shall be served as soon as possible. The Mayor shall revoke the registration of any person or company erecting a nonconforming sign. The registration shall be revoked for a period of one year from the date of such violation.

(Ord. 23-18. Passed 11-26-18.)

1317.16 MAINTENANCE AND REMOVAL OF SIGNS.

All signs and sign structures shall be maintained in a safe condition and shall not exhibit evidence of significant wear, deterioration or damage. Whenever the Chief Building Official has ordered the repair or removal of a permanent or temporary sign, due to its hazardous condition or due to the lack of an appropriate required permit, and such action has not been taken within forty-eight hours of delivery of such notice to the person or entity which owns the sign or on whose property it is displayed, the Chief Building Official may cause the repair or removal of the sign at the expense of such person or other entity. If in the opinion of the Chief Building Official, the sign is so hazardous as to constitute an immediate danger to human life, the Chief Building Official shall promptly cause the repair or removal of the sign at the expense of such person or other entity without the necessity of waiting forty-eight hours. In either case, the cost of the repair shall be assessed to the property.

(Ord. 23-18. Passed 11-26-18.)

1317.99 PENALTY.

Whoever violates any provision of this chapter shall be fined not more than two hundred and fifty dollars (\$250.00).

(Ord. 23-18. Passed 11-26-18.)

SIGN MATRIX

*These sign types shall not require a permit, provided specific standards pursuant to Sections 1317.06 and 1317.07 of this Chapter are met.

Revised Sign Matrix				
AG Agricultural District				
Sign Type	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	1sf/1lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/1lf bldg wall		Bldg
Projecting	X	6 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	12 sf	6 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	20' from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard	X	400 sf	45 ft	100' from R/W
Changeable Copy, Electronic				
Permanent Subdivision (total structure)	X	150 sf	6 ft	5' from R/W
Joint Identification Sign				
Murals	X	BZA	BZA	BZA
Window Signs, Permanent	X	33% of window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5 ft R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 SF	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	10 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers	X		35 ft	5' from R/W
*Feather signs	X		10' high	5' from R/W

*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.

Bldg. = Building	sf= square feet	R/W= Right of Way
BZA = Board of Zoning Appeals	sf/lf= square feet per lineal foot	
ft = foot	X= Use by Right	
ht = height	E= Special Exception	

Revised Sign Matrix				
Parking Districts				
Sign Type	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	1sf/1lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee	X	1 sf/1lf bldg wall	Ht Eave	Bldg
Awning	X	1 sf/1lf bldg wall		Bldg
Projecting	X	12 sf	Ht Eave	Bldg

Freestanding including	X	20 sf	10 ft	20' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	20' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard	E	400 sf	45 ft	20' from R/W
Changeable Copy	X	20 sf	10 ft	20' from R/W
Permanent Subdivision				
(total structure)				
Joint Identification Sign	X	20 sf	10 ft	20' R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% of Window		
*Temporary Signs (60 Days)				
*Sponsor Signs				
* Window Signs	X	33% of window		
*Directory Signs	X	8 sf	6 ft	20' ft from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5 ft from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	20' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5 ft from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5 ft from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5 ft from R/W
*Pennants				
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		

Revised Sign Matrix				
Sign Type	CBD Central Business District			
	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1 sf/lf bldge wall		Bldg
Projecting	E	24 sf	Ht Eave	Bldg
Freestanding (including	X	50 sf	15ft	20' from R/W
changeable copy portions)				
Ground (including	X	20 sf	6 ft	20' from R/W
changeable copy portions)				
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				
Changeable Copy, Electronic	E	20 sf	15 ft	20' from R/W
Permanent Subdivision	E	150 sf	6 ft	5' from R/W
(total structure)				
Joint Identification Sign	X	20 sf	15 ft	20' from R/W

Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs (60 days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% Window		
*Directory Signs	X	8 sf	6 ft	Outside R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet	R/W= Right of Way	
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		

Revised Sign Matrix				
CG Commercial General District				
Sign Type	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	2 sf/lf bldg wall	Ht Eave	Bldg
Canopy	X	2 sf/lf bldg wall	35 ft	20' from R/W
Marquee	X	2 sf/lf bldg wall	Ht Eave	20' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	100 sf	35 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	10' from R/W
Off-Premises Directional Sign	E	12sf	6 ft	10' from R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, Electronic	E	20 sf	35 ft	20' from R/W
Permanent Subdivision (total structure)	E	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	35 ft	10' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Eave	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W

*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather Signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet	R/W= Right of Way	
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		

Revised Sign Matrix				
Sign Type	CH Commercial High Intensity District			
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	2 sf/lf bldg wall	Ht eave	Bldg
Canopy	X	2sf/lf canopy	35 ft	20' from R/W
Marquee	X	2 sf/lf bldg wall	Ht eave	20' from R/W
Awning	X	2 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht eEave	Bldg
Freestanding (including changeable copy portions)	X	100 sf	35 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	20' from R/W
Off-Premises Directional Sign	X	12 sf	6 ft	20' R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, electronic	E	20 sf	35 ft	20' from R/W
Permanent Subdivision (total structure)	E	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	35 ft	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% of Window		
*Temporary Signs (60 days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet	R/W= Right of Way	

BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot	
ft = foot		X = Use by Right	
ht = height		E = Special Exception	

		Revised Sign Matrix		
Sign Type		CN Commercial Neighborhood District		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/lf bldg wall		Bldg
Projecting	X	12 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	50 sf	15 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	10' from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				
Changeable Copy	E	20 sf	10 ft	20' from R/W
Permanent Subdivision (total structure)	X	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	10 ft	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% of Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners				
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5 ft from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
Feather signs	X		10' high	5' from R/W

*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.

Bldg. = Building		sf = square feet	R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot	
ft = foot		X = Use by Right	
ht = height		E = Special Exception	Revised 11/2018

		Revised Sign Matrix		
Sign Type		I Industrial Districts (All)		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	2 sf/lf bldg wall	Ht Eave	Bldg

Canopy	X	1 sf/lf canopy	35 ft	20' from R/W
Marquee	X	2 sf/lf bldg wall	Ht Eave	20' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht Eave	Bldg
Freestanding (including changeable copy portions)	X	150 sf	35 ft	20' from R/W
Ground (including changeable copy portions)	X	100 sf	6 ft	20' from R/W
Off-Premises Directional Sign	X	12 sf	6 ft	20' from R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, Electronic	E	20 sf	35 ft	20' from R/W
Permanent Subdivision (total structure)	E	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	35 ft	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary				
*Directory Signs	X	8 sf	6 ft	Outside R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	X	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/w
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		

Revised Sign Matrix				
O & SR Office and Scientific Research Districts				
Sign Type	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee	X	1 sf/lf bldg wall	Ht Eave	20' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	12 sf	Ht Eave	Bldg
Freestanding including	X	50 sf	15 ft	20' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	20' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				

Changeable Copy	X	20 sf	35 ft	20' from R/W
Permanent Subdivision	X	150 sf	6 ft	5 ft from R/W
(total structure)				
Joint Identification Sign	X	50 sf	15 sf	20' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent				
*Temporary Signs (60 Days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs				
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	16 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals				sf/lf = Square foot per lineal foot
ft = foot		X = Use by Right		
ht = height		E = Special Exception		Revised 11/2018

Revised Sign Matrix				
RE Residential Estates				
Sign Type	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	E	1sf/1lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/1lf bldg wall		Bldg
Projecting				
Freestanding (including changeable copy portions)	X	12 sf	6 ft	10' from R/W
Ground (including changeable copy portions)	E	20 sf	6 ft	10' from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	10' from R/W
Billboard	E	400 sf	35 ft	20' from R/W
Changeable Copy, Electronic				
Permanent Subdivision	X	150 sf	6 ft	5' from R/W
(total structure)				
Joint Identification Sign				
Murals				
Window Signs, Permanent	X	33% of Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5ft from R/W
*Window Signs, Temporary	X	33% of Window		
*Directory Signs	X	8 sf	6 ft	5' R/W

*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 SF	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants			?	
*Streamers				
*Feather signs				

*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.

Bldg. = Building		sf = square feet	R/W= Right of Way
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot	
ft = foot		X = Use by Right	Revised 11/2018
ht = height		E = Special Exception	

Revised Sign Matrix				
Sign Type		RM All Multi-Family Residential; & RMH		
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	X	1sf/lf bldg wall		Bldg
Projecting	X	6 sf	Ht Eave	Bldg
Freestanding including	X	12 sf	6 ft	10' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	10' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	10' from R/W
Billboard				
Changeable Copy				
Permanent Subdivision (total structure)	X	150 sf	6 ft	5' from R/W
Joint Identification Sign	X	20 sf	6 ft	10' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33%		
*Temporary Signs (60 days)				
*Sponsor Signs	X	40 sf	Ht Bldg	5ft from R/W
*Window Signs, Temporary				
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy	X	20 sf	6 ft	5' from R/W
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				

*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals				sf/lf = Square foot per lineal foot
ft = foot			X = Use by Right	
ht = height		E = Special Exception		Revised 11/2018

Revised Sign Matrix				
Sign Type	RS All Single-Family Residential Districts			
Permanent Signs	Permitted	Area	Height	Setback
Wall/Projecting	X	1 sf/lf bldg wall	Ht Eave	Bldg
Canopy				
Marquee				
Awning	E	1sf/lf bldg wall		Bldg
Projecting				
Freestanding (including changeable copy portions)	X	12 sf	6 ft	20' from R/W
Ground (including changeable copy portions)	X	20 sf	6 ft	20'from R/W
Off-Premises Directional Sign	E	12 sf	6 ft	20' from R/W
Billboard				
Changeable Copy, Electronic				
Permanent Subdivision (total structure)	X	150 sf	6 ft	5' from R/W
Joint Identification Sign				
Window Signs, Permanent				
Murals				
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary				
*Directory Signs	X	8 sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Bldg	5' from R/W
*Freestanding Changeable Copy				
*Folding Portable A-frame				
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants				
*Streamers				
*Feather signs				
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		R/W= Right of Way
BZA = Board of Zoning Appeals				sf/lf = Square foot per lineal foot
ft = foot			X = Use by Right	
ht = height		E = Special Exception		

Sign Type	East Main St. Corridor- Commercial Districts Only			
	Permitted	Area	Height	Setback
Permanent Signs				
Wall/Projecting	X	2 sf/lf bldg wall	Ht Eave	Bldg
Canopy	X	2 sf/lf bldg wall	35 ft	10' from R/W
Marquee	X	2 sf/lf bldg wall	Ht Eave	10' from R/W
Awning	X	1 sf/lf bldg wall		Bldg
Projecting	X	24 sf	Ht Eave	Bldg
Freestanding including	X	100 sf	35 ft	10' from R/W
Changeable Copy Portions				
Ground including	X	20 sf	6 ft	10' from R/W
Changeable Copy Portions				
Off-Premises Directional Sign	E	12 sf	6 ft	10' from R/W
Billboard	X	400 sf	45 ft	20' from R/W
Changeable Copy, Electronic	E	20 sf	35 ft	10' from R/W
Permanent Subdivision	E	150 sf	6 ft	5' from R/W
(total structure)				
Joint Identification Sign	X	20 sf	35 ft	10' from R/W
Murals	E	BZA	BZA	BZA
Window Signs, Permanent	X	33% Window		
*Temporary Signs				
*Sponsor Signs	X	40 sf	Ht Bldg	5' from R/W
*Window Signs, Temporary	X	33% Window		
*Directory Signs	X	8sf	6 ft	5' from R/W
*CC/Hours/Open Signs	X	8 sf	6 ft	Outside R/W
*Banners	X	40 sf	Ht Eave	5' from R/W
*Freestanding Changeable Copy	E	20 sf	6 ft	5' from R/W
*Folding Portable A-frame	X	8 sf	4 ft	5' from R/W
*Campaign Sign	X	8 sf	6 ft	Outside R/W
*Realtor/Development Signs	X	8 sf	6 ft	Outside R/W
Personal Property For Sale	X	8 sf	6 ft	Outside R/W
*Construction Signs	X	32 sf	6 ft	5' from R/W
*Community Event Sign	X	40 sf	Ht Bldg	5' from R/W
*Pennants	X	40 sf	35 ft	5' from R/W
*Streamers				
*Feather signs	X		10' high	5' from R/W
*These sign types shall not require a permit, provided specific standards pursuant to Section 1317.06 and 1317.07 of this chapter are met.				
Bldg. = Building		sf = square feet		
BZA = Board of Zoning Appeals		sf/lf = Square foot per lineal foot		
ft = foot		X = Use by Right		
ht = height		E = Special Exception		
R/W = Right of Way				

CHAPTER 1318

Fencing

1318.01 Electronic fences.

CROSS REFERENCES

Barb wire fences - see GEN. OFF. 521.05

1318.01 ELECTRONIC FENCES.

Electric fences are permitted in the City of Lancaster only if they meet all of the following requirements:

- (a) The parcel where the fence is located must be zoned industrial and not contiguous to Residentially zoned property.
- (b) The fence is commercially installed and monitored.
- (c) An outer fence of eight feet must extend around the entire electric fence to the exterior of the property provided an exterior boundary to the public which is not electrified.
- (d) The electric fence shall be less than twelve feet.
- (e) Signage is required every ten feet which indicates in English, Spanish, and by symbol that the fence is electric. These signs must be maintained in good condition.
- (f) Owner must apply for an electric fence permit annually by January 30th of each year. This permit will have an annual fee and

inspection. The permit shall also require that the owner of the property sign a release of liability to the City as to any damage that may be caused by the City's forced entry onto the property to maintain the health, safety and welfare of occupants, owners, and the public. The permit fee shall be established by executive order of the Mayor. The permit shall also require the owner to provide access information to the property for safety forces.

(g) The fence must comply with all Ohio Revised Code Sections and Lancaster Codified Ordinance Sections.

(h) Enforcement of this section shall be through Chapter 1303.

(Ord. 3-10. Passed 1-25-10.)

CHAPTER 1323

Gas Piping and Appliances (Repealed)

(EDITOR'S NOTE: Former Chapter 1323 was repealed by Ordinance 25-05, passed May 23, 2005.)

CROSS REFERENCES

Adoption of technical codes - see Ohio R. C. 731.231

Unvented gas heater - see GEN. OFF. 517.02

Gas rates - see S.U. & P.S. Ch. 917

CHAPTER 1327

Historic Preservation/Design Review

1327.01 **Purposes.**

1327.02 **Definitions.**

1327.03 **Establishment of design review districts, listed properties and designated landmarks.**

1327.04 **Establishment of Historic Lancaster Commission.**

1327.05 **Powers and duties of Historic Lancaster Commission.**

1327.06 **Organization of Historic Lancaster Commission.**

1327.07 **Guidelines required.**

1327.08 **Certificate of appropriateness required.**

1327.09 **Procedure for certificate of appropriateness.**

1327.10 **Criteria for evaluation of application for certificate of appropriateness.**

1327.11 **Issuance of certificate of appropriateness.**

1327.12 **Procedures following denial of certificate of appropriateness.**

1327.13 **Criteria to determine substantial economic hardship.**

1327.14 **Criteria to determine unusual and compelling circumstances.**

1327.15 **Demolition.**

1327.16 **Maintenance.**

1327.17 **Failure to maintain.**

1327.18 **Right to appeal.**

1327.19 **Severability.**

1327.20 **Civil remedies.**

1327.21 **Stop work order.**

1327.22 **Enforcement.**

1327.23 **Design guidelines.**

1327.24 **Certificate of Appropriateness expiration and extension.**

1327.99 **Criminal violation.**

CROSS REFERENCES

Commission rules - see ADM. Ch. 143

1327.01 PURPOSES.

The City of Lancaster contains areas with unique and valuable historic, architectural and/or cultural resources. The preservation of these resources is directly linked to the cultural, social and economic well-being of the community. The purposes of this Chapter are:

- (a) To protect and preserve these resources and prevent intrusions and alterations within designated Districts or Listed Properties which would be incompatible with their established character, and
- (b) To encourage infill development and property improvement that respects the context of the existing built environment and reduces conflicts between new construction and existing development, and
- (c) To stabilize and enhance property values and economic value of identified resources, and
- (d) To promote economically viable reuse of historic buildings, structures, sites and objects within Lancaster's historic core, and
- (e) To promote and enhance revitalization of downtown Lancaster.

The standards of this Chapter are requirements which must be met in addition to the established requirements and standards of the specific zoning district or other lawfully adopted regulations.

(Ord. 19-17. Passed 5-8-17.)

1327.02 DEFINITIONS.

As used in this Chapter, the following words shall be defined as follows:

- (a) "Alteration" means any action to change, modify, reconstruct, remove or demolish any exterior feature of an existing building, structure, site or object within any District or Listed Property. For the purpose of this item, ordinary maintenance to correct any deterioration, decay or damage to a structure or premises and to restore the structure as nearly as practicable, is excluded from the definition of "alteration", provided such work does not involve a change in material, design, texture or exterior appearance, per section 1327.16.

- (b) "Architectural Change" means the exterior construction, alteration, demolition or removal of any building, structure, site or object subject to the provisions of this Chapter, but shall not include the installation, maintenance or removal of plant material.
- (c) "Architectural Character" means the style, design, and general arrangement of the exterior of a building, structure site or object, including the type of lighting fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, "exterior features" means the style, material, size and location of the sign.
- (d) "Applicant" means any person, persons, association, organization, partnership, unit of government, public body, corporation or other entity, or a representative of one of the above, who applies for a Certificate of Appropriateness in order to undertake an architectural change within the District or Listed Property.
- (e) "Commission" means the "Historic Lancaster Commission." This body shall serve as the Design Review Board for the City of Lancaster as established by this chapter.
- (f) "Building" means a resource created principally to shelter any form of human activity, such as a house. The term "building" shall be construed as if followed by the words "or part thereof."
- (g) "Certificate of Appropriateness" means a certificate authorizing any architectural change within any designated District or Listed Property.
- (h) "City" means the City of Lancaster. Ohio
- (i) "Contributing property" means a building, structure, site or object that, as determined by the Commission, adds to the historic or architectural value of a designated District or Listed Property because it was present during the period of historic significance and/or it preserves such historic integrity that it yields important information about such District or Listed Property.
- (j) "Demolition" means the razing or removing of all or a substantial portion of a building, structure, or appurtenance from a Listed Property or District.
- (jj) "Designated Landmark" means any improvement to real property that has historic significance and has been designated according to the provisions of this Chapter.
- (k) "District" means a designated Design Review District.
 - (l) "Guidelines" means the document that is adopted by the Historic Lancaster Commission and City Council that details the architectural characteristics for any Design Review District or Listed Property therein, and that provides design guidance for appropriate maintenance, repair, construction or alteration pursuant to the provisions of this Chapter. Also commonly known as "design guidelines."
 - (ll) "Historic significance" means the attributes of a designated landmark or historic district that possess integrity of design, location, setting, materials, workmanship and association and that are associated with events that have made a significant contribution to the broad patterns of the City's history, or that are associated with the lives of persons significant in the City's past, or that embody the distinctive characteristics of a type, period or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction, or that have yielded or are likely to yield information important in prehistory or history. Cemeteries, birthplaces or graves of historic figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty years, shall not be considered to be of historic significance, unless they are integral parts of the districts that meet the above criteria or if they fall within the following categories:
 - (1) A religious property which is primarily significant for its architecture or secular history;
 - (2) A relocated building which has a high degree of architectural significance or which is the primary structure associated with an individual or an event;
 - (3) The birthplace or gravesite of an historical figure, if no other built feature survives which is directly associated with his or her productive life;
 - (4) A cemetery primarily important because of its age, distinctive design features or association with the graves or persons of transcendent importance, or which is associated with historic events;
 - (5) A reconstructed building when accurately represented in suitable environment as part of a restoration master plan and when no other building with the same associated has survived;
 - (6) The property primarily commemorative in intent if design, age, tradition or symbolic value have given it significance; or
 - (7) A property achieving significance within the past fifty years if it is of exceptional importance or is unique to the City.
- (m) "Listed Property" means a building, structure, site or object designated according to the provisions of this Chapter.
- (n) "Noncontributing property" means a building structure, site or object within a designated District or Listed Property that, in the determination of the Commission, does not meet the criteria cited in 1327.02 (i) above.
- (o) "Object" means a construction primarily artistic in nature or relatively small in scale, such as a monument, work of art, or milestone.
- (p) "Ordinary maintenance or repair" means any maintenance or repair to any existing building, site, structure or object that is for the limited purpose of correcting decay, deterioration or damage to an architectural feature and that does not involve a change in material, design, texture or exterior appearance, per Section 1327.16.
- (q) "Preserve" or "preservation" means the process (including maintenance) of treating an existing building, structure, site or object to arrest or slow future deterioration, stabilize it and provide structural safety, without changing or adversely affecting its character or appearance, as determined by the Commission.
- (r) "Site" means any significant historical, archaeological, or architectural property without a principal structure such as the location of a prehistoric or historic activity, or a significant event. A site may also include a property of significant landscape design. This definition of "site" shall not be construed to limit the term "site plan" or "site improvement."
- (s) "Structure" means a functional construction made for purposes other than creating shelter. It may include a work of engineering affixed to the land, the hardscape portion of landscaping, or any combination of materials to form a construction that is safe and stable, including, but not limited to stadia, tents, reviewing stands, platforms, staging, observation towers, radio towers and graphics. The term "structure" shall be construed as if followed by the words "or part thereof." The term

"structure" does not include plants, trees, shrubs or others plantings that may be a part of landscaping.

- (t) "Owner" shall mean the owner of record, and the term shall include the plural as well as the singular. (Ord. 19-17. Passed 5-8-17.)

1327.03 ESTABLISHMENT OF DESIGN REVIEW DISTRICTS, LISTED PROPERTIES AND DESIGNATED LANDMARKS.

Except as otherwise indicated in this Chapter, all property located in the following designated Design Review District or any individually Listed Property shall be subject to the design review criteria and standards of this Chapter and additional guidelines as may be applicable in each District.

- (a) The following Design Review District is hereby established:

The Historic Lancaster District:

"Beginning at the intersection of Pearl Avenue and Walnut Street; go north the entire length of Pearl Street on the east to the alley between Mulberry Street and King Street; thence west to High Street; thence north to the alley between King Street and Fifth Avenue; thence west along such alley, and continuing west along the alley between Union Street and Fifth Avenue to Memorial Drive; thence south to Chestnut Street; thence east on Chestnut Street to Columbus Street; thence south on Columbus Street to Walnut Street; thence east to Pearl Street, the point of beginning."

