

ORDINANCE NO. 142 -2023
INTRODUCED BY: Ursu

AN ORDINANCE APPROVING THE CODIFICATION, EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF RICHMOND HEIGHTS, OHIO, AND APPROVING THE UPDATING OF VARIOUS SECTIONS OF THE TRAFFIC AND GENERAL OFFENSES CODES TO COMPLY WITH STATE LAW.

WHEREAS, various ordinances of a general and permanent nature have been passed which should be included in the Codified Ordinances of Richmond Heights, Ohio; and

WHEREAS, numerous sections in the current Traffic and General Offenses Codes need to be revised to reflect the current law in Ohio.

NOW, THEREFORE, Be It Ordained by the Council of the City of Richmond Heights, State of Ohio, that:

SECTION 1. The codification, editing, arrangement and numbering or renumbering of the following ordinances and parts of ordinances are hereby approved as parts of the various component codes of the Codified Ordinances of Richmond Heights, Ohio, so as to conform to the classification and numbering system of the Codified Ordinances, to-wit:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
99-2022	9-13-22	162.01 to 162.05
101-2022	9-27-22	501.99(d)
128-2022	10-25-22	1353.01 to 1353.08; Repeals 1309.05 (301.4.1.2)
154-2022	2-14-23	137.19; Repeals 133.01
15-2023	3-14-23	761.04, 761.99
22-2023	3-14-23	1325.16
24-2023	2-14-23	159.02 to 159.09, 159.15
77-2023	5-23-23	333.12, 335.15
81-2023	6-27-23	763.01 to 763.07
97-2023	6-27-23	935.01; Repeals 935.99

SECTION 2: That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law.

Traffic Code

303.081	Impounding Vehicles on Private Residential or Agricultural Property. (Amended)
303.082	Private Tow-Away Zones. (Amended)
303.083	Impounding Vehicles on Public Property. (Amended)
303.09	Leaving Junk and Other Vehicles on Private or Public Property Without Permission or Notification. (Amended)
303.10	Leaving Junk Vehicles on Private Property With Permission of Owner. (Amended)
303.991	Committing an Offense While Distracted Penalty. (Amended)

Traffic Code (Cont.)

331.35	Occupying Travel Trailer, Fifth Wheel Vehicle or Manufactured or Mobile Home While in Motion. (Amended)
333.01	OVI; Willful Misconduct; Speed. (Amended)
333.03	Maximum Speed Limits; Assured Clear Distance Ahead. (Amended)
335.07	Driving Under Suspension or License Restriction. (Amended)
335.071	Driving Under OVI Suspension. (Amended)
335.072	Driving Under Financial Responsibility Law Suspension or Cancellation; Driving Under a Nonpayment of Judgment Suspension. (Amended)
335.073	Driving Without Complying With License Reinstatement Requirements. (Amended)
335.074	Driving Under License Forfeiture or Child Support Suspension. (Amended)
337.10	Lights, Emblems, and Reflectors on Slow-Moving Vehicles, Farm Machinery, Agricultural Tractors, and Animal-Drawn Vehicles. (Amended)
337.16	Number of Lights; Limitations on Flashing, Oscillating or Rotating Lights. (Amended)
337.22	Windshield and Windshield Wiper; Sign or Poster Thereon. (Amended)
341.01	Commercial Drivers Definitions. (Amended)

General Offenses Code

501.01	General Provisions and Penalty Definitions. (Amended)
501.99	Penalties for Misdemeanors. (Amended)
505.12	Coloring Rabbits or Baby Poultry; Sale or Display of Poultry. (Amended)
509.04	Disturbing a Lawful Meeting. (Amended)
509.14	Impeding Public Passage of an Emergency Service Responder. (Added)
513.01	Drug Abuse Control Definitions. (Amended)
513.03	Drug Abuse; Controlled Substance Possession or Use. (Amended)
513.04	Possessing Drug Abuse Instruments. (Amended)
513.12	Drug Paraphernalia. (Amended)
513.121	Marihuana Drug Paraphernalia. (Amended)
517.08	Raffles. (Amended)
521.13	Spreading Contagion. (Added)
525.05	Failure to Report a Crime, Injury or Knowledge of Death. (Amended)
529.07	Open Container Prohibited. (Amended)
533.01	Obscenity and Sex Offenses Definitions. (Amended)
533.06	Voyeurism. (Amended)
533.08	Procuring; Engagement in Sexual Activity for Hire. (Amended)
537.03	Assault. (Amended)
537.06	Menacing. (Amended)
537.07	Endangering Children. (Amended)

General Offenses Code (Cont.)

537.15	Temporary Protection Order. (Amended)
545.05	Petty Theft. (Amended)
549.02	Carrying Concealed Weapons. (Amended)
549.04	Improperly Handling Firearms in a Motor Vehicle. (Amended)
549.15	Possessing Replica Firearm in School. (Amended)

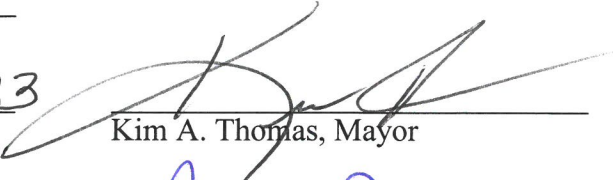
SECTION 3. The complete text of the Traffic and General Offenses Code sections listed above is set forth in full in the 2023 replacement pages to the Codified Ordinances which are hereby attached to this ordinance as Exhibit A. Any summary publication of this ordinance shall include a complete listing of these sections. Notice of adoption of each new section by reference to its title shall constitute sufficient publication of new matter contained therein.

SECTION 4. This Council finds and determines that all formal actions of this Council concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 5. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

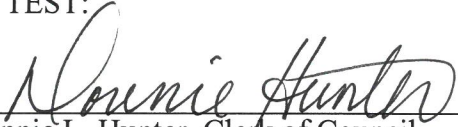
PASSED: October 19, 2023

APPROVED: October 19, 2023

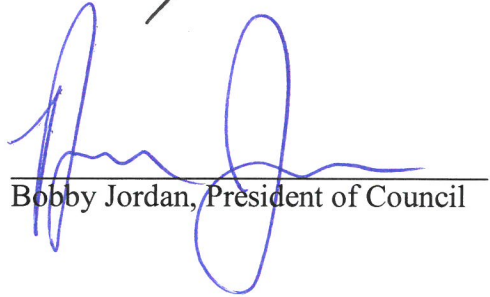


Kim A. Thomas, Mayor

ATTEST:



Donnie L. Hunter, Clerk of Council



Bobby Jordan, President of Council

CODIFIED ORDINANCES
OF THE CITY OF
RICHMOND HEIGHTS, OHIO

Local legislation current through July 25, 2023
State legislation current through January 6, 2023

DISCLAIMER
The Codified Ordinances and other documents that appear in this FOLIO Infobase may not reflect the most current legislation adopted by the Municipality. The Codified Ordinances are provided for informational purposes only and should not be relied upon as the definitive authority for local legislation. Additionally, the formatting and pagination of the posted documents vary from the formatting and pagination of the official copy. The official printed copy of the Codified Ordinances should be consulted prior to any action being taken.
For further information regarding the official version of any portion of the Codified Ordinances in this FOLIO Infobase, please contact the Municipality directly

CERTIFICATION
We, Kimberly Thomas, Mayor, and Donnie Hunter, Clerk of Council, pursuant to Ohio R.C. 731.23 and 731.42, hereby certify that the general and permanent ordinances of the City of Richmond Heights, 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 Richmond Heights, Ohio, 1970, as amended to July 25, 2023.
/s/ Kimberly Thomas Mayor
/s/ Donnie Hunter Clerk of Council

Codified, edited and prepared for publication by
THE WALTER H. DRANE COMPANY
Cleveland, Ohio
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CITY OF RICHMOND HEIGHTS
ROSTER OF OFFICIALS
(2023)

- COUNCIL
Bobby Jordan President
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Juanita Lewis At Large
Erron Bell Ward 1
Frank Lentine Ward 2
Cassandra Nelson Ward 3
Mark Alexander Ward 4
Donnie Hunter Clerk
- ADMINISTRATION
Kimberly Thomas Mayor
(TBD) Director of Finance
Kimberly Thomas Safety Director
Todd Hunt Law Director
Anthony Miceli Tax Administrator
(TBD) Economic Development Director

The publisher expresses their appreciation to
TODD HUNT
Director of Law
(TBD)
Director of Finance
DONNIE HUNTER
Clerk of Council
and to all other City officials who gave their time and counsel to the preparation of the 1984 revision of the Codified Ordinances and the preparation of the 2023 Replacement Pages.
ADOPTING ORDINANCE NO. 82-70

INTRODUCED BY: Mr. Starkey
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 Richmond Heights, 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 Richmond Heights, Ohio, that:
Section 1: The Ordinances of the City of Richmond Heights, 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 Richmond Heights, Ohio, 1970.
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 Richmond Heights, Ohio.
Section 2: 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. All Ordinances and Resolutions or parts thereof 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 legislative 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 February 23, 1970.
Section 3: Any section of the 1970 Codified Ordinances without a legislative history at the end thereof indicates that such section contains new matter ordained by this Adopting Ordinance.
Section 4: Pursuant to Article 10, Section 1, of the City Charter and Section 123.01 of the Codified Ordinances, the Clerk of Council shall post a copy of this Ordinance together with a copy of the Codified Ordinances for a period of not less than fifteen days in the five public places as required by law.
Section 5: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of property, public health and safety, and for the further reason it provides standards and regulations essential to the public interest, and therefore it shall take effect and be in force immediately after its passage by Council and signature by the Mayor.
Passed: July 8, 1970