- (b) Additional Design Review Districts may be established or existing Districts may be modified by City Council under separate Ordinance. The designation or modification of such Districts shall be made by the Council after obtaining a recommendation from the Commission, and holding a public hearing. Prior to that hearing, notification shall be given by first-class mail to all property owners within the proposed District as appearing on the current Fairfield County tax rolls. City Council may expand any Design Review District upon receipt of a petition by any adjacent property owner requesting inclusion in such District, and recommendation for same by the Commission. Such expansion by petition of the affected property owners may occur without the public hearing as referenced above.
- (c) Individual properties outside of the boundaries of established Design Review Districts may also be designated as Listed Properties. The procedure for listing individual properties is as follows:
- (1) The Commission shall notify the owner of any proposal to list the property and receive consent back from owner in writing. Upon receipt of such consent, the property shall be listed upon favorable recommendation by the Commission and upon approval by Council after a public hearing.
- (d) Individual properties outside of the boundaries of established Design Review Districts may also be designated as a Designated Landmark. The process for designating individual properties is as follows:
- (1) The Commission shall notify the owner of any proposal to designate the property and receive consent back from the owner in writing. Upon receipt of such consent, the property shall be designated upon favorable recommendation by the Commission.
- (e) Criteria for Designation. In considering the designation of any building, structure, site or object as a District, Listed Property or Designated Landmark, the Commission and Council shall apply the following criteria, in addition to any other available information:
- (1) Its character, interest or value as part of the heritage of the City, the State of Ohio or the United States.
 - (2) Its location as a site of a significant historic event.
 - (3) Its identification with a person or persons who contributed significantly to the historic development of the City.
 - (4) Its exemplification of the heritage of the City.
 - (5) Its portrayal of the environment or a group of people in an era of history characterized by a distinctive architectural style or building type.
 - (6) Its embodiment of a distinguishing historical characteristic of an architectural type or style.
 - (7) Its identification as the work of an architect or master builder whose individual work has influenced the development of the City or State.
 - (8) Its embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.
 - (9) Its unique location or physical characteristic representing an established and familiar visual feature of a neighborhood, community or the City.
 - (10) Such other individual characteristics as shall be relevant to its designation as a District, Listed Property or Designated Landmark.

(Ord. 19-17. Passed 5-8-17.)

1327.04 ESTABLISHMENT OF HISTORIC LANCASTER COMMISSION.

There is hereby established the Historic Lancaster Commission in accordance with this Chapter.

- (a) The Historic Lancaster Commission shall consist of the required number of members as appointed by the Mayor with the approval of City Council, pursuant to the requirements of Sections 1327.04 (d) below. Members shall serve without compensation. The Mayor shall have the authority to appoint alternate members to the Commission, as may be determined appropriate.
- (b) Appointed members shall be subject to removal for cause by the Mayor. Vacancies for the remainder of an unexpired term shall be filled by the Mayor, within sixty (60) days from the date of vacancy. All members shall be residents of the City.
- (c) All members shall be appointed to three (3) year terms, and the initial term appointments provided for in this ordinance shall be staggered according to the following schedule:
- (1) Two (2) members shall each be appointed to serve for an initial full term of three (3) years.
 - (2) The third and fourth members shall each be appointed for a term of two (2) years.
 - (3) The fifth member shall each be appointed for a term on one (1) year.
- All terms shall begin on January 1 of the applicable year.
- (d) Membership.
- (1) The Commission shall consist of five (5) voting members. The members shall be appointed by the Mayor with City Council approval. Three (3) members shall constitute a quorum, and a concurring majority vote by members

present shall be necessary for official action.

- (2) In appointing members, the Mayor shall make good faith effort to appoint persons with training in the fields of architecture, design, historic preservation, planning or related disciplines such as construction, commercial or mixed use development, or real estate. In addition, appointees should possess a demonstrated personal and/or professional interest, experience and knowledge in the preservation of historic structures.
- (3) The Mayor shall solicit a list of potential nominees for membership on the Commission from organizations such as the Fairfield Heritage Association, Lancaster Special Improvement District, and Main Street Lancaster. Such list shall document the qualifications of potential nominees and shall be updated/revised on an annual basis. The Mayor shall review and consider such recommendations in appointing new members to the Commission.

(Ord. 41-17. Passed 12-11-17.)

1327.05 POWERS AND DUTIES OF HISTORIC LANCASTER COMMISSION.

The Historic Lancaster Commission established in Section 1327.04 above is hereby vested with the following powers and authority.

- (a) Hear, evaluate and take action on applications for Certificates of Appropriateness, as authorized by Section 1327.08 of this Chapter.
- (b) Maintain a record of the historic, architectural and cultural resources within the City, including designated Districts, Listed Properties and Designated Landmarks. The Commission shall also maintain a list of contributing and noncontributing properties in designated Districts and Listed Properties.
- (c) Recommend to City Council the designation of Listed Properties, Designated Landmarks, and Districts or modifications to existing Districts.
- (d) Propose and recommend to City Council the establishment of design guidelines for Districts, Listed Properties and Designated Landmarks along with amendments as may be subsequently needed. Guidelines shall be adopted by both the Council and the Commission.
- (e) Make recommendations to City Council regarding potential resources and/or actions which have or may have significant impacts on historic, architectural and/or cultural resources within the City.
- (f) Act upon application for a Certificate of Appropriateness as provided in City Council Resolution 25-05 for tax exemption, within the respective District.
- (g) Provide that a designated city official, who is responsible for managing the applications that are presented to the Commission, may administratively approve certain application requests, but only if those application requests are specifically identified by the Commission in its guidelines or by resolution of the Commission. A Certificate of Appropriateness shall be issued to the applicant upon such administrative approval. This designated city official or the applicant shall have the option of referring any application to the Commission for its full consideration.

(Ord. 19-17. Passed 5-8-17.)

1327.06 ORGANIZATION OF HISTORIC LANCASTER COMMISSION.

(a) The Historic Lancaster Commission shall establish its own procedural rules and/or guidelines. The Commission shall set a regular meeting time to conduct business as may be required, provided that the Commission shall meet not less than once every calendar quarter. Meeting times, dates and locations shall be posted pursuant to Codified Ordinance 109.02(f) not less than one (1) week in advance. Notice of meeting times, dates and locations shall be sent at least one (1) week in advance of the meeting by first class mail to any owner whose real property is a matter before such Commission.

(b) The Historic Lancaster Commission shall select a Chairman, Vice-Chairman, and Secretary. The Chairman shall conduct the meetings of the Commission, determine order of such meetings, and be generally responsible for the recording of such meetings. The Vice-Chairman shall perform the duties of the Chairman in event of the Chairman's absence. The Secretary shall be responsible for maintaining adequate minutes and records of Commission proceedings, as well as other administrative duties. The position of Secretary may be delegated to a non-voting non-member, if such arrangement is approved by the Commission.

(Ord. 19-17. Passed 5-8-17.)

1327.07 GUIDELINES REQUIRED.

The Commission shall prepare or amend guidelines for Districts and Listed Properties consistent with the standards of this Chapter. The Commission shall give notice to the public of the proposed or amended guidelines, shall seek comment on the proposed guidelines at a public hearing, and may consider such public comments in the final preparation of the guidelines. Final guidelines shall be adopted by the Commission and City Council.

(Ord. 19-17. Passed 5-8-17.)

1327.08 CERTIFICATE OF APPROPRIATENESS REQUIRED.

No architectural change as defined shall be made to any building, structure, site or object within any District or Listed Property until a Certificate of Appropriateness has been properly applied for and issued by the Commission. No zoning permit, building permit, sign permit, or Zoning Clearance Permit shall be issued by the Building Department for any construction, reconstruction, alteration or demolition of any building, structure, site or object now or hereafter in any District or Listed Property subject to the process as specified in this Chapter, unless a Certificate of Appropriateness has been authorized by the Commission.

For the purposes of this Ordinance, a Certificate of Appropriateness shall not be required for the following activities:

- (a) Maintenance and/or repair activities pursuant to Section 1327.16 below.
- (b) Interior work on any building or structure.
- (c) Installation of private radio or television reception antennae, however the physical size and configuration of said objects as well as the location and placement of said objects on a structure or site shall be subject to review and approval.
- (d) General maintenance and/or planting of organic material.
- (e) Temporary work required for emergency stabilization of a building, structure, site or object due to damage from natural events or an act of God.

(Ord. 19-17. Passed 5-8-17.)

1327.09 PROCEDURE FOR CERTIFICATE OF APPROPRIATENESS.

(a) The application for a Certificate of Appropriateness shall be made on such forms as prescribed by the Commission, along with such plans, drawings, specifications and other materials as may be needed by the Commission to make a determination. At a minimum, such information shall include the following:

- (1) A site or sketch plan showing building outlines, dimensions and landscaping.
- (2) Photographs of the building, site, structure or object as appropriate.
- (3) A complete description of the proposed architectural change, including drawings or photographs to illustrate the proposal as may be needed.
- (4) An explanation by the applicant as to how the proposed activity is consistent with the purposes and guidelines of this Chapter.

(b) Applications for a Certificate of Appropriateness shall be filed with the Secretary of the Building Department at least ten (10) days prior to the meeting of the Historic Lancaster Commission.

(c) The Commission shall determine whether the proposed architectural change will be appropriate to the preservation of the historic, environmental, or architectural character of the District or Listed Property, pursuant to the criteria specified in Section 1327.10. In making such determination, the Commission shall consider whether the proposed architectural change impacts a contributing or noncontributing property.

(d) In determining the appropriateness of a specific architectural change, the Commission may conduct a separate public meeting on the project and/or solicit input from consultants to the City.

(e) If no action is taken by the Commission within ninety (90) days from the date of submittal of the application, the Certificate of Appropriateness shall be issued as a matter of law. The tabling of an application due to incomplete information provided by the applicant or at the request of the applicant shall not be considered as "no action" for the purposes of this Section.

(f) The Certificate of Appropriateness may include conditions limiting the scope of the certificate. A violation of these conditions shall be a violation of this Section.

(Ord. 19-17. Passed 5-8-17.)

1327.10 CRITERIA FOR EVALUATION OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS.

In considering the appropriateness of any proposed architectural change, the Commission shall consider:

- (a) Its adopted guidelines, and
- (b) The Secretary of the Interior's Standards (Department of Interior regulations, 36 CFR 67) that pertain to historic properties of all materials, construction types, sizes, and occupancy. The Secretary of the Interior's Standards for Rehabilitation are ten basic principles created to help preserve the distinctive character of a historic property and its site, while allowing for reasonable change to meet new needs. The Standards also encompass related landscape features and the property's site and environment as well as attached, adjacent, or related new construction. The Standards are applied to projects in a reasonable manner, taking into consideration economic and technical feasibility.
 - (1) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - (2) The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
 - (3) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - (4) Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - (5) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
 - (6) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - (7) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - (8) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - (9) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - (10) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (c) Additional Design Criteria. In addition to the criteria of 1327.10 (a) and (b) above, the Commission shall consider the following:
 - (1) The consistency of the proposed work with Section 1327.10 (a) and (b), above, and its adopted design guidelines;
 - (2) The degree to which the proposed work would alter or destroy all or part of a contributing property in a District or Listed Property;
 - (3) The degree to which the proposed work would isolate a contributing property in a District or a Listed Property from its surroundings, or introduce visual elements that are inconsistent with the character of the property and its setting, or

- would adversely impact the physical integrity of the District or Listed Property; and
- (4) The degree to which the proposed work is compatible with the significant characteristics of the District or Listed Property.
(Ord. 19-17. Passed 5-8-17.)

1327.11 ISSUANCE OF CERTIFICATE OF APPROPRIATENESS.

After a public hearing on the application pursuant to the provisions of Section 1327.09, the Commission shall issue a Certificate of Appropriateness to the applicant if one of the following conditions is found to exist:

- (a) The architectural change is determined to be appropriate after a consideration of all provisions of this section and the adopted guidelines of the Commission; or
- (b) An unusual and compelling circumstance as defined in Section 1327.14 has been found to exist and such Certificate of Appropriateness may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter.
- (c) Failure to issue the Certificate of Appropriateness will result in a substantial economic hardship to the applicant as defined in Section 1327.13, and such Certificate of Appropriateness may be issued without substantial detriment to the public welfare and without substantial derogation from the intent and purpose of this Chapter. (Ord. 19-17. Passed 5-8-17.)

1327.12 PROCEDURES FOLLOWING DENIAL OF CERTIFICATE OF APPROPRIATENESS.

(a) If the Commission determines that a proposed architectural change is inappropriate, the Commission may deny a Certificate of Appropriateness. Within ten (10) days after its decision, the Commission shall issue a written decision setting forth the reasons for denial and send a copy of such decision to the applicant.

(b) Within ten (10) days after receipt of the denial, the applicant may apply for a rehearing, apply for mediation or appeal the decision to the Board of Zoning Appeals in accordance with the provisions of this Chapter.

- (1) Rehearing. A rehearing on the application shall only be held to consider any unusual and compelling circumstances and/or substantial economic hardship that was unaddressed in the original application or hearing. Within forty-five (45) days of the Commission's receipt of a request for a rehearing, it shall hold a public hearing at which to reconsider the applicant's evidence in response to its decision. Clear and convincing evidence shall be required for the Commission to find unusual and compelling circumstances and/or substantial economic hardship. New proposals or changes to the application shall not be subject to rehearing, but shall be presented in the form of a new application.
- (2) Mediation. Mediation may occur by mutual agreement between an applicant and the Commission in an attempt to find a mutual resolution to the applicant's denial. Mediation shall only be held pursuant the voluntary agreement of both the applicant and the Commission. Within fourteen (14) days after receipt of a request for mediation, a mediator shall be appointed by the joint agreement of the applicant and the Commission. Costs for the mediator, if any, shall be divided equally and paid by the applicant and the City. Mediation towards resolution may occur during the next forty-five (45) days after selection of the mediator. As a part of mediation, the Commission and the applicant shall attempt in good faith to develop an alternative plan for approval that is appropriate under the applicable standards and criteria set forth in this Chapter. New information may be considered and application revisions can be made by the applicant. If the matter is mutually resolved in the mediation to satisfaction of both parties, a Certificate of Appropriateness containing the terms of the agreement shall be issued at the next regularly scheduled Commission meeting. If the matter is not successfully resolved, then the applicant may request a rehearing under the standards of Section 1327.12(b)(1) or may appeal to the Board of Zoning Appeals.
- (3) Appeal. All appeals of the Commission's denial of an application for a Certificate of Appropriateness for a proposed architectural change within a District or Listed Property shall state with particularity the grounds for the appeal. Grounds shall include:
 - A. The Commission's denial of the application for a Certificate of Appropriateness was arbitrary, capricious and unreasonable.
 - B. The Commission improperly denied the application for a Certificate of Appropriateness on the basis of applicant's claim of unusual and compelling circumstances.
 - C. The Commission improperly denied the application for a Certificate of Appropriateness on the basis of applicant's claim of substantial economic hardship.

(Ord. 19-17. Passed 5-8-17.)

1327.13 CRITERIA TO DETERMINE SUBSTANTIAL ECONOMIC HARDSHIP.

The following criteria shall be used by the Commission to determine whether the denial of a Certificate of Appropriateness creates a substantial economic hardship on the property owner:

- (a) Denial of a certificate will result in a substantial reduction in the economic value of the property;
- (b) Denial of a certificate will result in a substantial economic burden on the property owner because the property owner cannot reasonably maintain the property in its current form;
- (c) No reasonable alternative exists consistent with the architectural standards and guidelines for the property;
- (d) The property owner has been unable to sell the property.

(Ord. 19-17. Passed 5-8-17.)

1327.14 CRITERIA TO DETERMINE UNUSUAL AND COMPELLING CIRCUMSTANCES.

The following criteria shall be used by the Commission to determine whether the issuance of a Certificate of Appropriateness is justified by the existence of unusual and compelling circumstances:

- (a) The property has little or no historical or architectural significance.
- (b) The property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.
- (c) No reasonable means of saving the property from deterioration, demolition or collapse other than applicant's proposal exists.
- (d) If the property owner is a nonprofit organization, it is determined by the Commission that it is financially or physically infeasible for the nonprofit organization to be able to achieve its charitable purposes while conforming to the pertinent

architectural standards and guidelines.
(Ord. 19-17. Passed 5-8-17.)

1327.15 DEMOLITION.

No person shall demolish any building, structure, site or object or part thereof in a District or Listed Property until the person has received a Certificate of Appropriateness from the Commission. The application should be accompanied by a written statement containing the reasons the applicant is seeking to demolish the building, structure, site or object, along with a statement that such building, structure, site, or object or part thereof is not historically or architecturally significant or otherwise worthy of preservation. If the applicant is seeking to demolish an entire building, structure or major portion thereof, the applicant shall also submit definite plans for reuse of the site, evidence of commitment of funding for the proposal, a project timetable for both initiation and completion, as well as an evaluation of how the character and integrity of the District or Listed Property will be affected by such demolition.

In cases where an applicant applies for a Certificate of Appropriateness to demolish a building, structure, site or object or part thereof within a District or Listed Property, the Commission may issue a Certificate of Appropriateness when the applicant has submitted adequate documentation that at least one of the following conditions exist:

- (a) The building, structure, site or object or part thereof is noncontributing and/or contains no features of architectural and historic significance to the character of the District or Listed Property
- (b) There exists no reasonable economic use for the building, structure, site or object or part thereof as it exists or as it might be restored, and that there exists no feasible and prudent alternative to demolition.
- (c) Deterioration has progressed to the point where it is not economically feasible to restore the building, structure, site or object or part thereof.

The Commission shall be guided in its decision by balancing the historic, architectural, and cultural value of the building, structure, site or object or part thereof against the applicant's proof of any substantial economic hardship or unusual or compelling circumstances in retaining the building, structure, site or object or part thereof along with a full review and consideration of the proposed replacement project. (Ord. 19-17. Passed 5-8-17.)

1327.16 MAINTENANCE.

Nothing in this Chapter shall be construed to prevent ordinary maintenance or repair of any property within a District or any Listed Property, provided such work involves no change in material, design, texture, or exterior appearance; nor shall anything in this Chapter be construed to prevent any change, including the construction, reconstruction, alteration or demolition of any feature which by order of the Building Department, Fire Department, or Code Enforcement is required for the public safety because of an unsafe, insecure or dangerous condition. Such orders of code officials do not require a Certificate of Appropriateness but shall be considered temporary repairs. The property owner must seek a Certificate of Appropriateness within 30 days after emergency repairs are made pursuant to said orders for approval of permanent repairs. Permanent repairs shall be completed pursuant to the requirements of the Certificate of Appropriateness including the time period for completion of permanent repairs. (Ord. 19-17. Passed 5-8-17.)

1327.17 FAILURE TO MAINTAIN.

(a) No owner of a building, structure, site or object in a District or Listed Property shall fail to provide sufficient and reasonable care, maintenance and upkeep appropriate to ensure such property's perpetuation and to prevent its destruction by deterioration. This provision shall be in addition to all other applicable code provisions. By resolution the Commission shall present evidence of a violation hereof to the City Attorney who shall initiate appropriate action thereon.

(b) Orders of a code official to secure windows or doors by boarding them up due to an emergency or neglect shall be considered a temporary repair requiring the Property Owner to apply for a Certificate of Appropriateness for the permanent repair as described in Section 1327.16. (Ord. 19-17. Passed 5-8-17.)

1327.18 RIGHT TO APPEAL.

Any applicant aggrieved by any decision of the Commission may appeal the decision to the Board of Zoning Appeals. Such appeal shall be taken by the filing of a written statement, setting forth the grounds for the appeal, with the Building Department within thirty (30) days of the decision of the Commission. The Board of Zoning Appeals may affirm, reverse, remand, or modify such decision and shall state the reasons therefore.

(Ord. 19-17. Passed 5-8-17.)

1327.19 SEVERABILITY.

If any provision of this Chapter, or the application thereof to any person or circumstance, is held invalid, the invalidity shall not affect the other provisions or applications of the provision or related provisions which can be given effect without the invalid provision or application, and to this end are severable. (Ord. 19-17. Passed 5-8-17.)

1327.20 CIVIL REMEDIES.

In the event any architectural change or failure to maintain occurs that is contrary to and in violation of any of the provisions of this Chapter, then, in addition to and not in lieu of other action as may be provided in this Chapter, the Mayor, his/her agent, or other proper authority of the City, may institute injunction, mandamus or other legal proceedings as may be necessary to abate such violation and/or to cause the correction of such illegal action.

The City Attorney may additionally request that the court impose the following civil penalties.

- (a) Whoever constructs, reconstructs or alters any building, structure, site or object now or hereafter in a District or Listed Property in violation of this Chapter shall pay a civil penalty of not less than five hundred dollars (\$500.00) nor more than twenty-five thousand dollars (\$25,000.00).
- (b) Whoever demolishes or removes a substantial part or all of any building, structure, site or object now or hereafter in a District or Listed Property in violation of this Chapter shall pay a civil penalty of not less than ten thousand dollars (\$10,000.00) nor more than twenty-five thousand dollars (\$25,000.00).
- (c) Notwithstanding the civil penalty provision of this section, whoever causes, by willful action or willful neglect, any alteration of or demolition or failure to maintain of any property now or hereafter in a District or Listed Property in violation of this Chapter shall be required to restore or reconstruct same in accordance with the pertinent guidelines and standards, as approved by the Commission. (Ord. 19-17. Passed 5-8-17.)

1327.21 STOP WORK ORDER.

A Stop Work Order may be issued by the City Code Enforcement Official upon determination that a violation of this Chapter has occurred. Failure to cease work immediately shall be a violation of this section by the contractor and/or owner of property pursuant to civil and criminal penalties of Sections 1327.20 and 1327.99.

(Ord. 19-17. Passed 5-8-17.)

1327.22 ENFORCEMENT.

Notice of Violation - a Notice of Violation may be issued pursuant to Lancaster Codified Ordinance 1303.12 or the City may directly file a criminal or civil violation.

(Ord. 19-17. Passed 5-8-17.)

1327.23 DESIGN GUIDELINES.

The Design Guidelines attached as Exhibit 1 to Ordinance 45-08 are hereby adopted in their entirety. (Ord. 19-17. Passed 5-8-17.)

1327.24 CERTIFICATE OF APPROPRIATENESS EXPIRATION AND EXTENSION.

(a) The approval of a Certificate of Appropriateness is invalid if construction, erection, alteration or other work upon a building or structure has not commenced within twelve months of the issuance.

(b) One extension shall be granted for an additional twelve-month period if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of an extension fee.

(c) If in the course of construction work is delayed or suspended for more than six months, the approval of the Certificate of Appropriateness is invalid. Two extensions shall be granted for six months each if requested by the owner at least ten days in advance of the expiration of the approval and upon payment of a fee for each extension.

(Ord. 19-17. Passed 5-8-17.)

1327.99 CRIMINAL VIOLATION.

Whoever violates any provision of this Chapter shall be guilty of a third degree misdemeanor. When a partnership or a corporation violates any of the provisions of this Chapter, the members of the partnership responsible for such violation and/or the managing officers of the corporation responsible for such violation, or who directs same to be done, shall be punished in the same manner as the punishment described for herein. Each and every day that the violation of this Chapter continues shall constitute a separate and distinct violation.

(Ord. 19-17. Passed 5-8-17.)

CHAPTER 1331

Flood Damage Reduction

1331.01 Statutory authorization.

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CROSS REFERENCES

Flood control bonds; public capital improvements - see Ohio Const., Art. VIII, Sec. 21; Ohio R.C. 129.70 et seq.

County Commission flood control aid to governmental units - see Ohio R.C. 307.77

Basis of zoning districts - see Ohio R.C. 713.10

Levees - see Ohio R.C. 717.01

Construction permits and prohibitions for dams, dikes or levees - see Ohio R.C.

1521.06

Reduction of assessed valuation for establishing reservoirs - see Ohio R.C. 1521.09

Marking flood areas - see Ohio R.C. 1521.14

Ohio Water Commission - see Ohio R.C. 1525.01 et seq.

Conservancy districts, purpose - see Ohio R.C. 6101.04

1331.01 STATUTORY AUTHORIZATION.

Article XVIII, Section 3, of the Ohio Constitution grants municipalities the legal authority to adopt land use and control measures for promoting the health, safety, and general welfare of its citizens. Therefore, Council does ordain as follows:

(Ord. 17-11. Passed 11-14-11.)

1331.02 FINDINGS OF FACT.

The City has special flood hazard areas that are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base all of which adversely affect the public health, safety and general welfare. Additionally, structures that are inadequately elevated, floodproofed, or otherwise protected from flood damage also contribute to the flood loss. In order to minimize the threat of such damages and to achieve the purposes hereinafter set forth, these regulations are adopted.

(Ord. 17-11. Passed 11-14-11.)

1331.03 STATEMENT OF PURPOSE.

It is the purpose of this chapter to promote the public health, safety and general welfare, and to:

- (a) Protect human life and health;
- (b) Minimize expenditure of public money for costly flood control projects;
- (c) Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (d) Minimize prolonged business interruptions;
- (e) Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in areas of special flood hazard;
- (f) Help maintain a stable tax base by providing for the proper use and development of areas of special flood hazard so as to protect property and minimize future flood blight areas;
- (g) Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;
- (h) Minimize the impact of development on adjacent properties within and near flood prone areas;
- (i) Ensure that the flood storage and conveyance functions of the floodplain are maintained;
- (j) Minimize the impact of development on the natural, beneficial values of the floodplain;
- (k) Prevent floodplain uses that are either hazardous or environmentally incompatible; and
- (l) Meet community participation requirements of the National Flood Insurance Program. (Ord. 17-11. Passed 11-14-11.)

1331.04 METHODS OF REDUCING FLOOD LOSSES.

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (a) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water hazards, or which result in damaging increases in flood heights or velocities;
- (b) Requiring that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Controlling filling, grading, dredging, excavating, and other development which may increase flood damage; and,
- (e) Preventing or regulating the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas. (Ord. 17- 11. Passed 11-14-11.)

1331.05 DEFINITIONS.

(a) Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter the most reasonable application.

- (1) "Accessory Structure" means a structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
- (2) "Appeal" means a request for review of the Floodplain Administrator's interpretation of any provision of this chapter or a request for a variance.
- (3) "Base Flood" means the flood having a one percent chance of being equaled or exceeded in any given year. The base flood may also be referred to as the 1% chance annual flood or one-hundred (100) year flood.
- (4) "Base (100-Year) Flood Elevation (BFE)" means the water surface elevation of the base flood in relation to a specified datum, usually the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988, and usually expressed in Feet Mean Sea Level (MSL). In Zone AO areas, the base flood elevation is the natural grade elevation plus the depth number (from 1 to 3 feet).
- (5) "Basement" means any area of the building having its floor subgrade (below ground level) on all sides.
- (6) "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (7) "Enclosure Below the Lowest Floor" See "Lowest Floor."
- (8) "Executive Order 11988 (Floodplain Management)" means the order issued by President Carter in 1977, this order requires that no federally assisted activities be conducted in or have the potential to affect identified special flood hazard areas, unless there is no practicable alternative.
- (9) "Federal Emergency Management Agency" (FEMA) means the agency with the overall responsibility for administering the National Flood Insurance Program.
- (10) "Fill" means a deposit of earth material placed by artificial means.
- (11) "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:
 - A. The overflow of inland or tidal waters, and/or
 - B. The unusual and rapid accumulation or runoff of surface waters from any source.
- (12) "Flood Hazard Boundary Map (FHBM)" means usually the initial map, produced by the Federal Emergency Management Agency, or U.S. Department of Housing and Urban Development, for a community depicting approximate special flood hazard areas.

- (13) "Flood Insurance Rate Map (FIRM)" means an official map on which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has delineated the areas of special flood hazards.
- (14) "Flood Insurance Risk Zones" means zone designations on FHBMs and FIRMs that indicate the magnitude of the flood hazard in specific areas of a community. Following are the zone definitions:
- A. Zone A: Special flood hazard areas inundated by the 100-year flood; base flood elevations are not determined.
 - B. Zones A1-30 and Zone AE: Special flood hazard areas inundated by the 100-year flood; base flood elevations are determined.
 - C. Zone AO: Special flood hazard areas inundated by the 100-year flood; with flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths are determined.
 - D. Zone AH: Special flood hazard areas inundated by the 100-year flood; flood depths of 1 to 3 feet (usually areas of ponding); base flood elevations are determined.
 - E. Zone A99: Special flood hazard areas inundated by the 100-year flood to be protected from the 100-year flood by a Federal flood protection system under construction; no base flood elevations are determined.
 - F. Zone B and Zone X (shaded): Areas of 500-year flood; areas subject to the 100-year flood with average depths of less than 1 foot or with contributing drainage area less than 1 square mile; and areas protected by levees from the base flood.
 - G. Zone C and Zone X (unshaded): Areas determined to be outside the 500-year floodplain.
- (15) "Flood Insurance Study (FIS)" means the official report in which the Federal Emergency Management Agency or the U.S. Department of Housing and Urban Development has provided flood profiles, floodway boundaries (sometimes shown on Flood Boundary and Floodway Maps), and the water surface elevations of the base flood.
- (16) "Flood Protection Elevation, (FPE)" means the base flood elevation. In areas where no base flood elevations exist from any authoritative source, the flood protection elevation can be historical flood elevations, or base flood elevations determined and/or approved by the Floodplain Administrator.
- (17) "Floodway" means the channel of a river or other watercourse and the adjacent land areas that have been reserved in order to pass the base flood discharge. A floodway is typically determined through a hydraulic and hydrologic engineering analysis such that the cumulative increase in the water surface elevation of the base flood discharge is no more than a designated height. In no case shall the designated height be more than one foot at any point within the community.
- The floodway is an extremely hazardous area, and is usually characterized by any of the following: Moderate to high velocity flood waters, high potential for debris and projectile impacts, and moderate to high erosion forces.
- (18) "Freeboard" means a factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effect of urbanization in a watershed.
- (19) "Historic Structure" means any structure that is:
- A. Listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listings on the National Register;
 - B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
 - C. Individually listed on the State of Ohio's inventory of historic places maintained by the Ohio Historic Preservation Office.
 - D. Individually listed on the inventory of historic places maintained by the City of Lancaster's historic preservation program which program is certified by the Ohio Historic Preservation Office.
- (20) "Hydrologic and hydraulic engineering analysis" means an analysis performed by a professional engineer, registered in the State of Ohio, in accordance with standard engineering practices as accepted by FEMA, used to determine flood elevations and/or floodway boundaries.
- (21) "Letter of Map Change (LOMC)" means a Letter of Map Change is an official FEMA determination, by letter, to amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, and Flood Insurance Studies. LOMCs are broken down into the following categories:
- A. Letter of Map Amendment (LOMA)
A revision based on technical data showing that a property was incorrectly included in a designated special flood hazard area. A LOMA amends the current effective Flood Insurance Rate Map and establishes that a specific property is not located in a special flood hazard area.
 - B. Letter of Map Revision (LOMR)
A revision based on technical data that, usually due to manmade changes, shows changes to flood zones, flood elevations, floodplain and floodway delineations, and planimetric features. One common type of LOMR, a LOMR-F, is a determination concerning whether a structure or parcel has been elevated by fill above the base flood elevation and is, therefore, excluded from the special flood hazard area.
 - C. Conditional Letter of Map Revision (CLOMR)
A formal review and comment by FEMA as to whether a proposed project complies with the minimum National Flood Insurance Program floodplain management criteria. A CLOMR does not amend or revise effective Flood Insurance Rate Maps, Flood Boundary and Floodway Maps, or Flood Insurance Studies.
- (22) "Lowest Floor" means the lowest floor of the lowest enclosed area (including basement) of a structure. This definition excludes an "enclosure below the lowest floor" which is an unfinished or flood resistant enclosure usable solely for parking of vehicles, building access or storage, in an area other than a basement area, provided that such enclosure is built in accordance with the applicable design requirements specified in this ordinance for enclosures below the lowest floor.

- (23) "Manufactured Home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term "manufactured home" does not include a "recreational vehicle". For the purposes of these regulations, a manufactured home includes manufactured homes and mobile homes as defined in Ohio R.C. Chapter 3733.
- (24) "Manufactured Home Park" means as specified in the Ohio Administrative Code 3701-27-01, a manufactured home park means any tract of land upon which three or more manufactured homes, used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as part of the facilities of the park. A tract of land that is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park, even though three or more manufactured homes are parked thereon, if the roadways are dedicated to the local government authority.
- (25) "National Flood Insurance Program (NFIP)" means the Federal program enabling property owners in participating communities to purchase insurance protection against losses from flooding. This insurance is designed to provide an insurance alternative to disaster assistance to meet the escalating costs of repairing damage to buildings and their contents caused by floods. Participation in the NFIP is based on an agreement between local communities and the Federal government that states if a community will adopt and enforce floodplain management regulations to reduce future flood risks to all development in special flood hazard areas, the Federal government will make flood insurance available within the community as a financial protection against flood loss.
- (26) "New Construction" means structures for which the "start of construction" commenced on or after the initial effective date of the City's Flood Insurance Rate Map, Initial Map Effective May 1, 1980, and includes any subsequent improvements to such structures.
- (27) "Person" means any individual or group of individuals, corporation, partnership, association, or any other entity, including state and local governments and agencies. An agency is further defined in the Ohio R.C. 111.15 as any governmental entity of the state and includes, but is not limited to, any board, department, division, commission, bureau, society, council, institution, state college or university, community college district, technical college district, or state community college. "Agency" does not include the general assembly, the controlling board, the adjutant general's department, or any court.
- (28) "Recreational Vehicle" means a vehicle which is (1) built on a single chassis, (2) 400 square feet or less when measured at the largest horizontal projection, (3) designed to be self-propelled or permanently towable by a light duty truck, and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
- (29) "Registered Professional Architect" means a person registered to engage in the practice of architecture under the provisions of Ohio R.C. 4703.01 to 4703.19.
- (30) "Registered Professional Engineer" means a person registered as a professional engineer under Ohio R.C. Chapter 4733.
- (31) "Registered Professional Surveyor" means a person registered as a professional surveyor under Ohio R.C. Chapter 4733.
- (32) "Special Flood Hazard Area" also known as "Areas of Special Flood Hazard", means the land in the floodplain subject to a one percent or greater chance of flooding in any given year. Special Flood Hazard Areas are designated by the Federal Emergency Management Agency on Flood Insurance Rate Maps, Flood Insurance Studies, Flood Boundary and Floodway Maps and Flood Hazard Boundary Maps as Zones A, AE, AH, AO, A1-30, and A99. Special flood hazard areas may also refer to areas that are flood prone and designated from other federal state or local sources of data including but not limited to historical flood information reflecting high water marks, previous flood inundation areas, and flood prone soils associated with a watercourse.
- (33) "Start of Construction" means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of a building.
- (34) "Structure" means a walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground.
- (35) "Substantial Damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (36) "Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the "start of construction" of the improvement. This term includes structures, which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include
- A. Any improvement to a structure that is considered "new construction,"
 - B. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified prior to the application for a development permit by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
 - C. Any alteration of a "historic structure," provided that the alteration would not preclude the structure's continued designation as a "historic structure".

(37) "Variance" means a grant of relief from the standards of this chapter consistent with the variance conditions herein.

(38) "Violation" means the failure of a structure or other development to be fully compliant with these regulations.

(Ord. 17-11. Passed 11-14-11.)

1331.06 LANDS TO WHICH THIS CHAPTER APPLIES.

This chapter shall apply to all areas of special flood hazards within the jurisdiction of the City of Lancaster, Ohio as identified in Section 1331.07, including any additional areas of special flood hazard annexed by the City of Lancaster, Ohio.

(Ord. 17-11. Passed 11-14-11.)

1331.07 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARDS.

For the purposes of these regulations, the following studies and/or maps are adopted:

- (a) Flood Insurance Study Fairfield County, Ohio and Incorporated Areas effective July 19, 2018 and the accompanying Flood Insurance Rate Map Fairfield County, Ohio and Incorporated Areas Effective January 6, 2012 and July 19, 2018.
- (b) Other studies and/or maps, which may be relied upon for establishment of the flood protection elevation, delineation of the 100-year floodplain, floodways or delineation of other areas of special flood hazard.
- (c) Any hydrologic and hydraulic engineering analysis authored by a registered Professional Engineer in the State of Ohio which has been approved by the City of Lancaster as required by Section 1331.15(a)(4) Subdivisions and Large Scale Developments.

Any revisions to the aforementioned maps and/or studies are hereby adopted by reference and declared to be a part of these regulations. Such maps and/or studies are on file at the Certified Building Department, 121 E. Chestnut Street, Suite 102, Lancaster OH 43130.

(Ord. 7-18. Passed 6-11-18.)

1331.08 RESERVED.

1331.09 ABROGATION AND GREATER RESTRICTIONS.

This Chapter is not intended to repeal any existing ordinances including subdivision regulations, zoning or building codes. In the event of a conflict between these regulations and any other ordinance, the more restrictive shall be followed. These regulations shall not impair any deed restriction covenant or easement but the land subject to such interests shall also be governed by the regulations. (Ord. 17-11. Passed 11-14-11.)

1331.10 INTERPRETATION.

In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and,
- (c) Deemed neither to limit nor repeal any other powers granted under State statutes. Where a provision of this chapter may be in conflict with a State or Federal law, such State or Federal law shall take precedence over the Chapter.

(Ord. 17-11. Passed 11-14-11.)

1331.11 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazard or uses permitted within such areas shall be free from flooding or flood damages. This chapter shall not create liability on the part of the City, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.

(Ord. 17-11. Passed 11-14-11.)

1331.12 SEVERABILITY.

Should any section or provision of these regulations be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part so declared to be unconstitutional or invalid.

(Ord. 17-11. Passed 11-14-11.)

1331.13 ADMINISTRATION.

(a) Designation of the Floodplain Administrator. The Chief Building Official is hereby appointed to administer and implement this chapter and is referred to herein as the Floodplain Administrator.

(b) Duties and Responsibilities of the Floodplain Administrator. The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (1) Evaluate applications for permits to develop in special flood hazard areas.
- (2) Interpret floodplain boundaries and provide flood hazard and flood protection elevation information.
- (3) Issue permits to develop in special flood hazard areas when the provisions of these regulations have been met, or refuse to issue the same in the event of noncompliance.
- (4) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- (5) Make and permanently keep all records for public inspection necessary for the administration of these regulations including Flood Insurance Rate Maps, Letters of Map Amendment and Revision, records of issuance and denial of permits to develop in special flood hazard areas, determinations of whether development is in or out of special flood hazard areas for the purpose of issuing floodplain development permits, elevation certificates, variances, and records of enforcement actions taken for violations of these regulations.
- (6) Enforce the provisions of these regulations.
- (7) Provide information, testimony, or other evidence as needed during variance hearings.
- (8) Coordinate map maintenance activities and FEMA follow-up.
- (9) Conduct substantial damage determinations to determine whether existing structures, damaged from any source and in special flood hazard areas identified by FEMA, must meet the development standards of these regulations.

(Ord. 17-11. Passed 11-14-11.)

1331.14 DEVELOPMENT PERMIT.

(a) Floodplain Development Permits. It shall be unlawful for any person to begin construction or other development activity including but not limited to filling; grading; construction; alteration, remodeling, or expanding any structure; or alteration of any watercourse wholly within, partially within or in contact with any identified special flood hazard area, as established in Section 1331.07, until a floodplain development permit is obtained from the Floodplain Administrator. Such floodplain development permit shall show that the proposed development activity is in conformity with the provisions of these regulations. No such permit shall be issued by the Floodplain Administrator until the requirements of these regulations have been met.

(b) Application Required. An application for a floodplain development permit shall be required for all development activities located wholly within, partially within, or in contact with an identified special flood hazard area. Such application shall be made by the owner of the property or his/her authorized agent, herein referred to as the applicant, prior to the actual commencement of such construction on a form furnished for that purpose. Where it is unclear whether a development site is in a special flood hazard area, the Floodplain Administrator may require an application for a floodplain development permit to determine the development's location. Such applications shall include, but not be limited to:

- (1) Site plans drawn to scale showing the nature, location, dimensions, and topography of the area in question; the location of existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoings.
- (2) Elevation of the existing, natural ground where structures are proposed.
- (3) Elevation of the lowest floor, including basement, of all proposed structures.
- (4) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- (5) Technical analyses conducted by the appropriate design professional registered in the State of Ohio and submitted with an application for a floodplain development permit when applicable:
 - A. Floodproofing certification for non-residential floodproofed structure as required in Section 1331.15(b)
 - B. Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1331.15(b) are designed to automatically equalize hydrostatic flood forces.
 - C. Description of any watercourse alteration or relocation that the flood carrying capacity of the watercourse will not be diminished, and maintenance assurances as required in Section 1331.15(g)
 - D. A hydrologic and hydraulic analysis demonstrating that the cumulative effect of proposed development, when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood by more than one foot in special flood hazard areas where the Federal Emergency Management Agency has provided base flood elevations but no floodway as required by Section 1331.15(g)(2).
 - E. A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1331.15(g)(1)
 - F. Generation of base flood elevation(s) for subdivision and large-scale developments as required Section 1331.15(a)(4).

(c) Fees. An application fee in accordance with the schedule of fees adopted by the City of Lancaster shall be charged for each development permit issued which shall be remitted to the City Treasurer and paid into the General Fund. This fee shall be in addition to any other permit fee required by City Ordinance for the proposed development.
(Ord. 17-11. Passed 11-14-11.)

The following fees shall be paid to the Treasurer of the City of Lancaster upon application for the approval of any development permit.

Application

Application Fee \$35.00 per application

Minor Development Permits outside of the floodway that involve no structures or fill requiring elevation reviews

Development Permit No charge

Major Development Permits

Structures or Fill in the Flood Fringe \$35.00

All work in the Floodway \$35.00

Review of Hydraulic and Hydrological Study \$35.00

(Ord. 8-12. Passed 8-27-12.)

(d) Review and Approval of a Floodplain Development Permit Application.

(1) Review.

- A. After receipt of a complete application, the Floodplain Administrator shall review the application to ensure that the standards of these regulations have been met. No floodplain development permit application shall be reviewed until all information required in Section 1331.14(b) has been received by the Floodplain Administrator.
- B. The Floodplain Administrator shall review all floodplain development permits applications to assure that all necessary permits have been received from those Federal, State or Local Governmental Agencies from which prior approval is required. The applicant shall be responsible for obtaining such permits as required including permits issued by the U.S. Army Corps of Engineers under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act, and the Ohio Environmental Protection Agency under Section 401 of the Clean Water Act.

(2) Approval. Within thirty (30) days after the receipt of a complete application, the Floodplain Administrator shall either approve or disapprove the application. If an application is approved, a floodplain development permit shall be issued. All floodplain development permits shall be conditional upon the commencement of work within one (1) year. A floodplain development permit shall expire one (1) year after issuance unless the permitted activity has been substantially begun and is thereafter pursued to completion.

(e) Inspections. The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(f) Post-Construction Certifications Required. The following as-built certifications are required after a floodplain development permit has been issued:

- (1) For new or substantially improved residential structures, or nonresidential structures that have been elevated, the applicant shall

have a Federal Emergency Management Agency Elevation Certificate completed by a registered surveyor to record as-built elevation data. For elevated structures in Zone A and Zone AO areas without a base flood elevation, the elevation certificate may be completed by the property owner or owner's representative.

(2) For all development activities subject to the standards of Section 1331.14(i), a Letter of Map Revision.

(g) Revoking a Floodplain Development Permit. A floodplain development permit shall be revocable, if among other things, the actual development activity does not conform to the terms of the application and permit granted thereon. In the event of the revocation of a permit, an appeal may be taken to the Appeals Board in accordance with Section 1331.16 of this Chapter

(h) Exemption from Filing a Development Permit. An application for a floodplain development permit shall not be required for:

- (1) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than five thousand dollars (\$5,000).
- (2) Development activities in an existing or proposed manufactured home park that are under the authority of the Ohio Department of Health and subject to the flood damage reduction provisions of the Ohio Administrative Code Section 3701.
- (3) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
- (4) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
- (5) Development activities undertaken by a federal agency and which are subject to Federal Executive Order 11988 – Floodplain Management. Any proposed action exempt from filing for a floodplain development permit is also exempt from the standards of these regulations.

(i) Map Maintenance Activities. To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that the City of Lancaster, Ohio flood maps, studies and other data identified in Section 1331.07 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(1) Requirement to Submit New Technical Data.

A. For all development proposals that impact floodway delineations or base flood elevations, the community shall ensure that technical data reflecting such changes be submitted to FEMA within six months of the date such information becomes available. These development proposals include:

1. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
2. Fill sites to be used for the placement of proposed structures where the applicant desires to remove the site from the special flood hazard area;
3. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
4. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1331.15(a)(4).

B. It is the responsibility of the applicant to have technical data, required in accordance with Section 1331.14(i)(1), prepared in a format required for a Conditional Letter of Map Revision or Letter of Map Revision, and submitted to FEMA. Submittal and processing fees for these map revisions shall be the responsibility of the applicant.

C. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:

1. Proposed floodway encroachments that increase the base flood elevation; and
2. Proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway.

D. Floodplain development permits issued by the Floodplain Administrator shall be conditioned upon the applicant obtaining a Letter of Map Revision from FEMA for any development proposal subject to Section 1331.14(i)(1).

(2) Right to Submit New Technical Data. The Floodplain Administrator may request changes to any of the information shown on an effective map that does not impact floodplain or floodway delineations or base flood elevations, such as labeling or planimetric details. Such a submission shall include appropriate supporting documentation made in writing by the Mayor of the City of Lancaster, and may be submitted at any time.

(3) Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Lancaster have been modified by annexation or the community has assumed authority over an area, or no longer has authority to adopt and enforce floodplain management regulations for a particular area. In order that the City of Lancaster's Flood Insurance Rate Map accurately represent the City of Lancaster boundaries, include within such notification a copy of a map of the City of Lancaster suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Lancaster has assumed or relinquished floodplain management regulatory authority.