/s/ Richard S. St. John Mayor
Attest: /s/ Walter M. Boone Clerk of Council
/s/ E. X. Sutton President of Council

OF COPY

I, Walter M. Boone, as Clerk of Council of the City of Richmond Heights, Ohio, do hereby certify that the foregoing is a true and correct copy of Ordinance No. 82-70 adopted by the Council of the City of Richmond Heights, Ohio, on the 8th day of July 1970.

/s/ Walter M. Boone
Clerk of Council

CONTENTS
PRELIMINARY UNIT
Comparative Section Table
Tables of Special Ordinances
CODIFIED ORDINANCES OF RICHMOND HEIGHTS, OHIO

CHARTER
PART ONE - Administrative Code
PART THREE - Traffic Code
PART FIVE - General Offenses Code
PART SEVEN - Business Regulation Code
PART NINE - Streets and Public Services Code
PART ELEVEN - Planning and Zoning Code
PART THIRTEEN - Building Code
PART FIFTEEN - Fire Prevention Code

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 1970 Codified Ordinances of Richmond Heights was ordinances or resolutions enacted by City Council or new matter ordained by the Adopting Ordinance. Sections of the 1970 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 1970 Richmond Heights Codified Ordinances is indicated.

<u>Ord. No.</u>	<u>Date</u>	<u>C. O. Section</u>
88	9-3-29	1131.01 to 1131.03, 1131.05, 1131.06, 1131.99, 1133.01(a) to (i), (k) to (x), 1135.02, 1135.03, 1135.06, 1139.01(b), 1141.08, 1147.01, 1147.02, 1149.01, 1149.02, 1151.01, 1151.02
156	4-1-40	509.01
157	4-1-40	501.13
166	8-4-41	525.10
200	9-5-44	525.11
240	3-17-47	1101.01 to 1101.06
253	9-15-47	773.01, 773.02
336	10-1-51	137.01
356	7-7-52	1317.01
409	11-16-53	537.24(b)
444	4-5-54	517.01
507	12-20-54	1151.04
58-41	10-28-58	373.01, 373.04, 373.05
185-43	5-17-43	505.07
446-54	5-3-54	351.13
468-54	6-1-54	757.01, 757.02
<u>Ord. No.</u>	<u>Date</u>	<u>C. O. Section</u>
538-55	4-4-55	1103.01, 1103.04, 1103.05(a), (b), (d)(1) to (4), (e)(1) to (16), (f) to (k), 1103.06, 1103.07(a)(1) to (16), (c) to (z), 1103.99
560-55	6-30-55	1317.02
614-56	3-19-56	1133.01(j), 1151.03, 1153.02, 1153.04, 1153.05
715-57	4-15-57	1305.01 to 1305.08, 1305.99
753-57	12-30-57	351.12
746-58	1-20-58	933.01 to 933.04, 933.99
806-59	4-6-59	907.01, 907.02
809-59	3-2-59	1325.01, 1325.02
814-59	4-20-59	1341.01 to 1341.18, 1341.99
818-1959	7-6-59	1131.04
820-59	7-6-59	741.01 to 741.19
842-59	11-16-59	141.02 to 141.08
847-59	12-21-59	141.09
2-60	1-2-60	135.01 to 135.04
12-60	2-16-60	141.10
19-60	9-20-60	1135.08
<u>Ord. No.</u>	<u>Date</u>	<u>C. O. Section</u>
22-60	9-20-60	131.01
29-60	12-6-60	513.01 to 513.03, 513.05, 513.06(a), 513.09
9-61	5-2-61	1141.02, 1141.04, 1141.05 to 1141.07
17-61	5-2-61	339.99
30-61	11-21-61	101.01, 101.02, 101.04, 101.05, 101.07, 101.99, 123.01, 145.01, 145.02(a), 301.01 to 301.07, 301.09, 301.10, 301.12, 301.14, 301.16 to 301.18, 301.22 to 301.26, 301.28 to 301.34, 301.36 to 301.40, 301.42, 301.45 to 301.47, 301.49, 303.03, 303.05, 303.08, 311.03 to 311.05, 313.01, 313.02, 313.05 to 313.08, 331.02, 331.04 to 331.06, 331.08 to 331.10, 331.12(a), 331.14 to 331.16, 331.18, 331.19, 331.22, 331.28 to 331.33, 331.35, 331.38, 333.07, 335.05, 335.06, 335.11, 335.14, 337.02, 337.09, 337.11, 337.17, 337.19(a), (b), 337.22, 337.23, 339.04, 339.05, 339.11, 351.01, 351.02, 351.04, 351.06, 351.07, 351.09, 351.10, 351.14, 371.01 to 371.06, 373.07, 501.01 to 501.06(a), 505.03 to 505.05, 505.11, 509.02, 509.03, 509.05, 513.10, 517.02, 517.03(a),(b), 517.04, 517.05, 517.08 to 517.10, 521.01 to 521.03, 521.05, 521.06, 525.02(b), 525.03, 529.02, 529.03, 529.05, 529.07, 529.08, 533.01, 533.03 to 533.05, 537.02, 537.05, 537.06(a), 537.07, 537.08, 537.14 to 537.16, 537.20 to 537.22, 545.01 to 545.03, 709.01, 725.01 to 725.07, 725.99, 741.99, 757.03, 757.99, 773.99, 789.01 to 789.04, 789.08, 789.09, 789.99, 901.01 to 901.08, 901.99, 903.01, 903.03, 903.04, 903.99, 905.01 to 905.04, 905.99, 1303.02, 1303.03, 1303.98(a) to (c),(e), 1317.99, 1345.01 to 1345.03, 1345.99, 1501.02 to 1501.07, 1501.98(i), 1501.99
7-62	2-20-62	1157.01 to 1157.03
9-62	10-16-62	1135.07
18-62	6-10-62	133.01
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
26-62	11-20-62	147.01, 147.02
17-63	4-2-63	1301.02 to 1301.04
24-63	6-4-63	1325.10
31-63	7-9-63	105.01
3-64	2-4-64	137.03
5-64	2-4-64	141.11
7-64	3-3-64	303.09
9-64	4-14-64	1313.01 to 1313.04, 1313.99
10-64	4-14-64	1337.01, 1337.02(b), to 1337.12, 1337.99
11-64	4-21-64	1103.02, 1103.05(c), (d)(5), (e)(18), (19), 1103.07(a)(17)(b), 1103.08
15-64	7-14-64	1503.01 to 1503.21, 1503.99
21-64	7-28-64	145.02(b)
23-64	6-23-64	545.06
30-64	9-8-64	150.01 to 150.06
34-64	10-13-64	351.15
35-64	10-13-64	931.01
38-64	12-22-64	911.01 to 911.13, 911.99
40-64	1-12-65	313.03, 331.01, 331.17, 335.12, 335.13
7-65	1-26-65	545.09, 545.99(c)
17-65	2-9-65	151.01
44-65	7-13-65	1153.03
49-65	6-8-65	1157.02
5-66	5-10-66	183.01 to 183.10, 183.99