(j) Data Use and Flood Map Interpretation. The following guidelines shall apply to the use and interpretation of maps and other data showing areas of special flood hazard:

(1) In areas where FEMA has not identified special flood hazard areas, or in FEMA identified special flood hazard areas where base flood elevation and floodway data have not been identified, the Floodplain Administrator shall review and reasonably utilize any other flood hazard data available from a federal, state, or other source.

(2) Base flood elevations and floodway boundaries produced on FEMA flood maps and studies shall take precedence over base flood elevations and floodway boundaries by any other source that reflect a reduced floodway width and/or lower base flood elevations. Other sources of data, showing increased base flood elevations and/or larger floodway areas than are shown on FEMA flood maps and studies, shall be reasonably used by the Floodplain Administrator.

(3) When Preliminary Flood Insurance Rate Maps and / or Flood Insurance Study have been provided by FEMA:

A. Upon the issuance of a Letter of Final Determination by the FEMA, the preliminary flood hazard data shall be used and replace all previously existing flood hazard data provided from FEMA for the purposes of administering these regulations.

B. Prior to the issuance of a Letter of Final Determination by FEMA, the use of preliminary flood hazard data shall only be

required where no base flood elevations and /or floodway areas exist or where the preliminary base flood elevations or floodway area exceed the base flood elevations and/or floodway widths in existing flood hazard data provided from FEMA. Such preliminary data may be subject to change and / or appeal to FEMA.

- (4) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Section 1331.16.
 - (5) Where a map boundary showing an area of special flood hazard and field elevations disagree, the base flood elevations or flood protection elevations (as found on an elevation profile, floodway data table, established high water marks, etc.) shall prevail.
- (k) Substantial Damage Determinations.
- (1) Damages to structures may result from a variety of causes including flood, tornado, wind, heavy snow, fire, etc. After such a damage event, the Floodplain Administrator shall:
 - A. Determine whether damaged structures are located in special flood hazard areas;
 - B. Conduct substantial damage determinations for damaged structures located in special flood hazard areas; and
 - C. Make reasonable attempt to notify owners of substantially damaged structures of the need to obtain a floodplain development permit prior to repair, rehabilitation, or reconstruction.
 - (2) Additionally, the Floodplain Administrator may implement other measures to assist with the substantial damage determination and subsequent repair process. These measures include issuing press releases, public service announcements, and other public information materials related to the floodplain development permits and repair of damaged structures; coordinating with other federal, state, and local agencies to assist with substantial damage determinations; providing owners of damaged structures materials and other information related to the proper repair of damaged structures in special flood hazard areas; and assist owners of substantially damaged structures with Increased Cost of Compliance insurance claims.

(Ord. 17-11. Passed 11-14-11.)

1331.15 USE AND DEVELOPMENT STANDARDS FOR FLOOD HAZARD REDUCTION.

The following use and development standards apply to development wholly within, partially within, or in contact with any special flood hazard area as established in Section 1331.07 or 1331.14(d):

- (a) Use Regulations.
 - (1) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by City of Lancaster are allowed provided they meet the provisions of these regulations.
 - (2) Prohibited Uses.
 - A. Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
 - B. Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.
 - (3) Water and Wastewater Systems. The following standards apply to all water supply, sanitary sewerage and waste disposal systems not otherwise regulated by the Ohio Revised Code:
 - A. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
 - B. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into the flood waters; and
 - C. On-site waste water treatment systems shall be located to avoid impairment to them or contamination from them during flooding.
 - (4) Subdivisions and Large Developments.
 - A. All subdivision proposals shall be consistent with the need to minimize flood damage and are subject to all applicable standards in these regulations;
 - B. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage;
 - C. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and
 - D. In all areas of special flood hazard where base flood elevation data are not available, the applicant shall provide a hydrologic and hydraulic engineering analysis that generates base flood elevations for all subdivision proposals and other proposed developments containing at least 50 lots or 5 acres, whichever is less.
 - E. The applicant shall meet the requirement to submit technical data to FEMA in Section 1331.14(i)(1) when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1331.15(c)(4).
- (b) Residential Structures.
 - (1) New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Where a structure, including its foundation members, is elevated on fill to or above the base flood elevation, the requirements for anchoring 1331.15(b)(1) and construction materials resistant to flood damage 1331.15(b)(2) are satisfied.
 - (2) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.
 - (3) New construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
 - (4) New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including basement, elevated to or above the flood protection elevation. In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
 - (5) New construction and substantial improvements, including manufactured homes, that do not have basements and that are

elevated to the flood protection elevation using pilings, columns, posts, or solid foundation perimeter walls with openings sufficient to allow unimpeded movement of flood waters may have an enclosure below the lowest floor provided the enclosure meets the following standards:

- A. Be used only for the parking of vehicles, building access, or storage; and
 - B. Be designed and certified by a Registered Professional Engineer or Architect to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters; or
 - C. Have a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (6) Manufactured homes shall be affixed to a permanent foundation and anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- (7) Repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure, shall be exempt from the development standards of Section 1331.15(b).
- (8) In AO Zones, new construction and substantial improvement shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.
- (c) Nonresidential Structures.
- (1) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1331.15(b)(1)-(3) and (5)-(8).
 - (2) New construction and substantial improvement of any commercial, industrial or other non-residential structure shall either have the lowest floor, including basement, elevated to or above the level of the flood protection elevation; or, together with attendant utility and sanitary facilities, shall meet all of the following standards:
 - A. Be dry floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water to the level of the flood protection elevation;
 - B. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
 - C. Be certified by a Registered Professional Engineer or Architect, through the use of a Federal Emergency Management Agency Floodproofing Certificate, that the design and methods of construction are in accordance with Section 1331.15(c)(1) and (2).
 - (3) In Zone AO areas with no elevations specified, the structure shall have the lowest floor, including basement, elevated at least two feet above the highest adjacent natural grade.
- (d) Accessory Structures. Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 576 sq ft. Such structures must meet the following standards:
- (1) They shall not be used for human habitation;
 - (2) They shall be constructed of flood resistant materials;
 - (3) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;
 - (4) They shall be firmly anchored to prevent flotation;
 - (5) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
 - (6) They shall meet the opening requirements of Section 1331.15(c)(3).
- (e) Recreational Vehicles. Recreational vehicles must meet at least one of the following standards:
- (1) They shall not be located on sites in special flood hazard areas for more than 180 days, or
 - (2) They must be fully licensed and ready for highway use, or
 - (3) They must meet all standards of Section 1331.15(b).
- (f) Above Ground Gas or Liquid Storage Tanks. All above ground gas or liquid storage tanks shall be anchored to prevent flotation or lateral movement resulting from hydrodynamic and hydrostatic loads.
- (g) Assurance of Flood Carrying Capacity. Pursuant to the purpose and methods of reducing flood damage stated in these regulations, the following additional standards are adopted to assure that the reduction of the flood carrying capacity of watercourses is minimized:
- (1) Development in Floodways.
 - A. In floodway areas, development shall cause no increase in flood levels during the occurrence of the base flood discharge. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a Registered Professional Engineer, demonstrating that the proposed development would not result in any increase in the base flood elevation; or
 - B. Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 1. Meet the requirements to submit technical data in Section 1331.14(i);
 2. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 3. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 4. Documentation of individual legal notices to all impacted property owners within and outside the community, explaining the impact of the proposed action on their property; and
 5. Concurrence of the Mayor of the City of Lancaster and the Chief Executive Officer of any other communities impacted by the proposed actions.
 - (2) Development in Riverine Areas with Base Flood Elevations but No Floodways.
 - A. In riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated, the cumulative effect of any proposed development, when combined with all other

existing and anticipated development, shall not increase the base flood elevation more than 1.0 (one) foot at any point. Prior to issuance of a floodplain development permit, the applicant must submit a hydrologic and hydraulic analysis, conducted by a registered professional engineer, demonstrating that this standard has been met; or,

- B. Development in riverine special flood hazard areas identified by FEMA where base flood elevation data are provided but no floodways have been designated causing more than one foot increase in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - 1. An evaluation of alternatives which would result in an increase of one foot or less of the base flood elevation and an explanation why these alternatives are not feasible;
 - 2. Section 1331.15(g)(1)B., items 1. and 3.- 5.
- (3) Alterations of a Watercourse. For the purpose of these regulations, a watercourse is altered when any change occurs within its banks. The extent of the banks shall be established by a field determination of the "bankfull stage." The field determination of "bankfull stage" shall be based on methods presented in Chapter 7 of the USDA Forest Service General Technical Report RM-245, Stream Channel Reference Sites: An Illustrated Guide to Field Technique or other applicable publication available from a Federal, State, or other authoritative source. For all proposed developments that alter a watercourse, the following standards apply:
 - A. The bankfull flood carrying capacity of the altered or relocated portion of the watercourse shall not be diminished. Prior to the issuance of a floodplain development permit, the applicant must submit a description of the extent to which any watercourse will be altered or relocated as a result of the proposed development, and certification by a Registered Professional Engineer that the bankfull flood carrying capacity of the watercourse will not be diminished.
 - B. Adjacent communities, the U.S. Army Corps of Engineers, and the Ohio Department of Natural Resources, Division of Water, must be notified prior to any alteration or relocation of a watercourse. Evidence of such notification must be submitted to the Federal Emergency Management Agency.
 - C. The applicant shall be responsible for providing the necessary maintenance for the altered or relocated portion of said watercourse so that the flood carrying capacity will not be diminished. The Floodplain Administrator may require the permit holder to enter into an agreement with the City of Lancaster specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
 - D. The applicant shall meet the requirements to submit technical data in Section 1331.14(i)(1)A.3., when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(Ord. 17-11. Passed 11-14-11.)

1331.16 APPEALS AND VARIANCES.

- (a) Appeals Board Established. The Board of Zoning Appeals established under Chapter 1157 is appointed as the Appeals Board.
- (b) Powers and Duties.
 - (1) The Appeals Board shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Floodplain Administrator in the administration or enforcement of this chapter.
 - (2) Authorize variances in accordance with Section 1331.16(d).
 - (3) Records of the Appeals Board shall be kept and filed at the Certified Building Department, 121 E. Chestnut Street Suite 102, Lancaster OH 43130.
- (c) Appeals. Any person affected by any notice and order, or other official action of the Floodplain Administrator may request and shall be granted a hearing on the matter before the Appeals Board provided that such person shall file, within 21 days of the date of such notice and order, or other official action, a brief statement of the grounds for such hearing or for the mitigation of any item appearing on any order of the Floodplain Administrator's decision. Such appeal shall be in writing, signed by the applicant, and be filed with the Floodplain Administrator. Upon receipt of the appeal, the Floodplain Administrator shall transmit said notice and all pertinent information on which the Floodplain Administrator's decision was made to the Appeals Board.

Upon receipt of the notice of appeal, the Appeals Board shall fix a reasonable time for the appeal, give notice in writing to parties in interest, and decide the appeal within a reasonable time after it is submitted.
- (d) Variances. Any person believing that the use and development standards of these regulations would result in unnecessary hardship may file an application for a variance. The Appeals Board shall have the power to authorize, in specific cases, such variances from the standards of these regulations, not inconsistent with Federal regulations, as will not be contrary to the public interest where, owing to special conditions of the lot or parcel, a literal enforcement of the provisions of these regulations would result in unnecessary hardship.
 - (1) Application for a Variance.
 - A. Any owner, or agent thereof, of property for which a variance is sought shall make an application for a variance by filing it with the Floodplain Administrator, who upon receipt of the variance shall transmit it to the Appeals Board.
 - B. Such application at a minimum shall contain the following information: Name, address, and telephone number of the applicant; legal description of the property; parcel map; description of the existing use; description of the proposed use; location of the floodplain; description of the variance sought; and reason for the variance request.
 - C. All applications for a variance shall be accompanied by a variance application fee set in the schedule of fees adopted by the City of Lancaster
 - (2) Notice for Public Hearing. The Appeals Board shall schedule and hold a public hearing in accordance with Section 1157.07.
 - (3) Public Hearing. At such hearing the applicant shall present such statements and evidence as the Appeals Board requires. In considering such variance applications, the Appeals Board shall consider and make findings of fact on all evaluations, all relevant factors, standards specified in other sections of these regulations and the following factors:
 - A. The danger that materials may be swept onto other lands to the injury of others.

- B. The danger to life and property due to flooding or erosion damage.
- C. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
- D. The importance of the services provided by the proposed facility to the community.
- E. The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
- F. The necessity to the facility of a waterfront location, where applicable.
- G. The compatibility of the proposed use with existing and anticipated development.
- H. The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
- I. The safety of access to the property in times of flood for ordinary and emergency vehicles.
- J. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site.
- K. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.

(4) Variances shall only be issued upon:

- A. A showing of good and sufficient cause.
- B. A determination that failure to grant the variance would result in exceptional hardship due to the physical characteristics of the property. Increased cost or inconvenience of meeting the requirements of these regulations does not constitute an exceptional hardship to the applicant.
- C. A determination that the granting of a variance will not result in increased flood heights beyond that which is allowed in these regulations; additional threats to public safety; extraordinary public expense, nuisances, fraud on or victimization of the public, or conflict with existing local laws.
- D. A determination that the structure or other development is protected by methods to minimize flood damages.
- E. A determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

Upon consideration of the above factors and the purposes of these regulations, the Appeals Board may attach such conditions to the granting of variances, as it deems necessary to further the purposes of these regulations.

(5) Other Conditions for Variances.

- A. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- B. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in Section 1331.16(d)(3)A. to K. have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- C. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.

(6) Appeal to the Court. Those aggrieved by the decision of the Appeals Board may appeal such decision to the Fairfield County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code.

(Ord. 17-11. Passed 11-14-11.)

1331.17 ENFORCEMENT.

(a) Compliance Required.

- (1) No structure or land shall hereafter be located, erected, constructed, reconstructed, repaired, extended, converted, enlarged or altered without full compliance with the terms of these regulations and all other applicable regulations which apply to uses within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1331.14.
- (2) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1331.99.
- (3) Floodplain development permits issued on the basis of plans and applications approved by the Floodplain Administrator authorize only the use, and arrangement, set forth in such approved plans and applications or amendments thereto. Use, arrangement, or construction contrary to that authorized shall be deemed a violation of these regulations and punishable in accordance with Section 1331.99.

(b) Notice of Violation. Whenever the Floodplain Administrator determines that there has been a violation of any provision of these regulations, he shall give notice of such violation to the person responsible therefore and order compliance with these regulations as hereinafter provided. Such notice and order shall:

- (1) Be put in writing on an appropriate form;
- (2) Include a list of violations, referring to the section or sections of these regulations that have been violated, and order remedial action, which, if taken, will effect compliance with the provisions of these regulations;
- (3) Specify a reasonable time for performance;
- (4) Advise the owner, operator, or occupant of the right to appeal;
- (5) Be served on the owner, occupant, or agent in person. However, this notice and order shall be deemed to be properly served upon the owner, occupant, or agent if a copy thereof is sent by registered or certified mail to the person's last known mailing address, residence, or place of business, and/or a copy is posted in a conspicuous place in or on the dwelling affected. (Ord. 17-11. Passed 11-14-11.)

1331.99 PENALTY.

Violation of the provisions of this chapter or failure to comply with any of its requirements shall be deemed to be a strict liability offense, and shall constitute a third degree misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements, shall upon conviction thereof be fined or imprisoned as provided by the laws of the City of Lancaster and the State of Ohio. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation. The City of Lancaster shall prosecute any violation of

this chapter these regulations in accordance with the penalties stated herein. (Ord. 17-11. Passed 11-14-11.)

CHAPTER 1335

Wellhead Protection Plan

1335.01 Application.

1335.02 Purpose.

1335.03 Definitions.

1335.04 Creation of Wellhead Protection Zone 1 (WHPZ1) and Wellhead Protection Zone 2 (WHPZ2).

1335.05 Land use within Zone 1 (WHPZ1).

1335.06 Land use within Wellhead Protection Zone 2 (WHPZ2).

1335.07 Enforcement of the Wellhead Protection Plan.

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1335.09 Notice of violation.

1335.10 Inspections.

1335.99 Penalty.

1335.01 APPLICATION.

The ordinances set forth in this plan, duly made and adapted in accordance with the provisions set forth by the Ohio Environmental Protection Agency, by their accordance with the Amendment to the Safe Drinking Water Act of 1986, shall apply to any present and/or future wells and wellfields which comprise the source of the public water supply for the City of Lancaster.

(Ord. 61-97. Passed 10-13-97.)

1335.02 PURPOSE.

The purpose of this chapter is to safeguard the health, safety, and general welfare of the residents of the City of Lancaster, and all those who receive, or will receive, the benefits of the municipal water system by establishing a Wellhead Protection Plan which includes standards for land use within designated wellhead protection zones.

(Ord. 61-97. Passed 10-13-97.)

1335.03 DEFINITIONS.

As used in this chapter:

- (a) "Above storage tank" means any tank, pipe or other vessel, used singularly or in combination, at least ninety percent (90%) of which is above the surface of the ground and used for materials holding, storage or containment.
- (b) "Aquifer" means a consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive, store or transmit water to wells or springs.
- (c) "Bulk storage" means the holding or containment of dry, semi-dry or liquid materials in large quantities, either packaged or loose, usually dispensed in smaller quantities for sale, use or consumption. Large quantities is defined as "quantities greater than those associated with normal household use". Normal household use is the amount of regulated substance a prudent person would have available in their home (or office) for performing routine cleaning, insect control, or use at a place of residence.
- (d) "City" means the municipal corporation of the City of Lancaster, Fairfield County, Ohio.
- (e) "Contaminant" means any substance which, if introduced into ground water, would degrade the quality of said water.
- (f) "Five year time-of-travel zone" means the area around the public water supply wellfield delineated by the five year time-of-travel contour.
- (g) "Ground water" means any water below the surface of the earth in a zone of saturation.
- (h) "Hazardous wastes" means wastes that are listed specifically as hazardous and/or exhibits one or more characteristics of hazardous wastes as defined by OAC 3745-51.
- (i) "One year time-of-travel zone" means the area around the public water supply wellfields delineated by the one year time-of-travel contour.
- (j) "Potable water" means water which is satisfactory for drinking, culinary and domestic purposes.
- (k) "Time-of-travel contour" means a series of points when connected together form a boundary from which water takes an equal amount of time to reach a given destination such as a well or wellfield.
- (l) "UST" means one or any combination of tanks, including underground pipes connected thereto, that are used to contain an accumulation of regulated substances, the volume of which, including the volume of underground pipes connected thereto, is ten percent (10%) or more beneath the surface of the ground, as defined in OAC 1301:7-9-02.
- (m) "Well" means any excavation, regardless of design or method of construction, used for the purpose of removing ground water from an aquifer, or for the purpose of determining the quality, quantity or level of ground water on a continuing basis.
- (n) "Wellfield" means track of land that contains a number of wells for supplying water.
- (o) "Wellhead Protection Zones Map" means an official map adopted by the City, and delineated to indicate the area(s) of the City which lie inside the wellhead protection zones.
- (p) "Ground water professional" means any person certified by the American Institute of Professional Geologists to conduct hydrogeologic studies.
- (q) "Nonconforming facility or use" means any facility or land use which, if new, would not be allowed under the provisions of Ordinance 40-94, passed November 28, 1994, or this chapter. It includes structures and land uses which became located within WHPZ1 and WHPZ2 because of a change in the zone boundaries or by the adoption of this chapter.
- (r) "Wellhead Protection Zone 1 (WHPZ1)" means at a minimum, the area within the one year time-of-travel contour. The boundary can be changed to add areas outside the one year time-of-travel contour to ease its definition (i.e. use of street boundaries).
- (s) "Wellhead Protection Zone 2 (WHPZ2)" means at a minimum, the area within or inside the five year time-of-travel contour, and outside the one year time-of-travel contour. The boundary can be changed to add area outside the five year time-of-travel

contour to ease its definition (i.e. use of street boundaries).

(t) "Regulated substances" shall include but not be limited to the following:

- (1) Every substance, material or waste found listed in 40CFR Part 261 or 40CFR Part 302;
- (2) All materials which exhibit the characteristics of hazardous waste (ignitability, corrosivity, reactivity and toxicity) as identified in 40CFR Part 261;
- (3) Petroleum products, including fuels and waste oils; and
- (4) Any solid or semi-solid material which, if left to stand or if exposed to water will leach out or wholly or partially dissolve forming hazardous materials as defined in subsections (1), (2) or (3).

(Ord. 61-97. Passed 10-13-97.)

1335.04 CREATION OF WELLHEAD PROTECTION ZONE 1 (WHPZ1) AND WELLHEAD PROTECTION ZONE 2 (WHPZ2).

(a) Zone WHPZ1 is the area within the one year time-of-travel contour as depicted on the Wellhead Protection Zone Map.

(b) Zone WHPZ2 is the area within the five year time-of-travel contour, and outside the one year time-of-travel contour as depicted on the Wellhead Protection Zone Map.

- (1) Changes will occur with the increase or decrease of pumping at the water plant. The Wellhead Protection Zone Map will be updated when the total pumpage from the wellfield has increased by fifteen percent (15%) or every two years (whichever comes first) by the Water Department using the MODFLOW ground water model provided to the City during the development of the Wellhead Protection Plan.

(Ord. 61-97. Passed 10-13-97.)

1335.05 LAND USE WITHIN ZONE 1 (WHPZ1).

Zone WHPZ1 contains the City Wellfield, and in order to protect the wellfield, contains the most restrictive land use practices.

(a) Prohibited Uses. The following uses are prohibited in the Wellhead Protection Zone 1.

- (1) Disposal of solid waste.
- (2) Disposal of hazardous waste.
- (3) Storage of road salt or other deicing chemicals and the dumping of snow containing deicing chemicals.
- (4) Animal feed lots.
- (5) The outside storage of herbicides, pesticides, fertilizers or fungicides.
- (6) Dry cleaning and commercial laundry establishments.
- (7) Industrial uses which discharge processed waters onsite.
- (8) Chemical and bacteriological laboratories.
- (9) Metal polishing, finishing and plating establishments which includes auto body repair establishments.
- (10) Commercial wood finishing, preserving, painting and furniture stripping establishments.

(Ord. 61-97. Passed 10-13-97.)

(11) Commercial printing establishments.

(Ord. 10-03. Passed 4-14-03.)

- (12) Motor vehicle service and repair shops, junkyards, motor vehicle junkyards, motor vehicle salvage operations, car washes as well as any similar use which might potentially effect ground water quality. Motor vehicle service and repair establishments include auto body repair and painting, quick lube stations, any establishment which performs mechanical repairs such as transmission, drive train, engine, brakes, or mufflers. These restrictions also apply to commercial/industrial equipment, earth moving equipment, tractors, motorcycles, and airplanes.
- (13) Trucking and bus terminals.
- (14) Machine shops or foundries.
- (15) Leather tanning and finishing.
- (16) Electrical component manufacturing or assembly.
- (17) New installation of underground storage tanks of liquid petroleum and/or chemical products of any kind.
- (18) Storage of liquid petroleum products of any kind in excess of fifteen gallons except for storage in a free standing container within a building, or fuel for heating of that building. (Fuel tanks of parked vehicles are not included in this section.)
- (19) Storage of petroleum, and/or any other regulated substances in underground storage tanks.
- (20) Any other use which involves, as principal activity, the manufacture, storage, use, transportation or disposal of toxic or hazardous material.

(b) Exceptions and Guidelines for WHPZ1. Any business, facility or structure within WHPZ1 which is established prior to the date in which Ordinance 40-94 was established (11-28-94) shall be identified in this chapter as a nonconforming facility. Nonconforming facilities are allowed to conduct business, but are to be regulated by the City, and follow these guidelines.

(1) All nonconforming facilities must register with the Lancaster Division of Water.

- (2) The registration shall be submitted by the owner or operator of the facility on forms provided by the Division of Water or Environmental Specialist on a bi-annual (every two years) basis, or when the ownership of the facility changes, if the ownership change occurs within the two year reporting period, and shall contain at a minimum, the following information:

- A. Name of the facility;
- B. Street and mailing address of facility;
- C. The designated individual to contact at the facility;
- D. A complete list of all chemicals, pesticides, fuels and other regulated substances as defined in Section 1335.03 to be used or stored on the premises in quantities greater than those associated with normal household use, accompanied by a description of measures proposed to protect such materials from vandalism, corrosion and leakage, and to provide for control of spills;
- E. A complete list of potential toxic or hazardous wastes to be generated, indicating storage and disposal methods; and

- F. For underground storage of regulated substances, the BUSTR identification number will be provided.
- (3) Monitoring wells shall be established for all industrial and commercial facilities utilizing or storing hazardous or toxic materials; the number, construction and location of the wells shall be determined by the City Water Department and/or Environmental Specialist. Once constructed, the wells shall be analyzed for volatile organic compounds (VOC's) semi-volatile organic compounds (SVOC's) and metals to determine background levels for the location. After initial testing, wells will be analyzed for VOC's and any other compounds detected in the background analysis which may pose a threat to the wellfield. The Environmental Specialist shall determine the sampling schedule for each site on an individual basis.
 - (4) When a nonconforming facility closes for a period of time greater than six months, it will lose its nonconforming zoning exception. No new or similar nonconforming facility may open at the site.
 - (5) If a nonconforming facility or business wishes to upgrade and/or expand its operation, it may be granted a variance by the Division of Water and/or Environmental Specialist if said facility or business can demonstrate an overall reduction of risk to the aquifer and/or wellfield, through a pollution prevention program instituted by the facility.
- (6) All facilities with USTs:
- A. Shall have upgraded USTs by December 22, 1998 in accordance with the Bureau of Underground Storage Tank Registration, OAC 1301:7-9-06;
 - B. Shall have monitoring systems installed by December 22, 1998 in accordance with the Bureau of Underground Storage Tank Registration, OAC 1301:7-9-07; and
 - C. Are still governed by the C-3 zone laws.
- (7) All facilities which through the generation, transportation, disposal or storage of hazardous substances file reports to the EPA under the guidelines of the Resources Conservation and Recovery Act must also present the City Water Department with a copy of the report.
- (c) Land Uses Allowed in WHPZ1.
- (1) All ordinary and customary uses associated with maintenance and upkeep of buildings and grounds.
 - (2) Necessary public utilities and/or facilities designed so as to prevent contamination of ground water;
 - (3) Agricultural uses: pasture, light grazing, hay making, gardening, nursery and any activities designed for conservation of soil, water, plants and wild life;
 - (4) Industrial or commercial uses which do not handle hazardous or toxic wastes or substances; and
 - (5) Residential uses. (Ord. 61-97. Passed 10-13-97.)

1335.06 LAND USE WITHIN WELLHEAD PROTECTION ZONE 2 (WHPZ2).

Zone WHPZ2 surrounds WHPZ1, and is needed as added protection to the City Wellfield.

- (a) The following uses are prohibited in WHPZ2:
- (1) Disposal of solid waste;
 - (2) Disposal of hazardous waste;
 - (3) The outside storage of herbicide, pesticide fertilizer and fungicide; and
 - (4) Any other use which involves, as principal activity, the manufacturing, storage, use, transportation or disposal of toxic or hazardous material.
- (b) Regulated Land Uses in WHPZ2.
- (1) All practices, and facilities prohibited in WHPZ1 but not prohibited in WHPZ2 will follow the guidelines of nonconforming facilities located in WHPZ1 and WHPZ2 described in those sections to include registration with the Division of Water, and if required by the Division of Water, installation of monitoring wells.
 - (2) Any petition to install new underground storage tanks for liquid petroleum and/or chemical products of any kind must first be reviewed by Fire Prevention and the Division of Water to determine its relative position to the wellfield and its potential impact on the aquifer. The length of the review period shall be determined by Fire Prevention and the Division of Water.
 - (3) Any facility which closes for more than six months must be reviewed and approved by the Division of Water and Council before it may reopen. If approval is not granted, only practices listed in subsection (d) hereof will be permitted at the location.
 - (4) Any regulated facilities or establishments wishing to open must have the approval of the Division of Water and Council.
 - (5) Any business or facility who wishes to operate within the City must first contact the City Engineer's Office and follow proper planning and zoning procedures.
- (c) Exemptions and Guidelines for WHPZ2. Any business facility or structure within WHPZ2, which is established prior to the effective date of Ordinance 40- 94, established November 28, 1994, shall be identified as nonconforming facilities, and are allowed to continue to conduct business under the following guidelines:
- (1) All nonconforming facilities in WHPZ2 shall follow the same guidelines given for nonconforming facilities in WHPZ1.
- (d) Allowed Land Uses In WHPZ2.
- (1) All practices allowed in WHPZ1 are also allowed within WHPZ2.
(Ord. 61-97. Passed 10-13-97.)

1335.07 ENFORCEMENT OF THE WELLHEAD PROTECTION PLAN.

The Division of Water and/or Environmental Specialist is hereby appointed to administer the Wellhead Protection Plan described in this chapter.

(Ord. 61-97. Passed 10-13-97.)

1335.08 RECORD KEEPING.

A copy of the records pertaining to registration under this chapter shall be retained for not less than seven years, and shall be made available for public review by the Division of Water Office upon written request. All such copies of the records shall be transferred to any owner or operator of an establishment that is sold, leased, transferred to, or received by a new owner or operator. The transfer of copies of the records shall in no way eliminate or prevent the necessity of the new owner or operator to register with the Division of

Water Office as required by the chapter.

(Ord. 61-97. Passed 10-13-97.)

1335.09 NOTICE OF VIOLATION.

(a) Any person found in violation of any provision of this chapter, any order, requirement, rule or regulation issued under the authority of such sections will be served with a written notice stating the nature of the violation, and providing reasonable time for compliance. If the Division of Water and/or Environmental Specialist has previously issued a schedule of compliance or issued an order addressing the same type of or a similar violation and the time for compliance has passed, the Division of Water may dispense with establishing another time period for compliance.

(b) The notice shall be served in the manner provided by law for the service of civil process. Where the address of the violator is unknown, service may be made upon the owner of the property involved at the tax-mailing address of the owner as shown on the County tax record.

(Ord. 61-97. Passed 10-13-97.)

1335.10 INSPECTIONS.

Subject to applicable provisions of law, the Division of Water, or authorized designee bearing proper identification, shall be permitted to enter private property at any reasonable time, with reasonable cause or with prior notification, for such purposes as inspection, observation, measurement, sampling and records examination pertaining to the requirements of this chapter to ensure that activities are in accordance with the provisions of this chapter. Upon request of the entity which is the subject of the inspection and if permitted by the Ohio Public Records Law, information obtained as a result of the inspection shall be maintained as confidential. If the owner or tenant does not consent to the entry of the Division of Water for the above stated purposes, the Division of Water may apply to a court of competent jurisdiction for an appropriate warrant or other authority to enter said property.

(Ord. 61-97. Passed 10-13-97.)

1335.99 PENALTY.

Any person, firm, corporation, or business entity who violates any provision of this chapter beyond the first time limit for compliance set forth in writing by the Division of Water shall result in a one hundred dollar (\$100.00) fine per day. Any person, firm, corporation, or business entity who continues to violate any provisions of this chapter beyond the time limit for compliance set forth by the Division of Water shall be guilty of a misdemeanor of the first degree. Each day a violation continues, after notification, shall constitute a separate offense.

(Ord. 61-97. Passed 10-13-97.)

APPENDIX A

Definition of 1-year T-O-T Boundaries.

The 1-year Time-of-Travel zone shall be defined as that area enclosed by the centerlines of the following streets and is shown in Figure 1.

Starting from the intersection of Fair Avenue and Memorial Drive:

- East on Fair Avenue to Columbus Street;
- South on Columbus Street to Arnold Avenue;
- West on Arnold Avenue to Broad Street;
- South on Broad Street to Chestnut Street;
- West on Chestnut Street to Memorial Drive;
- A straight line from the above intersection to the bridge over the Hocking River on Lincoln Avenue;
- Southwest on Lincoln Avenue to Zane Avenue;
- North on Zane Avenue to Main Street;
- West on Main Street to Harrison Avenue,
- North on Harrison Avenue to 7th Avenue;
- East on 7th Avenue to Goodwin Avenue;
- North on Goodwin Avenue to Fair Avenue;
- East on Fair Avenue to Slocum Street;
- A straight line from the above intersection to the Memorial Drive - Reber Avenue Intersection ;
- South on Memorial Drive to Fair Avenue.

APPENDIX B

Definition of 5-year T-O-T Boundaries.

The 5-year Time-of-Travel zone shall be defined as that area enclosed by the centerlines of the following streets and the lines connecting the points as shown in Figure 1.

Starting from the intersection of Pierce Avenue and Memorial Drive:

- A straight line from the above intersection east to the Columbus Street and Arlington Ave intersection ;
- Southeast on Columbus Street to Marks Avenue;
- West on Marks Avenue to Broad Street;
- A straight line from the above intersection to the intersection of High Street and Stringtown Road;
- A straight line from the above intersection to the Maple Street and Fair Avenue;
- South on Maple Street to Allen Street;
- East on Allen Street to Pleasant Avenue;
- South on Pleasant to 5th Avenue;

West on 5th Avenue to Maple Street;
South on Maple to Main Street;
West on Maple to Tennant Street;
South on Tennant Street to Walnut Street;
West on Walnut Street to Sycamore Street;
South on Sycamore Street to Lawrence Street;
A straight line from the above intersection to intersection Fourth Street and Memorial Drive;
South on Fourth to Eyman Avenue;
West on Eyman to Broad Street;
North on Broad to Cleveland Avenue;
West on Cleveland to Dead End;
A straight line from the above intersection north to the intersection of Eagle Avenue and Hubert;
North on Eagle to Reese Avenue;
West on Reese Avenue to Boving Road;
A straight line from the above intersection southeast to the end of Ridgemire Way;
A straight line from the above intersection to the west end of Gay Street;
Follow Gay northwest to Cedar Hill Road;
East on Cedar Hill Road to Ohio Avenue;
North on Ohio Avenue to Mulberry Street;
West on Mulberry Street to Mohawk Drive;
North on Mohawk to Shoshone Drive;
North on Shoshone Drive to Grove Avenue;
A straight line from the above intersection to the intersection of Fair Avenue and Van Buren;
West on Fair Avenue to Green Avenue;
A straight line from the above intersection due north to the Hocking River;
A straight line from the above intersection to the intersection of Memorial Drive and Pierce Avenue.





CHAPTER 1339

Wireless Telecommunications

- 1339.01 Legislative purposes.
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1339.01 LEGISLATIVE PURPOSES.

The purpose of this chapter is to regulate the placement, construction and modification of Towers, Antenna Support Structures, and Wireless Telecommunications Facilities in order to protect the health, safety and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City. Specifically, the purposes of this chapter are:

- (a) To protect residential areas and land uses from potential adverse impacts of Towers and Wireless Telecommunications Facilities.
- (b) To minimize adverse visual impacts of Towers and Wireless Telecommunications Facilities through careful design, siting,

landscaping, and innovative camouflaging techniques.

- (c) To promote and encourage shared use/co-location of Towers and Antenna Support Structures as a primary option rather than construction of additional single-use Towers.
- (d) To avoid potential damage to adjacent properties caused by Towers and Wireless Telecommunications Facilities by ensuring such structures are soundly and carefully designed, constructed, modified, maintained and removed.
- (e) To the greatest extent feasible, ensure that Towers and Wireless Telecommunications Facilities are compatible with surrounding land uses.
- (f) To the greatest extent feasible, ensure that proposed Towers and Wireless Telecommunications Facilities are designed in harmony with natural settings and in a manner consistent with current development patterns.
- (g) To encourage the location of Towers and Antennas in areas where the adverse impact on the community is minimal.
- (h) To protect the public health and safety through the proper location and construction of Towers and Wireless Telecommunications Facilities.
- (i) To encourage, where available and appropriate, the use of City owned structures and/or property for Wireless Telecommunications Facilities.

(Ord. 43-02. Passed 11-25-02.)

1339.02 APPLICABILITY.

(a) All Towers, Antenna Support Structures, and Wireless Telecommunications Facilities, any portion of which are located within in the City, are subject to this Ordinance.

(b) Except as provided in this chapter, any use being made of any existing Tower or Antenna Support Structure on the effective date of this chapter (herein "Non-conforming Structures") shall be allowed to continue, even if in conflict with the terms of this chapter. Any Tower site that has received City approval in the form of either a special exception or building permit, but has not yet been constructed or located, shall be considered a Non-conforming Structure so long as such approval is current and not expired. After the effective date of this chapter, any substantial reconstruction, substantial modification, or replacement of any structure that does not conform with the zoning regulations in the district in which it is located, shall be required to conform to this ordinance. After the effective date of this chapter, any construction of a new structure shall be required to conform to this chapter.

(Ord. 43-02. Passed 11-25-02.)

1339.03 DEFINITIONS.

For purposes of this chapter, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this Section. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

- (a) "Amateur Radio Operator" is any person or organization that currently holds a valid license granted by the Federal communications Commission to operate an amateur radio within Part 97 of the FCC rules and regulations.
- (b) "Antenna" means any device used for transmitting and receiving electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals) or wireless telecommunication signals. This definition does not include over-the-air reception devices which receive television broadcast signals, direct or broadcast signals, direct broadcast satellite services, or multi-channel multi-point distribution service.
- (c) "Antenna Support Structure" means any building or other structure other than a Tower which can be used for location of Wireless Telecommunications Facilities.
- (d) "Applicant" means any Person that applies for a Zoning Clearance Permit or a Conditional Use Permit pursuant to Section 1339.07 of this chapter.
- (e) "Application" means the process by which an Applicant submits a request and indicates a desire to be granted a Zoning Clearance Permit or a Conditional Use Permit under the provisions of this chapter. An Application includes all written documentation, verbal statements and representations, in whatever form or forum, made by an Applicant to the City concerning such a request.
- (f) "City" means the City of Lancaster, Ohio, a municipal corporation, in the State of Ohio, acting by and through its City Council.
- (g) "Code" means the Code of Ordinances of the City.
- (h) "Co-location" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- (i) "Conditional Use" means an uncommon or infrequent use which may be permitted in a specific zoning district subject to compliance with certain standards, explicit conditions, and the granting of a conditional use permit as specified in this chapter.
- (j) "Council" means City Council.
- (k) "Emergency" means a reasonably unforeseen occurrence with a potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action.
- (l) "Engineer" means any engineer licensed by the State of Ohio.
- (m) "Equipment Shelter" means the structure in which the electronic receiving and relay equipment for a Wireless Telecommunications Facility is housed.
- (n) "FAA" means the Federal Aviation Administration and any legally appointed, designated, or elected agent or successor.
- (o) "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- (p) "Monopole" means a support structure constructed of a single, Self-supporting hollow metal tube securely anchored to a foundation.
- (q) "Person" is a natural person, legal entity, private or public, whether for profit or not-for-profit.
- (r) "Residential Building" means any building or portion thereof which is designed or used for residential purposes, but not including a cabin, hotel, motel, rooming house, or other such accommodation used for transient occupancy.
- (s) "Residential District" shall mean a district where the zoning is designated RE, RS-1, RS-2, RS-3, RS-4, RD, RM-0, RM-1, RM-2, RM-3, and RMH under the City's Zoning Code.
- (t) "Tower" means a self-supporting lattice, or guyed or monopole structure constructed from grade which supports Wireless

Telecommunications Facilities. The term Tower shall not include Amateur Radio Operators' equipment, as licensed by the FCC. The term includes, but is not limited to, radio and television transmission towers, microwave towers, common carrier towers, wireless, telecommunications towers, and alternative tower structures.

- (u) "Viewshed" means the area surrounding a Wireless Telecommunications Facility or Antenna Support Structure, within which the Facility or Structure is visible from street level.
- (v) "Wireless Telecommunications Facility" means any cables, wires, lines, wave guides, microwave dishes, radio frequency reflectors, Antennas or any other equipment or facilities associated with the transmission or reception of communications as authorized by the FCC which a Person seeks to locate or has installed upon a Tower or Antenna Support Structure. However, the term Wireless Telecommunications Facilities shall not include:
 - (1) Any satellite earth station antenna two meters in diameter or less which are located in any area zoned industrial or commercial.
 - (2) Any satellite earth station antenna one meter or less in diameter, regardless of zoning category.
 - (3) Antennas used by Amateur Radio Operators are excluded from this definition.
- (w) "Zoning Clearance Permit" means that permit issued by the City Zoning Inspector upon a finding that the proposed Wireless Telecommunications Facility conforms with the requirements of this Chapter and with the City's Zoning Code.
(Ord. 43-02. Passed 11-25-02.)

1339.04 GENERAL REQUIREMENTS.

- (a) The following requirements apply to all Towers and Wireless Telecommunications Facilities regardless of the zoning district in which they are to be located. These general standards are to be supplemented with the specific regulations for nonresidential districts as set forth in Sections 1339.08 and 1339.09 herein.
 - (1) When the proposed Wireless Telecommunications Facility or Antenna Support Structure is to be located on or affixed to a new Tower or Antenna Support Structure, a plot plan at a scale of not less than one inch equals 50 feet shall be submitted to the Planning Commission. This plot plan shall indicate all building uses within 200 feet of the proposed facility. Aerial photos and/or renderings may augment the plot plan.
 - (2) Photosimulations of the proposed Wireless Telecommunications Facility from effected residential properties and public right-of-way at varying distances shall be provided.
 - (3) The location of the Tower and Equipment Shelter and Antenna Support Structure shall comply with all laws and regulations relating to flood plains, wetlands and steep slopes.
 - (4) Security fencing eight feet in height shall surround the Tower, Equipment Shelter and any guy wires, either completely or individually as determined by the Planning Commission. Razor wire shall not be used in security fencing, and no barbed wire shall be permitted in residential neighborhoods. The City and co-locators shall have reasonable access, and the exterior portion of the security fencing shall have a locked "Knox Box" which contains the keys and/or the access code to that facility such that entry to the facility can be obtained on an immediate basis by police, fire, emergency, and other safety personnel. No fence shall be required on top of a building or other structure if access to the roof or top of the structure is secure.
 - (5) Buffer plantings shall be located around the perimeter of the security fence as approved by Planning Commission. Options are an evergreen screen to be planted that consists of either a hedge, planted three feet on center maximum, or a row of evergreen trees planted five feet on center maximum, or other screens determined to be appropriate by the Planning Commission.
 - (6) Existing vegetation (trees and shrubs) shall be preserved to the maximum extent possible.
 - (7) Compliance with co-location requirements as set forth in Section 1339.05, below.
 - (8) Any application to locate a Wireless Telecommunications Facility on a building or structure that is listed on an historic register, or is in an historic district, shall be subject to review and approval by the Historic Lancaster Commission in addition to any other required review and approval processes.
 - (9) Towers shall either maintain a non-contrasting gray or similar color or have a dull, non-glare, non-reflective galvanized steel finish unless otherwise required by the City or any applicable standards of the FAA, the FCC, and the Ohio Department of Transportation.
 - (10) At a Tower site, the design of the buildings and related structures shall use materials, colors, textures, and screening so as to be aesthetically and architecturally compatible with the surrounding environment, as approved by the Planning Commission.
 - (11) If an Antenna is installed on a structure other than a Tower, the Antenna and the supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the Antenna and related equipment as visually unobtrusive as possible, as determined by the Planning Commission.
 - (12) All Towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate Towers and Antennas. If such standards and regulations are changed, then the owners of the Towers and Antennas governed by this Ordinance shall bring such Towers and Antennas into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a different compliance schedule is mandated by the controlling federal or state requirements or agencies. Failure to bring Towers and Antennas into compliance with such revised standards and regulations shall constitute grounds for removal of the Tower or Antenna at the owner's expense.
 - (13) Except as otherwise provided herein, no signs shall be allowed on an Antenna or Tower except that "No Trespassing" signs shall be posted around the Antenna or Tower with a telephone number of who to contact in the event of an emergency. Any such identification signage shall be in accordance with the City sign code.
 - (14) A. Under no circumstances shall a tower exceed a total height of two hundred (200) feet as measured from grade to the top of the highest point of the Tower or Antenna or other equipment affixed thereto.
B. Where the Applicant seeks to install a Tower with the height of no less than one hundred and fifty (150) feet and no more than two hundred (200) feet, the Applicant shall be required to make leased space available on that Tower for Antennas and related equipment from no less than two (2) additional telecommunications providers.