13-66	4-12-66	1141.01, 1141.03, 1141.09 to 1141.17
15-66	1-25-66	351.16
19-66	2-8-66	517.06(b)(c)
28-66	4-12-66	1139.01(a), 1143.01, 1153.01
31-66	4-12-66	1337.05
37-66	5-10-66	1337.02(a)
43-66	5-10-66	143.02 to 143.04
<u>Ord. No.</u>	<u>Date</u>	<u>C. O. Section</u>
44-66	5-10-66	145.03
52-66	6-28-66	1133.01(k) to (x)
59-66	9-27-66	1135.01, 1135.05, 1145.01 to 1145.05
60-66	6-28-66	537.24(a)
66-66	7-11-66	1103.05(e)(17)
72-66	8-23-66	345.01 to 345.13, 345.99
74-66	8-23-66	141.14 to 141.19
94-66	10-11-66	509.10
103-66	12-27-66	951.04
104-66	12-13-66	537.23
Res.12-67	2-14-67	137.02
13-67	2-28-67	1501.08
15-67	2-28-67	1103.09
36-67	6-13-67	181.01, 181.02, 181.04 to 181.16, 181.18 to 181.22, 181.25 to 181.50, 181.99
39-67	5-9-67	171.01
41-67	5-23-67	1321.01
42-67	5-23-67	1325.09
43-67	5-23-67	903.05
44-67	6-27-67	131.02
93-67	1-9-68	141.08(a), 141.13, 143.05, 159.01, 159.02
7-68	1-9-68	135.05
11-68	1-9-68	313.09
12-68	1-9-68	301.11, 301.20, 301.27, 301.48, 301.51, 303.01, 331.20, 331.21, 331.24, 333.01(a), (b), 333.02, 333.06, 333.08, 333.09, 333.99(a), (b), 337.16, 337.20, 337.21, 339.03, 373.02
13-68	1-9-68	343.05, 501.10
20-68	3-12-68	789.05 to 789.07, 789.10
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
31-68	3-12-68	151.03
38-68	3-26-68	151.02
40-68	5-14-68	1135.04
56-68	5-14-68	181.23, 181.24
66-68	6-25-68	181.03, 181.17
67-68	6-25-68	1325.03 to 1325.08
71-68	6-25-68	509.11
81-68	7-9-68	141.12
114-68	11-12-68	159.01
123-68	11-12-68	1303.98(d)A. to C.
125-68	12-17-68	931.02 to 931.04, 931.99
8-69	1-14-69	1157.04
12-69	2-25-69	1329.01
14-69	4-8-69	517.11
33-69	4-8-69	1333.01 to 1333.03, 1333.99
48-69	5-13-69	533.07(b)
49-69	5-13-69	1103.03
56-69	6-24-69	159.05
68-69	6-10-69	1303.98(d)D.
72-69	7-22-69	1309.01 to 1309.25, 1309.99
73-69	6-24-69	1153.06
86-69	7-22-69	150.07
128-69	10-28-69	1501.98(a) to (h), (j) to (l)
150-69	11-25-69	159.03, 159.04
22-70	1-27-70	951.01 to 951.03, 951.99
Res.30-70	2-10-70	121.01 to 121.27
Adopting Ordinance		101.03, 101.06, 141.01, 143.01, 301.08, 301.13, 301.15, 301.19, 301.21, 301.35, 301.41, 301.43, 301.44, 301.50, 303.02, 303.04, 303.06, 303.07, 303.99, 305.01 to 305.09, 311.01, 311.02, 313.04, 331.03, 331.07, 331.11, 331.12(b), 331.13, 331.23, 331.25 to 331.27, 331.34, 331.36, 331.37, 331.39, 333.01(c), 333.03 to 333.05, 333.99(c), 335.01 to 335.04, 335.07 to 335.10, 335.99, 337.01, 337.10 to 337.15, 337.18, 