- C. Where the Applicant seeks to install a Tower with a height of less than one hundred and fifty (150) feet, the Applicant shall be required to make leased space available on said Tower for Antennas and related equipment from no less than one (1) additional telecommunications provider.
- D. No Tower shall be artificially lighted except to assure safety or as required by the FAA.
- (15) Underground Equipment Shelters are encouraged in Residential Districts, and may be requested by the Planning Commission.
- (16) To insure the structural integrity of Towers, the owner of a Tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for Towers that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the City concludes that a Tower fails to comply with such codes and standards and constitutes a danger to person or property, then upon notice being provided to the owner of the Tower, the owner shall have thirty (30) days to bring such Tower into compliance with such standards. Failure to bring such Tower into compliance within said thirty (30) days shall constitute grounds for the removal of the Tower or Antenna at the owner's expense.
- (17) The maximum height of any Equipment Shelter shall be no more than twenty (20) feet above grade and shall contain no more than four hundred (400) square feet for a single shelter and no more than eight hundred (800) square feet if there is more than one shelter.
- (18) Towers and Wireless Telecommunications Facilities must be designed by an Engineer who shall provide a structural plan of the Tower or Wireless Telecommunications Facility and who shall certify the same to be structurally sound and, at a minimum, in compliance with the Ohio Basic Building Code.
- (19) Applicant shall present a signed affidavit indicating:
 - A. The Applicant agrees for so long as the Tower or Antenna Support Structure has not been abandoned, to allow for the potential co-location of additional Wireless Telecommunications Facilities by other providers on the Applicant's structure or within the same site location; and
 - B. That the Applicant agrees to remove the facility within one hundred eighty (180) days after the site's use is discontinued.
- (b) Any Wireless Telecommunications Facilities which are not attached to a Tower shall be a permitted ancillary use to any commercial, industrial, or institutional structure, regardless of the zoning restrictions applicable to the zoning district where the structure is located, provided that the Person making such ancillary use first files a written certification with the Planning Commission establishing, to the reasonable satisfaction of the Planning Commission.
 - (1) That the total height of the Antenna Support Structure and Wireless Telecommunications Facilities do not exceed the structural height limitations in the applicable zoning district under the Code by more than twenty (20) feet;
 - (2) That the Antenna Support Structure and Wireless Telecommunications Facilities comply with the Ohio Basic Building Code;
 - (3) That any Wireless Telecommunications Facilities and their appurtenances, located on the roof of a building are set back one (1) foot from the edge of the roof, not including the penthouse, for each one (1) foot in height of the Wireless Telecommunications Facilities. However, this setback requirement shall not apply to Antennas less than two (2) inches in thickness, which are mounted to the sides of Antenna Support Structures, but which do not protrude more than six (6) inches from the side of such an Antenna Support Structure. This requirement is subject to change by the Planning Commission upon review of the photosimulation provided in compliance with Section 1139.04.
 - (4) That the Wireless Telecommunications Facilities will utilize camouflaging techniques or will be side-mounted to an Antenna Support Structure in order that the Wireless Telecommunications Facilities harmonize with the character and environment of the area in which they are located. Notwithstanding the above, where an Applicant seeks to locate a Wireless Telecommunications Facility in an historic district or on an historic building, the Applicant shall be required to obtain approval of the Historic Lancaster Commission prior to locating the Wireless telecommunications Facility in said district or on said structure.

(Ord. 43-02. Passed 11-25-02.)

1339.05 CO-LOCATION REQUIREMENTS.

(a) City Owned Property First.

- (1) In order to encourage the location of Wireless Telecommunications Facilities on property owned by the City, the City shall undertake an identification of City-owned properties that the City determines are suitable for such use. The City shall regularly update such identification and make the results of such identification available to the public.
- (2) Persons locating Wireless Telecommunications Facilities upon such identified City-owned properties shall be exempted from the requirements herein regarding presentation of proof that co-location of facilities on Towers or structures owned by other Persons or in other locations is not available. However, Persons locating Wireless Telecommunications Facilities on City-owned properties shall continue to be subject to the requirements contained in Paragraph B, below.
- (3) In addition, Persons locating Wireless Telecommunications Facilities on City-owned properties identified by the City to be suitable for such purposes shall be exempt from the requirement of Sections 1339.04(a)(2), (a)(5), (a)(6), (a)(7), (a)(19)A., 1339.07 (a)(1), (a)(2), and (a)(3), and 1339.09(a) [but shall not be exempt from 1339.09 (a)(1), (a)(2) and (a)(3)].

(b) Availability of Suitable Existing Towers, Other Structures, or Alternative Technology. No new Tower shall be permitted unless the Applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing Tower, structure, or alternative technology is available to fill the communication requirements. An Applicant shall submit information to the Planning Commission relating to the availability of suitable existing Towers, other structures, or alternative technology. Evidence submitted to demonstrate that no existing Tower, structure, or alternative technology can accommodate the Applicant's proposed Antenna may consist of any of the following:

- (1) No existing Towers or structures are located within the specific geographic limits which met Applicant's engineering requirements.
- (2) Existing Towers and structures do not have sufficient height to meet Applicant's engineering requirements, and have insufficient structural strength to support Applicant's Antenna and related equipment.

- (3) The Applicant's proposed Antenna would cause frequency interference with the Antenna on the existing Tower or structures, or the Antenna on the existing Tower or structures would cause interference with the Applicant's proposed Antenna.
- (4) The fees, costs, or contractual provisions required by the owner in order to share an existing Tower structure or to adapt an existing Tower or structure for sharing are unreasonable. Cost exceeding new Tower development are presumed to be unreasonable.
- (5) The Applicant demonstrates, after diligent and good faith investigation and research, that there are other limiting factors that render existing Towers and structures unsuitable.
- (6) The Applicant demonstrates that an alternative technology that does not require the use of Towers or structures, such as cable microcell network using low-powered transmitter/receivers attached to a wireline, is unsuitable. Costs of alternative technology that exceed new Tower or Antenna development shall not be presumed to render the technology unsuitable.
- (7) The Applicant provides documentation that the owners or operators of currently existing Towers were contacted in writing inquiring about the availability of co-location on those currently existing towers that a bona fide, reasonable, and good faith attempt was made to co-locate on that existing Tower.

(Ord. 43-02. Passed 11-25-02.)

1339.06 PERMITTED USES.

(a) Subject to the requirements of Sections 1339.04 and 1339.05, construction and/or location of Antennas, Towers, and other Wireless Telecommunications Facilities in districts which are zoned IL, IM or IH, shall be a permitted use.

(b) Subject to Sections 1339.04 and 1339.05 (1) co-location of Antennas on a single Tower, (2) Antennas attached to existing structures or buildings, (3) Towers located in districts zoned "IL", "IM", or "IH", or (4) replacement Towers to be constructed at the site of a current Tower, are permitted uses and will not be subject to the Conditional Use permitting process.

(Ord. 43-02. Passed 11-25-02.)

1339.07 CRITERIA FOR A CONDITIONAL USE.

(a) Districts Other Than Those Zoned "IL", "IM", or "IH". A Wireless Telecommunications Facility which includes a Tower may be permitted as a conditional use in districts other than those zoned "IL", "IM", or "IH". In addition to compliance with Sections 1339.04 and 1339.05, above the following steps must also be taken for the Application to be considered for review for a Conditional Use Permit:

- (1) The Applicant shall demonstrate to the Planning Commission that the Tower must be located where it is proposed in order to service the Applicant's service area or proposed service area, and that there are no feasible alternatives. The Applicant shall submit a written explanation as to why a Tower on this proposed site is technically necessary.
- (2) Where the Wireless Telecommunications Facility is located on property with another principal use, the Applicant shall present written documentation that the owner of the property supports the Application and that the vehicular access, including access for police, fire, ambulance, and other emergency vehicles, is provided to the facility.
- (3) The Applicant shall present a site/landscaping plan showing the specific placement of the Wireless Telecommunications Facilities on the site; showing the location of existing structures, trees, and other significant site features; and indicating type and locations of plant materials used to screen the facilities and the proposed color of the facilities.

(b) A Conditional Use Permit must be approved by the Planning Commission with a Zoning Clearance Permit issued to the Applicant by the City's Engineering Department before construction of new Towers may commence in all districts other than those zoned "IL", "IM", or "IH".

(c) Any decision to deny a request to place, construct or modify a Wireless Telecommunications Facility and/or Tower shall be issued by the Planning Commission in writing and supported by evidence contained in a written record of the proceedings of the Planning Commission. Any appeal from the decision of the Planning Commission shall first be taken to the Board of Zoning Appeals.

(Ord. 43-02. Passed 11-25-02.)

1339.08 NONRESIDENTIAL DISTRICTS.

In addition to the requirements of Section 1339.04 and 1339.05, Wireless Telecommunications Facilities proposed for districts zoned AG, CN, CG, CH, CBD, SR, OL, OM, OMH or OH are subject to the following conditions:

(a) Sole Use on a Lot: A Wireless Telecommunications Facility is permitted as sole use on a lot subject to the following:

(1) Minimum Lot Size.

- A. Where the lot on which the Wireless Telecommunications Facility is located is not adjacent to, adjoining, or contiguous to a Residential District, the minimum size for such lot shall be no less than one (1) acre;
- B. Where the lot on which the Wireless Telecommunications Facility is located is adjacent to, adjoining, or contiguous to a Residential District, the minimum lot size for such shall be no less than two (2) acres;

(2) Minimum Setback Requirements.

- A. Where the lot on which the Tower is located is not adjacent to, adjoining, or contiguous to a Residential District, the minimum distance to any adjacent, adjoining, or contiguous right of way or property line measured from the base of the Tower to said right of way or property line shall be no less than sixty (60) feet;
- B. Where the lot on which the Tower is located is adjacent to, adjoining, or contiguous to a Residential District, the minimum distance to any adjacent, adjoining, or contiguous right of way or property line measured from the base of the Tower to said right of way or property line shall be no less than the height of the Wireless Telecommunications Facility from its base to its uppermost portion.

(b) Combined With Another Use. In addition to the foregoing, a Wireless Telecommunications Facility is permitted on a property with an existing use subject to the following conditions:

- (1) The existing or future use on the property may be any permitted use in the district or any lawful nonconforming use, and need not be affiliated with the wireless telecommunications provider. The Wireless Telecommunications Facility will not be considered an addition to the structure or value of a nonconforming use.
- (2) The Wireless Telecommunications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance (except during construction or an emergency).
- (3) Minimum Lot Area. The minimum lot area shall be the area needed to accommodate the Tower (and guy wires, if used), the

Equipment Shelter, security fencing and buffer planting.

(4) Minimum Setback Requirements.

- A. Where the lot on which the Wireless Telecommunications Facility is located is not adjacent to, adjoining, or contiguous to a Residential District, the minimum distance to any adjacent, adjoining, or contiguous right of way or property line measured from the base of the Tower to said right of way or property line shall be no less than sixty (60) feet;
- B. Where the lot on which the Tower is located is adjacent to, adjoining, or contiguous to a Residential District, the minimum distance to any adjacent, adjoining, or contiguous right of way or property line measured from the base of the Tower to said right of way or property line shall be no less than the height of the Wireless Telecommunications Facility from its base to its uppermost portion.

(5) Access. The service access to the Equipment Shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

(c) Combined With An Existing Structure. In addition to the foregoing, where possible, an Antenna for a Wireless Telecommunications Facility shall be attached to an existing structure or building subject to the following conditions:

(1) Maximum Height. No more than 20 feet above the existing building or structure, whichever is greater.

(2) If the Applicant proposes to locate the telecommunications equipment in a separate Equipment Shelter (not located on, or attached to, the building), the Equipment Shelter shall comply with the following:

- A. The minimum setback requirements for the subject zoning district.
- B. A buffer yard may be planted in accordance with Section 1339.04.
- C. Vehicular access to the shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.
(Ord. 43-02. Passed 11-25-02.)

1339.09 RESIDENTIAL DISTRICTS.

(a) Except as provided below, Wireless Telecommunications Facilities that include Towers are not permitted in Residential Districts with the exception of placement on any property with an institutional use (e.g., church, park, library, municipal/government, cemetery, school, utility) located in a Residential Districts. However, Antennas attached to existing buildings or structures are permitted. In applying for a permit in any Residential District, the Applicant must present sufficient evidence to the Planning Commission as to why it is not technically feasible to locate in a more appropriate nonresidential district. Once those efforts have been exhausted, a Wireless Telecommunications Facility may be located in a Residential District subject to the following conditions:

(1) General. The Wireless Telecommunications Facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic and necessary maintenance. This shall apply to (2), (3) and (4) below.

(2) Combined with a Nonresidential Use. An antenna may be attached to a nonresidential building or a structure that is a permitted use in the district; including, but not limited to, a church, a municipal or governmental building or facility, agricultural building, and a building or structure owned by a utility. In addition to the requirements set forth in Section 1339.04, the following conditions shall be met:

A. Maximum height: 20 feet above the existing building or structure.

B. If the Applicant proposes to locate the telecommunications equipment in a separate Equipment Shelter, the Equipment Shelter shall comply with the following:

- 1. The Equipment Shelter shall comply with the minimum setback requirements for the subject zoning district.
- 2. A buffer yard shall be planted in accordance with Section 1339.04.
- 3. Vehicular access to the Equipment Shelter shall not interfere with the parking or vehicular circulation on the site for the principal use.

(3) Located on a Nonresidential-Use Property. A Tower to support an Antenna may be constructed on a property with a nonresidential use that is a permitted use within the district, including but not limited to a church, cemetery, school, municipal or government building, government facility or government structure, agricultural use and a utility use, subject to the following conditions:

A. Vehicular access to the Tower and Equipment Shelter shall, whenever feasible, be provided along the circulation driveways of the existing use.

(4) Located on a Residential Building. An Antenna for a Wireless Telecommunications Facility shall not be located on any Residential Building with fewer than four (4) floors which are completely above grade. An Antenna for a Wireless Telecommunications Facility may be attached to a Residential Building containing four (4) floors or more completely above grade subject to the following conditions:

A. Maximum Height: 20 feet above the existing building.

B. If the Applicant proposes to locate the telecommunications equipment in a separate Equipment Shelter (not located in, or attached to, the building), the Equipment Shelter shall comply with the following:

- 1. The shelter shall comply with the maximum setback requirements for the subject zoning district.
- 2. A buffer yard shall be planted in accordance with Section 1339.04.
- 3. Vehicular access to the Equipment Shelter shall, if at all possible, use the existing circulation system.

(Ord. 43-02. Passed 11-25-02.)

1339.10 ABANDONMENT OF TOWER.

(a) All providers utilizing towers shall present a report to the Service Safety Director notifying such person of any Tower facility located in the municipality whose use will be discontinued and the date this use will cease. If at any time the use of this facility is discontinued for 180 days, a designated local official may declare the facility abandoned. (This excludes any dormancy period between construction and the initial use of the facility.) The facility's owner/operator will receive written notice from the Service Safety Director and be instructed to either reactivate the facility's use within 90 days, or dismantle and remove the facility. If reactivation does not occur, the municipality shall have the authority to remove or will contract to have removed the facility and assess the owner/operator the costs. In case of a multi-use Tower, this provision does not become effective until all users cease use of the Tower. However, the City may cause the abandoned portions of the systems on the multi-use Tower to be removed in accordance with this provision.

(b) After the expiration of the periods set forth in subsection (a), the City must provide the Tower owner three (3) months notice and an opportunity to be heard before the City Council before initiating such action. After such notice has been provided, the City shall have the authority to initiate proceedings to either acquire the Tower and any appurtenances attached thereto at the then fair market value, or in the alternative, order the demolition of the Tower and all appurtenances.

(c) The City shall provide the Tower owner with the right to a public hearing before the City Council, which public hearing shall follow the three (3) month notice required in subsection (b). All interested parties shall be allowed an opportunity to be heard at the public hearing.

(d) After a public hearing is held pursuant to subsection (c), the City Council may order the acquisition or demolition of the Tower. The City may require the owner of the Tower or, if the owner of the Tower or its legal successor is no longer in existence then the owner of the property on which the Tower is located, to pay for all expenses necessary to acquire or demolish the Tower and take all appropriate actions to effect and implement the same.

(Ord. 43-02. Passed 11-25-02.)

1339.11 VARIANCES.

Any request to deviate from any of the requirements of this chapter shall require variance approval in conformance with the procedures set forth in the City Code.

(Ord. 43-02. Passed 11-25-02.)

1339.12 MISCELLANEOUS.

(a) Non-Waiver. Nothing in this chapter shall preclude the City from exercising any right or remedy it may have in law or equity to enforce the terms and conditions of this chapter.

(b) Severability. If any provision of this chapter or the Application of any provision of this chapter to any Person is, to any extent, held invalid or unenforceable by a tribunal of competent jurisdiction, the remainder of this chapter and the application of such provision to other Persons or circumstances shall not be affected by such holding. In case of such an event, this chapter and all of its remaining provisions shall, in all other respects, continue to be effective. In the event the law invalidating such a chapter provision is subsequently repealed, rescinded, amended or is otherwise changed so that the provision which had been held invalid or unenforceable, no longer conflicts with the laws, rules or regulations then in effect, the previously invalid or unenforceable provision shall return to full force and effect.

(Ord. 43-02. Passed 11-25-02.)

1339.13 ZONING CLEARANCE PERMIT AND SITE REVIEW FEE.

(a) Each person or entity shall obtain from the City Engineering Department a Zoning Clearance Permit before erecting, adding to, relocating, replacing or structurally altering any Wireless Telecommunications Facility in the City. The Engineering Department may not issue a Zoning Clearance Permit until the Wireless Telecommunications Facility has been reviewed by all the Boards and Commissions as set forth in this chapter.

(b) Any person or entity that submits an application for a Zoning Clearance Permit for the location of a Wireless Telecommunications Facility within the City shall pay the City a non-refundable application fee of four hundred dollars (\$400.00) ("the Application Fee") and remit said fee to the City Treasurer. Said fee shall be paid to the City Treasurer at the time that the application is submitted.

(c) Each person or entity granted a permit to locate a Wireless Telecommunications Facility within the City shall annually, no later than January 31, submit a report to the Office of City Engineer setting forth maintenance and repairs that have been performed on the Wireless Telecommunications Facility during the immediately preceding calendar year ("the Annual Maintenance Report"). Along with the Annual Maintenance Report, each person or entity granted a permit to locate a Wireless Telecommunications Facility within the City shall submit an annual site review fee of five hundred dollars (\$500.00) ("the Site Review Fee") to the City Treasurer.

(d) The Application Fee and the Site Review Fee shall be paid into the General Fund of The City.

(Ord. 43-02. Passed 11-25-02.)

1339.99 PENALTY.

Whoever violates any provision of this Chapter shall be guilty of a Misdemeanor in the First Degree and in addition to any period of incarceration permitted by law, shall be subject to a maximum fine of one thousand dollars (\$1,000.00) per violation if the violator is an individual, or five thousand dollars (\$5,000.00) per violation if the violator is an organization as defined in Ohio R.C. 2901.23. For purposes of this section, each day in which this Chapter is violated shall constitute a separate violation.

(Ord. 43-02. Passed 11-25-02.)

CHAPTER 1341

Registration of Contractors

1341.01 Contractor registration categories and definitions.

1341.02 Specific requirements.

1341.99 Penalty.

1341.01 CONTRACTOR REGISTRATION CATEGORIES AND DEFINITIONS.

(a) GENERAL- means those persons, business or companies that directly engage in building construction and hire subcontractors to provide construction services for specific skilled trades. As of 2005 a state license is not required to register as a general contractor. The general contractor may perform limited work, as the Building Department determines, on residential projects that are listed under the "skilled trades" category. All work that Involves more than limited work must be completed by persons, businesses or companies registered under the applicable skilled trade category.

(b) HOME IMPROVEMENT or SPECIALTY- means those persons, businesses or companies that directly engage in specific construction activities, alterations or renovations. As of 2005 a state license is not required to register under this category. Home improvement or specialty contractors are permitted to perform limited work, as determined by the Building Department, on residential

projects that are listed under the “skilled trades” category. All work that involves more than limited work must be completed by persons, businesses or companies registered under the applicable skilled trade category.

- (1) Home Improvement-Specialty Trades: (Registration under more than one specialty permitted if bond provided reflects each specialty)
- A. Drywall/Plaster- means those persons, businesses or companies that provide drywall (gypsum board) or cement plaster installation, repair or replacement in or on a building structure.
 - B. Deck- means those persons, businesses or companies that provide services to install, repair or replace an exterior floor system supported on at least two opposing sides by adjoining structure and/or posts, piers, or other independent supports.
 - C. Demolition/Hauling- means those persons, businesses or companies that provide services to demolish structures and remove construction materials from a specific location.
 - D. Excavator/Tapper- means those persons, businesses or companies that provide services to remove, replace, compact or grade earth for construction projects and to install, tap into, repair or replace sewer, water, gas or other utilities lines or cables.
 - E. Framing- means those persons, businesses or companies that provide services to install, repair or replace structural components, beams, framework, or deck work in a building structure.
 - F. Gutter/Spouting- means those persons, businesses or companies that provide installation, repair or replacement on any system of water collection or diversion of water from a roof system through drain lines on or about a building structure.
 - G. Landscaping- means those persons, businesses or companies that provide the installation of lawns, tree, shrubbery or bushes at or about building construction sites.
 - H. Masonry/Cement/Asphalt- means those persons, businesses or companies that provide services for installation of block, bricks, stone, cement or asphalt at or on a building structure or construction site.
 - I. Roofing- means those persons, businesses or companies that provide services to install replace or repair a system designed to provide weather protection and resistance to design loads consisting of roof decking, vapor retarder, substrate and roof covering.
 - J. Siding- means those persons, businesses or companies that provide services to install, replace or repair a covering material on the exterior of building structures as to protect the structure against weather elements.
 - K. Sign & Graphics- means those persons, businesses or companies that provide services to install, repair, replace or modify publicly displayed boards that contain information, advertising or symbols including any form of visual artistic representation.
 - L. Swimming Pool- means those persons, businesses or companies that provide services to dig and install, repair or replace indoor or outdoor tank(s) of water and pumping and filtering equipment used for human swimming purposes.
 - M. Waterproofing- means those persons, businesses or companies that provide services to install, apply or remove materials applied to building foundations, walls, and floors to prevent the penetration of water into the interior of a building structure.
 - N. Windows- means those persons, business or companies that provide services to install, repair or replace framed glass structures installed on the exterior of building structures.
- (2) Skilled Trades. State Contractors license required to register for skilled trades on commercial projects.
- A. ELECTRICIAN- means those persons, businesses or companies that provide services to install, repair or replace electrical apparatus or appurtenances within or about a building structure or specific location.
 - B. FIRE/SECURITY DETECTION & SUPPRESSION- means those persons, businesses or companies that provide services to install, repair, test and replace fire or security detection equipment, reporting devices, fire sprinklers and piping, stand pipes, fire suppression equipment and suppression hoods.
 - C. HYDRONICS- means those persons, businesses or companies that provide services to install, repair or replace fluid, steam or gas pressure piping systems within a structure.
 - D. HVAC- means those persons, businesses or companies that provide services to install, repair or replace heating, ventilating, and air-conditioning systems within a building.
 - E. PLUMBER- means those persons, businesses or companies that provide services to install, repair or replace pipes and fixtures used to transport water and sewage within or about a building structure or property.
 - F. REFRIGERATION- means those persons, businesses or companies that provide services to install, repair and replace systems that vaporize and liquefy a fluid used for refrigerate storage systems and other components attached.

(Ord. 77-05. Passed 11-28-05.)

1341.02 SPECIFIC REQUIREMENTS.

The specific requirements imposed upon said contractors shall be established by the Lancaster City Building Department. The initial standards promulgated by the Department are attached to Ordinance 72-04.

(Ord. 72-04. Passed 12-20-04.)

1341.99 PENALTY.

The failure to register shall be considered a first degree misdemeanor. Each day that a contractor fails to register constitutes a separate offense.

(Ord. 72-04. Passed 12-20-04.)

CHAPTER 1345

Impact Fees

1345.01 Legislative findings.

1345.02 Short title and applicability.

1345.03 Intent and purposes.

- 1345.04 Rules of construction.**
- 1345.05 Definitions.**
- 1345.06 Imposition of Fire/EMS System Impact Fee.**
- 1345.07 Computation of the amount of Fire/EMS system improvement fee.**
- 1345.08 Payment of fee.**
- 1345.09 Fire/EMS System Impact Fee Districts.**
- 1345.10 Fire/EMS system impact fee trust funds established.**
- 1345.11 Use of funds.**
- 1345.12 Refund of fees paid.**
- 1345.13 Exemptions from payment of impact fees.**
- 1345.14 Credits against payment of impact fees.**
- 1345.15 Review and termination of districts.**
- 1345.16 Penalty provisions.**
- 1345.17 Appeals.**
- 1345.18 Repealer and liberal construction.**
- 1345.19 Severability.**
- 1345.20 Effective date.**

1345.01 LEGISLATIVE FINDINGS.

The City Council (the "Council") of Lancaster, Ohio (the "City") hereby finds, determines and declares that:

- (a) The City must expand and upgrade its Fire/EMS system in order to maintain current levels of service if new development is to be accommodated without decreasing current levels of service. This must be done in order to promote and protect the public health, safety, and welfare;
- (b) The use of impact fees is one of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities and equipment necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare;
- (c) Each of the types of land development described in Section 1345.07 hereof, will generate demand for fire and medic services necessitating the acquisition of land for new fire facilities and new equipment;
- (d) The fees established by Section 1345.07 are derived from, are based upon, and do not exceed the costs of providing necessary facilities or equipment necessitated by the new land developments for which the fees are levied; and
- (e) The report entitled Lancaster, Ohio Fire/EMS Impact Fee Study, City of Lancaster, dated April 2005, attached hereto as Exhibit "A" and incorporated herein by reference, sets forth a reasonable methodology and analysis for the determination of the impact of new development on the fire/EMS system and the need for the costs of additional fire houses, equipment in connection with and necessitated by new developments.

(Ord. 24-05. Passed 5-23-05.)

1345.02 SHORT TITLE AND APPLICABILITY.

- (a) This chapter shall be known and may be cited as the "Lancaster Fire/EMS Improvement District Ordinance".
- (b) This chapter shall apply to any and all areas within the corporate boundaries and limits of the City of Lancaster, as such boundaries and limits may change from time to time, as Fire/EMS System Impact Districts are established by the City, and as such areas may be included or located within a Fire/EMS System Improvement District approved and established by the City.

(Ord. 24-05. Passed 5-23-05.)

1345.03 INTENT AND PURPOSES.

(a) This chapter is intended to assist in the orderly growth and development of the City, to assist in securing and providing for the coordination of fire/EMS facilities, to assist in the furtherance of the public health, safety, and welfare, by planning of efficient timely fire and medical response, and further to assist in the implementation of the City of Lancaster Land Use Plan, the City of Lancaster Fire/EMS Study (2001), and the Lancaster, Ohio Fire/EMS Impact Fee Study (April 2005).

(b) The purpose of this chapter is to regulate the use and development of land so as to assure that new development bears a proportionate share of the cost of capital expenditures necessary to provide fire and EMS response within the City.

(c) It is the general intent of this chapter to require feepayers to make payment of only the applicable fire/EMS system improvement fee, and to eliminate any additional feepayer obligation to the City or payment to the City for fire/EMS system improvements required as a result of that same land development activity. However, in the event capital improvements or expansion of the fire/EMS system are required because of unique or special characteristics of a particular land development activity or particular land development, and if such improvements or expansion are not part of a City approved Fire/EMS System Improvement project for the Fire/EMS System Improvement District in which the land development activity or land development is located, and then the full obligation to the finance and pay for all matters related to causing the construction and completion of such fire/EMS improvements or expansion shall be the sole and full obligation of the feepayer.

(Ord. 24-05. Passed 5-23-05.)

1345.04 RULES OF CONSTRUCTION.

For the purposes of administration and enforcement of this chapter, unless otherwise stated in this chapter, the following rules of construction shall apply to the text of this chapter.

- (a) In case of any difference of meaning or implication between the text of this chapter and any caption, illustration, summary table, or illustrative table, the text shall control.
- (b) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.
- (c) Words used in the present tense shall include the future; and words used in the singular number shall include the plural, and the plural the singular, unless the context clearly indicates the contrary.
- (d) The phrase "used for" included "arranged for", "designed for", "maintained for", or "occupied for".

- (e) The word “person” includes an individual, a group of individuals, a corporation, a partnership, a sole proprietorship, an incorporated association, any business association, an estate, or any other similar entity.
- (f) Unless the context clearly indicates the contrary, where a regulation involves two (2) or more items, conditions, provisions, or events connected by the conjunction “and”, “or” or “either . . . or”, the conjunction shall be interpreted as follows:
 - (1) “And” indicates that all the connected terms conditions provisions or events shall apply.
 - (2) “Or” indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
 - (3) “Either . . . or” indicates that the connected items, conditions, provisions, or events shall apply singly but not in combination.
- (g) The word “includes shall not limit a term to the specific example but is intended its meaning to all other instances or circumstances of like kind or character,
- (h) “Service-Safety Director” means the Service-Safety Director of Lancaster, Ohio or the municipal official or administrative staff person that the Service-Safety Director may designate to carry out the administration of this ordinance.

(Ord. 24-05. Passed 5-23-05.)

1345.05 DEFINITIONS.

(a) A “feepayer” is a person commencing a land development activity within the boundaries of a City of Lancaster Fire/EMS System Building Impact Fee District, which generates a demand for Fire/EMS and which requires the issuance of a building permit or renewal of a building permit.

(b) A “capital improvement” may include fire/EMS planning, preliminary engineering, engineering design studies, land surveys, appraisal, land acquisition, engineering, permitting, and administrative and legal expenses related to and in connection with construction of all the necessary features for any fire/EMS construction project or piece of equipment including, but not limited to:

- (1) Construction of new fire department structures,
- (2) Upgrade of current fire department structures,
- (3) Expansion of current fire department structures,
- (4) Purchase, lease, or rehabilitation of fire equipment,
- (5) Purchase or lease of land for new, upgraded, or expanded fire department structures,

(c) “Land Development Activity Generating Demand for Fire/EMS” means any change in land use or any construction of buildings or structures, including accessory buildings or structures, or any change in the use of any structure that creates a need for fire department services or medic service by the presence of people or real or personal property on the site.

(d) The words “Fire/EMS System Improvement” and “Fire/EMS System Impact” shall have the same and similar meaning.
(Ord. 24-05. Passed 5-23-05.)

1345.06 IMPOSITION OF FIRE/EMS SYSTEM IMPACT FEE.

(a) Any person who, after the effective date of this chapter, seeks to develop land within a Fire/EMS system Improvement District and for which no exemption is provided by this chapter for the type of development proposed, by applying for: a building permit; a renewal of a building permit for new residential or commercial builds issued prior to the effective date of this chapter; or to make an improvement to land which will generate demand for fire/EMS service is hereby required to pay a fire/EMS impact fee in the manner and amount set forth in this chapter.

(b) No building permit or renewal of a building permit for new residential or commercial construction shall be issued or approved, whichever is applicable, for any activity requiring payment of an impact fee pursuant to Section 1345.07 until the fire/EMS system impact fee hereby required has been paid.

(c) No extension of a building permit for new residential or commercial builds issued prior to the effective date of this ordinance, for an activity requiring payment of an impact fee pursuant to Section Seven of this ordinance shall be granted unless and until the fire/EMS system impact fee hereby required has been paid.

(Ord. 24-05. Passed 5-23-05.)

1345.07 COMPUTATION OF THE AMOUNT OF FIRE/EMS SYSTEM IMPROVEMENT FEE.

(a) The amount of the fire/EMS system impact fee for Fire/EMS System Improvement District applicable shall be determined by the fee schedule included in Exhibit “A,” attached hereto and included herein. The fee schedule includes a reduction of the gross fee required by reflecting and accounting for other sources of funding as same is reflected in Exhibit “A.” When use of the schedule or any determination of the amount of fee requires the use of square footage as factor, the gross square footage of the applicable building(s) or structure(s) shall be used as the amount of square footage to determine the appropriate fee.

- (1) If a building permit is requested for mixed uses or a mixture of land development activities, then the fee shall be determined through using the applicable schedule by apportioning the space committed to uses specified on the applicable schedule.
- (2) For applications for an extension of a building permit the amount of the fee is the difference between that fee then applicable at the time of permit extension and any amount already paid pursuant to this ordinance.
- (3) If the type of development activity that a building permit is applied for is not specified on the applicable fee schedule, the Service-Safety Director shall use the fee applicable to the most nearly comparable type of land use on the fee schedule. If the Service-Safety Director determines that there is no comparable type of land use on the applicable fee schedule then the Service-Safety Director shall determine the fee by:
 - A. Using such other technical data or information as the Service- Safety Director deems appropriate; and
 - B. Applying the applicable formula pursuant to subsection (a) hereof; and
 - C. If applicable, reducing the fee as indicated in subsection (a) above.
- (4) In the case of change of land development activity category, redevelopment, or expansion or modification of an existing use which requires the issuance of a building permit and which further requires the payment of an impact fee pursuant to this ordinance, the impact fee shall be based upon the net positive increase in the impact fee for the new category as compared to the previous category. The Service-Safety Director shall be guided in this determination by the fee schedule for the Fire/EMS System Improvement District in which the land development activity is located.

(b) If a feepayer disagrees with the amount of impact fee required to be paid by the feepayer, or disagrees with any determination of

the Service-Safety Director and which pertains to the requirement of an impact fee payment, the feepayer may appeal the amount of the fee or the determination of the Service-Safety Director to the Board of Zoning Appeals pursuant to Lancaster Codified Ordinance 1157. The fee paid to the Board of Zoning Appeals shall be borne by the appellant.

(Ord. 24-05. Passed 5-23-05.)

1345.08 PAYMENT OF FEE.

(a) The feepayer shall pay the fire/EMS system impact fee required by this chapter to the Service-Safety Director or his/her designee as follows:

- (1) If the land development activity is composed of only single family dwelling units, the fee shall be paid prior to the release and approval by the City of the building permit for the single family development activity.
- (2) For all land development activity that includes any uses other than single family dwelling units, the fee applicable to that development shall be paid prior to the issuance by the City of the building permit for that development.

(b) All funds collected shall be properly identified by the Fire/EMS System Impact Fee District and promptly transferred for deposit in the appropriate Fire/EMS Impact Fee Trust Fund to be held in separate accounts as determined in Section 1345.10 and used solely for the purposes specified in this chapter.

(Ord. 24-05. Passed 5-23-05.)

1345.09 FIRE/EMS SYSTEM IMPACT FEE DISTRICTS.

There is hereby established fire/EMS system improvement district as shown in Exhibit "B," attached hereto and incorporated herein by reference, for the City of Lancaster and such districts shall be labeled as pursuant to Exhibit "B." The City may establish and create additional fire/EMS system improvement districts by adoption of an ordinance establishing such additional districts.

(Ord. 24-05. Passed 5-23-05.)

1345.10 FIRE/EMS SYSTEM IMPACT FEE TRUST FUNDS ESTABLISHED.

(a) There shall be established a separate Fire/EMS System Impact Fee Trust Funds for each fire/EMS system impact fee district established by Section 1345.09. Additional Fire/EMS System Impact Fee Trust Funds may be established by Council as additional fire/EMS impact fee districts may be established and created.

(b) Funds withdrawn from these accounts must be used in accordance with the provisions of Section 1345.11.

(Ord. 24-05. Passed 5-23-05.)

1345.11 USE OF FUNDS.

(a) Funds collected from fire/EMS system impact fees shall be used for the purpose of capital improvements to and expansion of fire department facilities associated with the current Fire/EMS Study and Fire/EMS Impact Fee Study, or as such plans may be amended by the City, plus administrative costs and expenses pursuant to the provisions of this chapter.

(b) No funds shall be used for periodic or routine maintenance.

(c) Funds shall be used for capital improvements or equipment within the Fire/EMS System Improvement District, from which the funds were collected. Funds may be used for capital improvements that are located outside the fire/EMS system improvement district from which the funds were collected so long as such capital improvement is deemed to be beneficial to the fire/EMS system improvement district from which the funds were collected and the area of this same capital improvement is contiguous to or touches the land area of the fire/EMS improvement district from which the funds were collected.

(d) In the event that bonds or similar or other debt instruments are issued for advanced provision of capital improvements or equipment for which fire/EMS system impact fees may be expended, impact fees may be used to pay debt service on such bonds or similar debt instruments to the extent that the facilities provided are of the type described in subsection (a) hereof and are located within the appropriate impact fee districts created by Section 1345.09 or as provided in subsection (c) hereof.

(e) At least once each fiscal period the Service-Safety Director shall present to the City Council of Lancaster for consideration a proposed capital improvement and equipment program for fire/EMS as deemed appropriate and which may include any accrued interest, from the Fire/EMS System Improvement Trust Funds existing at that time to specific fire/EMS system improvement projects and related expenses. Monies, including any accrued interest, not assigned in any fiscal period shall be retained in the same Fire/EMS System Improvement Fee Trust until the next fiscal period except as provided by the refund provisions of this chapter.

(f) Funds may be used to provide refunds as described in Section 1345.12.

(g) The City of Lancaster shall be entitled to retain not more than ten percent (10%) of the funds collected as compensation for the expense of collecting the fee and administering this chapter; and such amounts shall be referred to as and "administrative fee.

(Ord. 24-05. Passed 5-23-05.)

1345.12 REFUND OF FEES PAID.

If a building permit expires without commencement of construction, then the feepayer shall be entitled to a refund equal to one hundred percent (100%) of the original fee paid, without interest, except that the City shall retain an amount up to its then current administrative fee percentage of the fee to offset a portion of the costs of collection and refund. The feepayer must submit an application for such a refund to the Service-Safety Director within 60 days of the expiration of the permit.

(Ord. 24-05. Passed 5-23-05.)

1345.13 EXEMPTIONS FROM PAYMENT OF IMPACT FEES.

(a) The following shall be exempted from payment of the impact fee:

- (1) Alterations or expansion of an existing building where no additional single-family or multi-family units are created, where the use is not changed, and where no additional demand for fire/EMS will be produced over and above those produced by the existing use.
- (2) The replacement of a destroyed or partially destroyed building or structure with a new building or structure of the same size and use.
- (3) Any expansion of a single family dwelling unit.

- (4) The expansion of any building or structure in which the use is other than single family use, and the area of the expansion is less than 1,500 square feet.
 - (5) Any governmental facility or land use by the federal government, by a county government, by a public school district, by a municipality, or by another political subdivision as such subdivision is recognized by the Ohio Revised Code.
 - (6) Developments for which a completed building permit application complying with Building Department's policies and procedures including required attachments has been submitted and paid for prior to the effective date of this ordinance. The Building Official may reject any building permit applications which do not comply with the City's policies and procedures.
 - (7) Upon approval by the City, a feepayer may waive his/her exemption rights and voluntarily make payment of the appropriate fee and in such event the feepayer shall comply with all applicable provisions of this ordinance.
 - (8) Contracts or agreements to purchase a single residential unit by an owner and resident of the unit executed prior to the effective date of this ordinance are exempt.
 - (9) Any Federal Housing Tax Credit applications that are filed with the Ohio Housing Finance Agency prior to the effective date of the ordinance are exempt.
- (b) Any claim of exemption must be made prior to or at the same time as the submission of the application for a building permit. Any claim not so made shall be deemed waived.

(Ord. 24-05. Passed 5-23-05.)

1345.14 CREDITS AGAINST PAYMENT OF IMPACT FEES.

(a) No credit shall be given for site related improvements or site related right-of-way dedication unless it complies with subsection (d) hereof.

(b) A feepayer may obtain credit against all or a portion of fire/EMS system impact fees otherwise due or to become due by offering concessions or contributions. This offer must specifically request or provide for a fire/EMS system impact fee credit. Such construction must be in accordance with all applicable federal, state, county, and City of Lancaster design and construction standards, laws, regulations, rules, and ordinances. Acceptance of credits for non site related dedication, construction, or concessions listed in subparagraph (d) of this section are solely granted at the discretion of the City of Lancaster through its Service-Safety Director based on the dedication, construction, or concession's overall benefit to the provision of the City Fire/EMS Service and to public health, safety, and welfare. If the Service-Safety Director accepts such an offer, the credit shall be determined and provided in the following manner:

- (1) Credit for the dedication or construction of a non-Site-Related land shall be valued at one hundred percent (100%) of the most recent assessed value by the Fairfield County, Ohio Auditor prior to any increase in value resulting from actual or City approvals of the proposed development, or at the option of the feepayer, by fair market value prior to any increase in value resulting from actual or City approvals of the proposed development and as established by private, independent appraisers acceptable to the City. Credit for the dedication of land shall be provided when the property has been conveyed at no charge to, and accepted by, the City in a manner satisfactory to the Service-Safety Director. All costs associated and in connection with an independent appraisal for the purposes of establishing a fair market value of dedicated land shall be the obligation of the feepayer requesting the credit.
- (2) Applications for credit for concessions shall submit acceptable engineering drawings and specifications, and construction cost estimated to the Service-Safety Director. The Service-Safety Director shall determine the credit amount for construction based upon either these costs estimates or upon alternative engineering standards and construction cost estimates if the Service-Safety Director determines that such estimates submitted by the applicant are either unreliable or inaccurate. The Service-Safety Director shall provide the applicant with a letter or certificate setting forth the dollar amount of the credit, the reason for the credit, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter or certificate indicating his agreement to the terms of the letter or certificate and return such signed document to the Service-Safety Director before credit will be given. The failure of the applicant to sign, date, and return such document within 60 days shall nullify the credit.
- (3) If the City allows the feepayer to construct, build, or purchase the improvement, or piece of equipment as provided in the above paragraph, and if the costs to the feepayer for constructing the fire/EMS improvements exceed the amount of impact fee credit that feepayer will receive, then the City may, at its sole discretion, reimburse the feepayer for the amount of non-site-related improvement costs that exceed the amount of credit the feepayer will receive. The City at its sole discretion may make said reimbursement within two (2) years after the improvement/purchase is complete or as the parties mutually agree.
- (4) Credit against impact fees otherwise due will not be provided until:
 - A. The applicable construction is completed and accepted by the City;
 - B. A suitable maintenance and warranty bond or a letter of credit is received and approved by the Service-Safety Director; and
 - C. All design, construction, inspection, testing, bonding, and acceptance procedures are in strict compliance with the then current City of Lancaster laws, regulations, rules and applicable designs, and construction standards.
- (5) Credits may be provided before completion of specified improvements if adequate assurances are given by the applicant that the standards set out in Section (14)(B)(4)(C) will be met and if the feepayer posts security as provided below for the costs of such construction. Security in the form of a performance bond, irrevocable letter of credit or escrow agreement shall be posted with and approved by the Service-Safety Director in an amount determined by the Service-Safety Director and consistent with the then current approved practice of the City. All costs associated with the feepayer acquiring, maintaining, or presenting the security for which is provided in this paragraph shall be the full obligation of the feepayer and shall not be included in or be a part of any amount of feepayer credit. If the fire/EMS project will not be constructed or purchased within one (1) year of the acceptance of the offer by the Service-Safety Director, the amount of the security shall be increased by ten percent (10%) compounded, for each year of the life of the security. The security shall be reviewed and approved by the Lancaster City Law Director prior to acceptance of the security by the Service-Safety Director.

(c) Any claim for credit by a feepayer shall be made pursuant to the provisions of subsection (b)(1) and (b)(2) of this section, but in no event shall any claim be made later than the sixty (60) days after the application for a building permit or renewal of a building permit, whichever is applicable. Any claim not so made shall be deemed waived.

(d) The City may at its sole discretion consider a credit based on the terms of this chapter for the following concessions or contributions of the property owner:

- (1) Adding fire sprinkler or suppression systems to buildings that would otherwise be too small for applicable building fire codes to require sprinklers;
- (2) The use of non-combustible construction materials where applicable building and fire codes would not require same;
- (3) Provisions for a full perimeter fire lane where applicable building and fire codes would not require same;
- (4) The donation of land for a fire station (only where a new station location would meet the City's needs)
- (5) The provision of a development agreement with the City for purposes of job creation or for consideration of other fee or tax revenue generation.

(e) Credits shall not be transferable from one project or development to another without the approval of the City Council and may only be transferred to a development in a different impact fee district upon a finding by the City Council that the project for which the credit was given benefits such different impact fee district.

(f) In the event fee schedules are subsequently changed to reflect increases or decreases in construction costs or other relevant factors, the fee at the time of the application for a building permit or building permit renewal shall apply.

(g) Determination made by the Service-Safety Director pursuant to the credit provisions of this section may be appealed to the Board of Zoning Appeals pursuant to Section 1345.17.

(Ord. 24-05. Passed 5-23-05.)

1345.15 REVIEW AND TERMINATION OF DISTRICTS.

(a) The fees specified in Section 1345.07(a) shall be reviewed by the City Council at least every two (2) years, and at such review time City Council may maintain, reduce or increase the then current fees. In its review, the City Council shall be guided by, but not be limited to, the following factors:

- (1) Regional changes in the cost of construction materials and labor for facility improvements and equipment;
- (2) Amendments and changes to the City's Land Use Plan;
- (3) Amendments and changes to the City's Fire/EMS Study;
- (4) Interest rate factors for bonds; and
- (5) Changes in accepted and approved Fire/EMS Standards for Provision of Service.

(b) If all land development activity of any particular Fire/EMS System Improvement District is maximized and fully built out, and if all capital improvements and equipment for that district have been fully constructed and completed, and if all financial obligations of that district and the corresponding trust fund are fully paid, and if the Council finds there is no further need for the District and there are no further capital improvements or equipment to be made for the benefit of the District, then in such event the Council shall, by ordinance, dissolve that particular district and any corresponding trust fund(s) for that district. Dissolution and termination of the trust fund(s) and disposition of any remaining balance in such fund(s) shall be pursuant to law.

(Ord. 24-05. Passed 5-23-05.)

1345.16 PENALTY PROVISIONS.

(a) Whoever violates this chapter shall be guilty of the following offenses and shall be subject to the following penalties:

- (1) For a first offense, a misdemeanor of the third degree.
- (2) For any offense beyond the first offense, a misdemeanor of the second degree.
- (3) A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) The City of Lancaster, the Service-Safety Director on behalf of the City of Lancaster, and officer designated by the Service-Safety Director to act on behalf of the City of Lancaster, or the City Law Director may, in addition to the criminal remedies provided in this chapter, file suit for injunction against any violation of this chapter, or if the violation has caused damages to the City of Lancaster for a judgment for damages.

(Ord. 24-05. Passed 5-23-05.)

1345.17 APPEALS.

(a) The Board of Zoning Appeals shall be the Appeals Board for this chapter.