337.19(c), 337.24, 337.25, 339.01, 339.02, 339.06 to 339.10, 341.01 to 341.03, 341.99, 343.01 to 343.04, 343.99, 345.14, 351.03, 351.05, 351.08, 351.11, 351.99, 373.03, 373.06, 373.08 to 373.10, 501.06(b) to 501.12, 501.99, 505.01, 505.02, 505.06, 505.08 to 505.10, 505.99, 509.04, 509.06 to 509.09, 509.99(a), (b), 513.04, 513.06(b) to 513.08, 513.99, 517.03(c), 517.06(a), 517.99, 521.04, 521.07 to 521.09, 521.99, 525.01, 525.02(a), 525.04 to 525.09, 525.99, 529.01, 529.04, 529.06, 529.99, 533.02, 533.06, 533.07(a), 533.99, 537.01, 537.04, 537.06(b), (c), 537.09 to 537.13, 537.17 to 537.19, 537.99, 545.04, 545.05, 545.07, 545.08, 545.99(a), (b), 903.02, 1133.01(y), 1301.01, 1303.01, 1501.01
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
73-66	8-23-66	537.23(b), (c)
104-66	12-13-66	537.23(a)
33-70	7-14-70	161.01 to 161.04
46-70	3-10-70	951.05
66-70	5-26-70	151.04
86-70	7-14-70	351.03(q) to (t)
91-70	9-8-70	154.01 to 154.09
97-70	10-27-70	951.01 to 951.03, 951.99; Repeals 517.08
110-70	1-26-71	105.01 to 105.05
2-71	1-21-71	137.04(a), (b)
4-71	1-26-71	137.04(c)
25-71	5-25-71	1361.01, 1361.02, 1361.04 to 1361.08, 1361.99
26-71	4-13-71	303.08(e)
45-71	6-22-71	951.04
62-71	9-14-71	1361.03
73-71	11-9-71	333.01
80-71	12-13-71	181.03, 181.04, 181.08, 181.11, 181.16 to 181.18, 181.20 to 181.24, 181.26, 181.34, 181.46
82-71	1-25-72	705.01 to 705.03, 705.99
28-72	1-25-72	1304.01 to 1304.03, Repeals 1303.98 (RDH §1521.15)
72	1-25-72	152.01
72	3-28-72	951.06
72	3-28-72	903.01
42-72	3-28-72	1103.03
43-72	3-28-72	1325.01 to 1325.10
44-72	3-28-72	1329.01
48-72	4-11-72	181.02(a)
50-72	4-25-72	505.08
51-72	4-25-72	1329.02
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
66-72	8-29-72	155.01
67-72	12-12-72	143.05, 159.01 to 159.07; Repeals 137.03, 141.13
72-72	8-31-72	1121.01 to 1121.08, 1123.01 to 1123.08, 1125.01 to 1125.10, 1131.01 to 1131.06, 1135.01 to 1135.07, 1139.01 to 1139.11, 1143.01 to 1143.09, 1147.01 to 1147.10, 1151.01 to 1151.10, 1155.01 to 1155.07, 1159.01 to 1159.10, 1163.01 to 1163.07, 1167.01 to 1167.10, 1171.01 to 1171.11, 1173.01 to 1173.05, 1175.01 to 1175.11, 1177.01 to 1177.08, 1179.01 to 1179.04, 1179. 07 to 1179.12, 1181.01 to 1181.06, 1185.01 to 1185.09, 1187.01, 1187.99, 1189.01
75-72	8-29-72	1501.98(FPC §11.3, 14.4)
84-72	11-14-72	156.01 to 156.03
93-72	11-14-72	137.05
94-72	12-12-72	1325.11 to 1325.14
2-73	3-13-73	1179.05, 1179.06