(b) Lancaster Codified Ordinance 1157 shall govern as applicable. Where a conflict between Lancaster Codified Ordinance 1157 and this chapter arises as to the Board of Zoning Appeal's role, this chapter shall control. The appellant shall pay the appeal application fee, the fee to the Board Members, and the impact fee at the time of filing said appeal. For a period of 90 days after the effective date of this chapter, an appellant's application fee shall be waived and the impact fee shall not be paid pending the appeal process. The appellant shall pay the fee for the Board of Zoning Appeal Board Members pursuant to Chapter 1157 of the Codified Ordinances of the City of Lancaster.

(c) The Board shall have jurisdiction to hear and decide all appeals made by any feepayer who has filed a timely appeal and who disagrees with the amount of impact fee required to be paid by that feepayer for the proposed development, or any feepayer who disagrees with any determination of the Service-Safety Director and which pertains to the requirement of an impact fee payment. Unless an extension of time is approved by all parties, all appeals shall be heard by the Board within forty-five (45) days after the filing date of all timely filed appeals. The Board shall render its decision in writing on each appeal within thirty (30) days after it concludes the hearing on that particular appeal.

(d) All appeals shall be made in writing, shall be on forms supplied by the City of Lancaster, shall be filed with the Service-Safety Director, and must be filed no later than fifteen (15) days after the date the Service-Safety Director determines the amount of fee to make his/her determination, whichever is the subject of the appeal. All written appeals shall set forth, in detail, the reasoning and basis of the appeal and shall be signed and notarized. All feepayers filing an appeal shall pay at the time of filing such appeal the then current impact fee appeal fee, as such fee may be administratively established by the Service-Safety Director. The feepayer shall be notified of

the time, place, and date upon which the Board will hear that feepayer's appeal.

(e) The Board shall adopt conclusion of fact for each appeal on which it makes a final decision. No decision in favor of the Appellant shall be made by the Board until and unless the Board determines the following:

- (1) The appeal application was timely filed.
- (2) The reasoning and basis set forth in the appeal application are valid and not solely for the economic benefit of the affected feepayer or owner of the property on which is located the land development activity.
- (3) The relief requested by the Appellant is the minimum relief possible and other alternative relief measures are not practical or feasible.
- (4) Granting the relief sought by Appellant will not cause undue harm to the fire/EMS system in the fire/EMS Improvement District in which the land development activity of the affected feepayer is located.
- (5) Granting the relief sought by Appellant will not cause a sustained, continuous or periodic unsafe or dangerous fire/EMS condition so that it significantly decreases fire/EMS safety in the fire/EMS Improvement District in which the land development activity of the affected feepayer is located.
- (6) Granting the relief sought by Appellant will not cause funds that are collected from fire/EMS system impact fees to be used in a manner inconsistent with Section 1345.11.
- (7) Granting of the relief sought by Appellant will be consistent and in harmony with the intent and purposes set forth in Section 1345.03.
- (8) Granting the relief sought by Appellant will not cause a decrease in the then adopted and established Level of Service of the fire/EMS Improvement District in which the land development activity of the affected feepayer is located.

(f) The impact fee ordered by the Board of Zoning Appeals shall be paid 10 business days after the Board of Zoning Appeal's order is issued.

(Ord. 24-05. Passed 5-23-05.)

1345.18 REPEALER AND LIBERAL CONSTRUCTION.

(a) All code sections, ordinances, or parts thereof in conflict herewith shall be and are hereby repealed to the extent of such conflict.

(b) The provisions of this chapter are hereby found and determined by this Council to be in the furtherance of the public health, safety, welfare, and as such the said provisions shall be liberally construed so as to effectively carry out the purposes of this chapter.

(Ord. 24-05. Passed 5-23-05.)

1345.19 SEVERABILITY.

If any section, phrase, sentence or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

(Ord. 24-05. Passed 5-23-05.)

1345.20 EFFECTIVE DATE.

This chapter shall take effect and be in force July 1, 2005.

(Ord. 24-05. Passed 5-23-05.)

Exhibit A - 1

Fire Impact Fee Schedule

(a) New Residential Units

- (1) The fire impact fee will start being collected on the effective date of the ordinance through August 31, 2005 in the amount of \$555.00.
- (2) The fire impact fee, effective September 1, 2005 through October 31, 2005 shall be \$1,110.00.
- (3) The fire impact fee, effective November 1, 2005 through December 31, 2005 shall be \$1,660.00.
- (4) The fire impact fee effective January 1, 2006 until amended shall be \$2,223.00.

(b) New Commercial Development - \$0.95 per square foot

(c) Mixed uses will be accessed pursuant to the ordinance

CODIFIED ORDINANCES OF LANCASTER

PART FIFTEEN - FIRE PREVENTION CODE

Chap. 1525. Lancaster Fire Code.

Chap. 1530. Payment of Proceeds from Fire Insurance Policies.

Chap. 1535. Outside Tire Storage.

Chap. 1540. Fire Safety.

CHAPTER 1525

Lancaster Fire Code

1525.01 **Adoption.**

1525.02 **Amendments.**

1525.01 ADOPTION.

A certain document, one (1) copy of which is on file with the Fairfield County Law Library, Lancaster City Law Director's Office (Clerk of Council), and the Lancaster Building Department, and copies of which may be ordered at cost in the Law Director's Office, being marked and designated as the Ohio Fire Code, 2017 Edition including Appendixes B-G, as published by the International Code Council, be and is hereby adopted as the Lancaster Fire Code addressing conditions hazardous to life and property from fire, explosion, handling or use of hazardous materials and the use and occupancy of buildings and premises as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said 2017 Ohio Fire Code are hereby referred to, adopted, and made a part hereof, as if fully set out in this chapter, with the additions, insertions, deletions and changes, if any, prescribed in Section 1525.02 - Amendments (Ord. 14-21. Passed 4-26-21.)

1525.02 AMENDMENTS.

The following sections of the Lancaster Fire Code are hereby revised as follows:

Section 101.1 TITLE. The rules as set forth in this code shall be known as the "Lancaster Fire Code" abbreviated "LFC" but hereinafter may also be referred to as the "state fire code" or "this code" or "Ohio Fire Code" throughout the Code.

Section 101.2 SCOPE. This code establishes rules for the administration and enforcement of authorities granted to fire code officials in Lancaster Codified Ordinance Chapter 1303, including but not limited to, regulations affecting or relating to structures, processes, premises and safeguards regarding:

1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
2. Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
3. Fire hazards in the structure or on the premises from occupancy or operation;
4. Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems.
5. Conditions affecting the safety of fire fighters and emergency responders during emergency operations.

Section 104.8 MODIFICATIONS BY FIRE MARSHAL. Replace "Fire Marshal" with "Fire Chief".

Section 108.1 APPEALS OF ORDERS. Appeals of orders made by the fire official relative to the application of this Code shall be in accordance with Lancaster Codified Ordinance Chapter 1303.

Section 109. VIOLATIONS. Replace "State Fire Marshal" with "Fire Chief".

Sections 109.1.1.1- 109.4. Are not adopted.

Section 109.1.5 FIRE CODE ENFORCEMENT. If upon inspection or investigation, the fire chief, or a certified fire safety inspector believes that the Lancaster Fire Code has been violated, the certified fire safety inspector or fire chief may issue to the responsible person either a Notice of Violation pursuant to Lancaster Codified Ordinance Chapter 1303 or an Administrative Violation in accordance with Lancaster Codified Ordinance 101.08.

Sections 109.1.5.1 to 109.1.5.1.4. Are not adopted.

Section 109.1.6 ENFORCEMENT TO REMEDY DANGEROUS CONDITIONS. Replace "Section 3737.41 of the Revised Code" with "Lancaster Codified Ordinance Chapter 1303." Replace "citation pursuant to Section 3737.42 of the Revised Code" with "Notice of Violation of violation pursuant to Lancaster Codified Ordinance Chapter 1303."

Sections 109.3 - 109.3.5. Are not adopted.

Section 109.4 PENALTIES. Penalties are specified for Administrative Violations in 101.08 of the Lancaster Codified Ordinances or for Notice of Violation in Chapter 1303 of the Lancaster Codified Ordinances.

Section 110 UNSAFE BUILDINGS. Replace "citation" with "Notice of Violation". Replace "Section 3737.41 of the Revised Code" with "Lancaster Codified Ordinance Chapter 1303". Replace "citation pursuant to Section 3737.42 of the Revised Code" with "Notice of Violation pursuant to Lancaster Codified Ordinance Chapter 1303".

Section 111 STOP WORK ORDER. Replace "3737.42 of the Revised Code" with "Lancaster Codified Ordinance Chapter 1303."

Section 111.4 FAILURE TO COMPLY. Any person who shall continue any work after having been served with a stop work order, except such work as that person is directed to remove a violation or unsafe condition, shall be subject to penalties in accordance with Lancaster Codified Ordinance Section 101.08 and Lancaster Codified Ordinance Section 1303.99.

Section 112 - 115 Are not adopted.

(Ord. 14-21. Passed 4-26-21.)

CHAPTER 1530

Payment of Proceeds From Fire Insurance Policies

1530.01 Adoption of State procedures.

1530.02 Unsafe buildings to be removed or repaired.

1530.03 Account Insurance Escrow.

1530.04 Administration.

1530.01 ADOPTION OF STATE PROCEDURES.

The procedures contained in Sections 3929.86(C) and (D) of the Ohio Revised Code relating to recovery of costs incurred by the City in repairing, removing or securing fire-damaged buildings or other structures are hereby incorporated and adopted by reference and made a part of this Chapter with the same force and effect as though set out in full herein.

(Ord. 14-97. Passed 2-24-97.)

1530.02 UNSAFE BUILDINGS TO BE REMOVED OR REPAIRED.

No insurance company doing business in the State of Ohio shall pay a claim of a named insured for fire damage to a building or other structure located within the City of Lancaster where the amount recoverable for the fire loss to the building or other structure under all insurance policies exceeds five thousand dollars (\$5,000.00) and the loss equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the building or structure unless there is compliance with the following procedures:

- (a) (1) When the loss agreed to between the named insured or insureds and the insurance company or insurance companies equals or exceeds sixty percent (60%) of the aggregate limits of liability on all fire policies covering the buildings or structure, the insurance company or companies in accordance with subparagraph (F) of Section 715.26 of the Ohio Revised Code shall transfer from the insurance proceeds to the Service-Safety Director in the aggregate of two thousand dollars (\$2,000.00) for each fifteen thousand dollars (\$15,000.00), and each fraction of that amount, of a claim or, if at the time of a proof of loss agreed to between the named insured or insureds and the insurance company or companies the named insured or insureds have submitted a contractor's signed estimate of the costs of removing, repairing, or securing the building or other structure, shall transfer from the insurance proceeds the

amount specified in the estimate.

- (2) Such transfer of proceeds shall be on a pro rata basis by all companies insuring the building or structure. Policy proceeds remaining after the transfer to the City of Lancaster may be disbursed in accord with the policy terms.
- (3) The named insured or insureds may submit a contractor's signed estimate of the costs of removing, repairing or securing the building or other structure after the transfer, and the Service-Safety Director, after notifying the Fire Chief and City Engineer, shall return the amount of the fund in excess of the estimate to the named insured or insureds provided that the City has not commenced to remove, repair, or secure the building or other structure.

(Ord. 21-04. Passed 4-12-04.)

- (b) Upon receipt of proceeds by the City of Lancaster as authorized by the Service- Safety Director by this Section, the Treasurer shall then place the proceeds in a separate fund to be used solely as security against the total cost of removing, repairing or securing the building or structure incurred by the City, pursuant to Section 715.261 of the Ohio Revised Code and the provisions of this Chapter.

When transferring the funds as required in subparagraph (A) of this section, an insurance company shall provide the City of Lancaster with the name and address of the named insured or insureds, whereupon the City shall contact the named insured or insureds, certify that the proceeds have been received by the City and notify them that the following procedure will be followed. The fund shall be returned by the Treasurer at the request of the Service-Safety Director to the named insured or insureds when repairs, or removal, or securing of the building or other structure have been completed and the required proof is received by the Ohio Department of Insurance, provided that the City has not incurred any costs for repairs, removal, or securing. If the City has incurred any costs for repairs, removal or securing of the building or other structure, such costs shall be paid from the fund and if excess funds remain, the City shall transfer the remaining funds to the named insured or insureds after repairing, rebuilding, or removal has been completed. Nothing in this section shall be construed to limit the ability of the City to recover any deficiency under Section 715.261 of the Ohio Revised Code.

Nothing in Section 3929.86(C) of the Ohio Revised Code, as adopted by this ordinance, shall be construed to prohibit the City and the named insured or insureds from entering into an agreement that permits the transfer of funds to the named insured or insureds if some other reasonable disposition of the damaged property has been negotiated. (Ord. 14-97. Passed 2-24-97.)

1530.03 ACCOUNT INSURANCE ESCROW.

There is hereby created an Account Insurance Escrow, for the purpose of receiving and disbursing funds under the terms and conditions of Chapter 1530 of the Codified Ordinances of the City of Lancaster, Ohio.

(Ord. 14-97. Passed 2-24-97.)

1530.04 ADMINISTRATION.

The Service-Safety Director is hereby appointed as the person to administer the provisions of Chapter 1530 of the Codified Ordinances of the City of Lancaster, Ohio.

(Ord. 14-97. Passed 2-24-97.)

CHAPTER 1535

Outside Tire Storage

1535.01 Definitions.

1535.02 Zoning; compliance.

1535.03 Certificate required.

1535.04 Certificate issuance conditions; permit.

1535.05 Permit renewal.

1535.06 Severability.

1535.99 Penalty.

1535.01 DEFINITIONS.

- (a) The following definitions shall be used to clarify the wording used in this chapter:

- (1) "Aquifer", as used herein, means a consolidated or unconsolidated geologic formation or series of formations that are hydraulically interconnected and that have the ability to receive, store or transmit water to wells or springs.
- (2) "Ground water professional", as used herein, means any person certified by the Association of Groundwater Scientists and Engineers to conduct hydrography studies.
- (3) "Open dumping", as used herein, means the deposition of solid wastes into waters of the City, and also means the final deposition of solid wastes on or into the ground at any place other than a solid waste facility.
- (4) "Vector", as used herein, means an organism that transmits a pathogen.
- (5) "Pathogen", as used herein, means a specific cause of disease (as a bacterium or virus).
- (6) "City", as used herein, means the municipal corporation of the City of Lancaster, Fairfield County, Ohio.
- (7) "Daily log", as used herein, means a record reporting the number of tires received, processed into other forms, sold or otherwise removed from the business premises, and to whom and where the tires were sent. A daily log shall be kept for each day a business is open and operating.
- (8) "Tire", as used herein, means any new or used tire or any part thereof, of any tire made from rubber of a natural or synthetic origin.

(Ord. 32-90. Passed 10-22-90.)

1535.02 ZONING; COMPLIANCE.

Any person, firm, corporation or business entity of any type, which, as a part of its business operations, has an outside tire storage in excess of 300 tires as defined, shall operate only in a Class "E" Heavy Industrial District and shall comply with regulations established in

this chapter.

(Ord. 32-90. Passed 10-22-90.)

1535.03 CERTIFICATE REQUIRED.

No person shall operate any business with the outside storage of tires without obtaining a Certificate of Occupancy and Compliance reviewed and approved by the City Planning Commission. A detailed site plan, along with a completed application for a Certificate of Occupancy and Compliance, shall be submitted no later than fifteen days prior to the monthly City Planning Commission meeting.
(Ord. 32-90. Passed 10-22-90.)

1535.04 CERTIFICATE ISSUANCE CONDITIONS; PERMIT.

A Certificate of Occupancy and Compliance shall only be issued if the proposed facility meets the following conditions. The operating facility, after a compliance is issued, shall continue to comply with these conditions:

(a) The storage facility:

- (1) Complies with any and all previously adopted codes such as those referenced in the Building Officials and Code Administrators (BOCA) Fire Prevention Code and Existing Structures Code.
- (2) Shall not be located within any area determined to have a ground water time of travel of less than five years to a City-owned water well. A study is to be performed by a certified Ground Water Professional, as defined herein. The cost of any necessary hydrogeologic study to make such a determination shall be borne by the applicant.
- (3) Shall not be located on any lot, combination of lots or parcel of land which lies within an Area of Special Flood Hazard, as defined in Chapter 1331 of the Codified Ordinances.
- (4) Shall not be located within 500 feet of any lot, combination of lots or parcel of land zoned for residential use.
- (5) Shall not be permitted to cover an aggregate ground area greater than 2,500 square feet, nor exceed a height of ten feet as measured from the average ground grade immediately adjacent to the storage area. Outside storage in excess of these limitations shall be considered open dumping, as defined herein, and is hereby prohibited within the corporation limits of the City.

(b) In addition to all previously listed requirements, the storage of tires shall not be permitted unless:

- (1) A permit has been obtained from the City's Fire Prevention Bureau after approval of a detailed plan for fire control submitted by the applicant. Such business shall also be required to maintain a daily log, as defined herein detailing the amount of tires received and disposed of, and the method of disposal. Copies of the daily log shall be submitted to such Bureau on a monthly basis. The Bureau shall monitor the accumulation of tires.
- (2) A permit has been obtained from the City's Health Department after approval of a detailed plan is submitted by the applicant. Such plan shall show and provide for effective control measures for mosquitoes and other vectors. The City Board of Health shall certify that the manner in which the tires are stored does not constitute a nuisance or a public health hazard.

(Ord. 32-90. Passed 10-22-90.)

1535.05 PERMIT RENEWAL.

The permits issued by the Fire Prevention Bureau and Health Department shall be renewed annually, provided that all conditions of this chapter have been met.

(Ord. 32-90. Passed 10-22-90.)

1535.06 SEVERABILITY.

Should any section or provision of this chapter be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid.

(Ord. 32-90. Passed 10-22-90.)

1535.99 PENALTY.

(a) Any person, firm, corporation or business entity violating any of the provisions of this chapter, or failing to comply with any order issued pursuant to any section thereof, shall be guilty of a misdemeanor of the first degree, and upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1,000) and/or six months' imprisonment. Each day that a violation continues, after notification, shall constitute a separate offense.

(b) The imposition of the penalties, herein described, shall not prevent the legal officer of the City from instituting appropriate action to prevent unlawful activity, or to restrain, correct or abate a violation; or to prevent illegal occupancy of a building, structure or premises; or to stop an illegal act, conduct a business, or use of a building or structure in or about any premises.

(Ord. 32-90. Passed 10-22-90.)

CHAPTER 1540

Fire Safety

1540.01 Definitions.

1540.02 Open burning in restricted areas.

1540.99 Penalty.

1540.01 DEFINITIONS.

(EDITOR'S NOTE: This section is reserved for future definitions.)

1540.02 OPEN BURNING IN RESTRICTED AREAS.

(a) No person or property owner shall cause or allow open burning in a restricted area except as provided in subsections (b) to (d) hereof, or Ohio R.C. 3704.11.

(b) Open burning shall be allowed for the following purposes without notification to or permission for the Ohio EPA:

- (1) Heating tar, welding, acetylene torches, highway safety flares, heating for warmth of outdoor workers and strikers, smudge pots, and similar occupational needs.

- (2) Bonfires, campfires, and outdoor fireplace equipment, whether for cooking food for human consumption, pleasure, religious, ceremonial, warmth, recreational, or similar purposes if the following conditions are met:
 - A. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent or lower than those created from the burning of seasoned firewood;
 - B. They are not used for waste disposal purpose; and
 - C. They shall have a total fuel area of three feet or less in diameter and two feet or less in height.
- (3) Disposal of hazardous explosive materials, military munitions, or explosive devices that require immediate action to prevent endangerment of human health, public safety, property or the environment and that are excluded from the requirement to obtain a hazardous waste permit pursuant to paragraph (D)(1)(d) of rule 3745-50-45 of the Administrative Code.
- (4) Recognized training in the use of fire extinguishers for commercial or industrial fire prevention.

Fires allowed by subsections (b)(1), (b)(2) and (b)(4) hereof shall not be used for waste disposal purposes and shall be of minimum size sufficient for their intended purpose; the fuel shall be chosen to minimize the generation and emission of air contaminants.

(c) Open burning shall be allowed for the following purposes with prior notification to the Ohio EPA in accordance with paragraph (B) of rule 3745-19-05 of the Administrative Code:

- (1) Prevention or control of disease or pests, with written or verbal verification to the Ohio EPA from the local health department, cooperative extension service, Ohio Department of Agriculture or U.S. Department of Agriculture, that open burning is the only appropriate disposal method.
- (2) Bonfires or campfires used for ceremonial purposes that do not meet the requirements of subsection (b)(2) hereof, provided the following conditions are met:
 - A. They have a total fuel area no greater than five feet in diameter by five feet in height and burn no longer than three hours;
 - B. They are not used for waste disposal purposes; and
 - C. They are fueled with clean seasoned firewood, natural gas or equivalent, or any clean burning fuel with emissions that are equivalent to or lower than those created from the burning of seasoned firewood.
- (3) Disposal of agricultural waste generated on the premises if the following conditions are observed:
 - A. The fire is set only when atmospheric conditions will readily dissipate contaminants;
 - B. The fire does not create a visibility hazard on the roadways, railroad tracks or air fields;
 - C. The fire is located at a point on the premises no less than 1000 feet from any inhabited building not located on said premises;
 - D. The wastes are stacked and dried to provide the best practicable condition for efficient burning; and
 - E. No materials are burned which contain rubber, grease, asphalt, or liquid petroleum products.
- (d) Open burning shall be allowed for the following purposes upon receipt of written permission from the Ohio EPA, in accordance with paragraph (A) of rule 3745-19-05:
 - (1) Disposal of ignitable or explosive materials where the Ohio EPA determines that there is no practical alternative method of disposal, excluding those materials identified in subsection (b)(3) hereof.
 - (2) Instruction in methods of fire fighting or for research in the control of fires as recognized by the State Fire Marshal, Division of the Ohio Department of Commerce and the guidelines set forth in the National Fire Protection Association's NFPA publication 1403: "Standards on Live Fire Training Evolutions, Chapter 4, Acquired Structures", provided that the application required in paragraph (A)(1) of rule 3745-19-05 is submitted by the commercial or public entity responsible for the instruction;
 - (3) In emergency or other extraordinary circumstances for any purpose determined to be necessary by the Director and performed as identified in the appendix of this rule. If deemed necessary, the open burning may be authorized with prior oral approval by the Director followed by the issuance of a written permission to open burn within seven working days of the oral approval.
 - (4) Recognized horticultural, silvicultural, range, or wildlife management practices; and
 - (5) Fires and/or pyrotechnic effects, for purposes other than waste disposal, set as part of commercial film-making or video production activities for motion pictures and television.

(Ord. 15-07. Passed 3-12-07.)

1540.99 PENALTIES.

Whoever violates this section is guilty of a unclassified misdemeanor with a one hundred fifty dollar (\$150.00) fine on the first offense, and a misdemeanor of the fourth degree on any subsequent offenses.

(Ord. 15-07. Passed 3-12-07.)