3-73	2-27-73	123.01
10-73	2-27-73	137.07
11-73	1-23-73	137.06
12-73	1-23-73	953.01 to 953.04, 953.99
34-73	5-8-73	Repeals 1337.01 to 1337.12, 1337.99
37-73	5-8-73	1325.15
<u>Ord. No. Date C.O. Section</u>		
33-73	4-24-73	181.08
85-73	10-23-73	1135.04
86-73	2-12-74	1325.05, 1325.15
Res.88-73	10-9-73	Chap. 1185 Editor's Note
96-73	11-13-73	181.18, 181.21
99-73	12-11-73	156.01
100-73	12-11-73	Part 5 - Gen. Off. Code
4-74	1-8-74	135.05
24-74	1-22-74	152.01
37-74	3-12-74	951.99
40-74	4-9-74	951.07
43-74	3-26-74	125.01 to 125.06
44-74	3-26-74	525.14
46-74	4-9-74	1303.98 (RDH 1587.03)
59-74	6-25-74	1175.06
72-74	6-25-74	509.12
86-74	7-8-74	789.08
95-74	9-10-74	1325.02(d), (e)
105-74	9-24-74	143.01
112-74	12-10-74	761.01 to 761.06
125-74	11-12-74	141.20
131-74	11-26-74	1303.98 (RDH 1545.21, 1545.22)
133-74	11-26-74	123.02
137-74	12-17-74	1313.01, 1313.02, 1313.04 to 1313.07, 1313.99
144-74	12-17-74	1304.01
5-75	2-25-75	1185.08
Res.19-75	2-11-75	1325.18
31-75	2-25-75	953.03, 953.04
50-75	3-25-75	Part 3 - Traffic Code
55-75	5-27-75	137.08
58-75	11-25-75	1501.98 (FPC 14.8)
84-75	10-14-75	1325.16
85-75	7-9-75	141.06
105-75	11-11-75	121.01 to 121.25, 121.27 to 121.34
<u>Ord. No. Date C.O. Section</u>		
113-75	12-23-75	1325.02(a) to (c), 1325.07, 1325.12, 1325.17
121-75	12-23-75	313.10
2-76	1-13-76	133.02
7-76	1-13-76	121.26
12-76	1-27-76	147.03
14-76	1-27-76	145.02
20-76	3-9-76	732.01 to 732.14, 732.99
22-76	5-11-76	1121.09 to 1121.11
29-76	3-23-76	1345.02
31-76	4-27-76	553.01 to 553.11, 553.99
32-76	3-23-76	505.14
35-76	3-23-76	159.01 to 159.10
44-76	4-13-76	149.01
56-76	6-8-76	151.05
72-76	8-30-76	1125.07
87-76	9-14-76	143.06
90-76	10-26-76	137.09
91-76	10-26-76	1501.08
95-76	10-12-76	131.02
97-76	10-12-76	1305.02(a)
110-76	11-9-76	1313.03
119-76	11-30-76	513.01 to 513.11, 513.99
54-63	12-17-63	1303.98 (RDH 1539.13, 1575.11, 1579.19, 1593.05, 1593.62)
Res.18-75	2-11-75	1315.01, 1315.03, 1315.04
127-76	1-25-77	1185.07
7-77	1-11-77	1505.01 to 1505.06, 1505.99
12-77	7-5-77	703.01 to 703.10, 703.99
<u>Ord. No. Date C.O. Section</u>		
18-77	3-8-77	1303.98 (RDH 1503.13), 1505.10, 1521.15, 1523.06, 1539.13, 1553.01(c), 1553.02(c), 1557.03, 1567.09, 1573.02, 1575.11(c), 1575.12(d), 1579.19(a), 1581.02(a), (d), 1587.03, 1593.05(c), 1593.53(d), 1593.58, 1593.62(b), (c), 1593.65(a), 1593.74(f)
22-77	3-8-77	1345.02
35-77	4-12-77	151.01
46-77	5-24-77	159.14
Res.63-77	5-24-77	1315.02
Res.64-77	5-24-77	1315.05, 1315.06, 1315.09
89-77	8-31-77	145.04
Res.90-77	8-31-77	1315.10
96-77	9-27-77	163.01 to 163.04
107-77	11-8-77	161.01, 161.02, 161.99
114-77	11-22-77	1135.02(g), 1135.04
118-77	1-10-78	151.05
120-77	11-22-77	729.01 to 729.18, 729.99
121-77	12-13-77	783.01 to 783.03, 783.99
123-77	12-27-77	1315.07, 1315.08, 1325.01 to 1325.17, 1325.19
127-77	12-27-77	1313.06
7-78	1-24-78	1325.20
8-78	3-14-78	1103.03
<u>Ord. No. Date C.O. Section</u>		
13-78	1-24-78	1361.06(e)
20-78	2-14-78	903.01
21-78	2-14-78	903.05
23-78	2-14-78	1325.21
25-78	2-14-78	1317.02
25-78	2-14-78	901.02
26-78	2-14-78	1329.01
32-78	2-28-78	151.03
35-78	2-28-78	1303.98 (RDH 1503.01, 1585.12)
36-78	3-28-78	373.11
50-78	4-25-78	1304.01
56-78	5-23-78	137.10
85-78	6-27-78	373.02(f)
105-78	9-26-78	303.11(b)
116-78	9-26-78	303.99(a)(11), 347.01 to 347.05
120-78	12-12-78	1101.01(d)
Res.		
121-78	11-28-78	159.15
122-78	11-28-78	713.01 to 713.10, 713.99
123-78	12-12-78	1179.03 to 1179.05

124-78	12-26-78	183.02(d)
126-78	2-12-78	1304.03(NEC 310-5)
144-78	12-26-78	1501.02, Repeals 1501.05, Repeals 1501.06
12-79	2-13-79	155.01
19-79	2-27-79	303.01, 303.99(a)(2)
21-79	2-27-79	141.11
57-79	5-22-79	303.99(a)(1), (3), (5) to (10), (13), (b)
72-79	6-26-79	1501.98(FPC 16.71)
73 -79	6-26-79	1501.98(FPC 1.15)
74-79	6-26-79	303.99(a)(12), 349.01 to 349.03
78-79	9-11-79	1370.01 to 1370.07, 1372.01 to 1372.12, 1372.99, 1374.01 to 1374.05, 1376.01 to 1376.15, 1378.01 to 1378.05
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
80-79	8-28-79	1307.01 to 1307.10, 1307.99
86-79	7-9-79	1301.01
105-79	9-25-79	313.10(a)(1)
7-80	1-22-80	159.13
8-80	1-22-80	159.16
23-80	2-26-80	953.01, 953.02, 953.04 to 953.08, 953.99
26-80	3-25-80	137.11
32-80	3-11-80	953.09
42-80	4-8-80	159.01 to 159.07, 159.09 to 159.12, 159.17, 159.18
43-80	4-8-80	159.19
44-80	4-8-80	953.03
45-79	6-26-79	907.03, 907.99
50-80	4-22-80	181.23, 181.24
51-80	4-22-80	953.06
54-80	6-10-80	1101.05
96-80	10-28-80	1501.98
16-81	3-17-81	181.03, 181.04
30-81	5-12-81	151.01 to 151.05
33-81	5-26-81	505.09
34-81	5-26-81	313.10(a)
36-81	9-8-81	1131.07
58-81	10-10-81	951.07
16-82	2-23-82	Repeals 147.03
24-82	3-9-82	165.01 to 165.03
40-82	3-23-82	521.10(f)
46-82	5-25-82	159.17, 159.18
54-82	6-8-82	167.02 to 167.06
80-82	9-28-82	137.06
81-82	9-28-82	725.04
83-82	10-12-82	1179.06, 1179.08
84-82	9-28-82	521.08(c)
86-82	11-23-82	1163.02(f), 1165.01 to 1165.09, 1165.99; Repeals 1505.01 to 1505.06, 1505.99
93-82	10-26-82	143.01
97-82	11-9-82	167.01
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
2-83	1-11-83	505.05, 517.05, 541.02, 545.05, 545.09, 545.10, 545.15, 545.18
16-83	2-8-83	1305.02(b) to (i)
18-83	2-22-83	333.01, 333.02, 333.08, 335.07
34-83	3-22-83	333.09
44-83	4-12-83	1305.01, 1305.02(a), 1305.03
49-83	4-25-83	333.10
50-83	4-25-83	1505.01 to 1505.07, 1505.99
51-83	5-10-83	1304.01 to 1304.06
52-83	5-10-83	1303.98
53-83	5-10-83	1325.22, 1325.98, 1325.99
65-83	6-14-83	1325.23
66-83	6-14-83	1376.07(d)
86-83	7-12-83	1301.98
126-83	12-13-83	1325.24
135-83	12-13-83	145.02
136-83	12-13-83	131.02
150-83	12-27-83	513.01(dd), 513.04
16-84	1-24-84	1325.20
17-84	3-5-84	505.15
56-84	5-14-84	181.34
75-84	7-10-84	143.07
82-84	10-23-84	1347.01 to 1347.10, 1347.99
85-84	8-27-84	147.04
92-84	7-24-84	143.02(a)
94-84	7-24-84	373.11
97-84	7-24-84	141.21
138-84	12-18-84	303.08(b), 303.081, 303.082, 303.083, 351.18
145-84	12-18-84	1390.01 to 1390.04, 1391.01 to 1391.20, 1392.01 to 1392.06, 1392.99, 1393.01, 1393.05, 1394.01 to 1394.03, Repeals Ch. 1315
16-85	2-26-86	1101.07, 1101.08
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
10-85	1-22-85	169.01 to 169.06
36-85	6-11-85	953.01
41-85	5-14-85	Ch. 156 Ed. Note
46-85	5-28-85	501.01
47-85	5-28-85	545.01
48-85	5-28-85	181.17(a), (b)
61-85	7-8-85	181.34
69-85	8-20-85	159.19(a) to (e)
70-85	1-14-86	955.01 to 955.04
102-85	10-8-85	953.07, 953.08
104-85	10-8-85	159.19(f)
116-85	11-26-85	141.08(c)
146-85	1-14-86	167.01 to 167.06
147-85	1-28-86	1505.08
1-86	1-14-86	145.02(a)
11-86	3-25-86	791.01 to 791.11, 791.99
15-86	2-11-86	131.02
17-86	2-11-86	953.02
25-86	4-1-86	1125.02, 1144.01 to 1144.09, 1173.04, 1173.05(h)
48-86	4-22-86	1325.01 to 1325.24, 1325.98, 1325.99
49-86	5-27-86	1329.02
50-86	4-22-86	1501.98
52-86	5-27-86	1509.01 to 1509.03, 1509.99
53-86	5-27-86	549.14
55-86	5-27-86	313.10
56-86	5-27-86	783.02, 783.03
63-86	5-13-86	339.03, 501.09, 505.01(d), 505.03(b), 505.16, 513.01(s), 521.02, 537.07, 537.15, 537.18
67-86	9-23-86	337.27
76-86	8-26-86	1144.01, 1144.02
108-86	2-10-87	1519.01 to 1519.05, 1519.99
110-86	9-23-86	141.09(b)
117-86	9-23-86	170.01 to 170.03
128-86	2-24-87	505.17

129-86	10-14-86	Repeals Ch. 789
130-86	10-28-86	141.08
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
131-86	10-28-86	141.22
132-86	10-28-86	143.05
133-86	10-28-86	143.07
134-86	11-11-86	147.05
135-86	10-28-86	159.01 to 159.14
136-86	10-14-86	171.01
166-86	2-24-87	529.02
13-87	2-24-87	181.51
14-87	1-27-87	1304.01
25-87	2-24-87	137.02
29-87	3-10-87	1391.05, 1391.07, 1391.08, 1391.11, 1391.12, 1391.14 to 1391.19, 1392.02, 1392.05, 1392.99, 1393.02, 1393.04, 1393.05(b)
17-87	5-12-87	1135.04
30-87	4-28-87	1155.02, 1155.03
36-87	5-12-87	151.01, 151.02, 151.04
51-87	5-26-87	351.15
52-87	7-14-87	1174.01 to 1174.05
55-87	7-14-87	1185.08(b)
56-87	8-11-87	154.10 to 154.15
64-87	7-14-87	1101.09
81-87	7-14-87	1392.02, 1393.01, 1393.04, 1394.02, 1394.03
110-87	9-8-87	1302.01 to 1302.05, 1302.99
117-87	9-22-87	313.10
120-87	12-22-87	1361.03(l)
127-87	10-27-87	529.01, 529.02, 529.06
6-88	2-23-88	1325.22
7-88	2-23-88	955.01
131-87	10-11-88	1177.04
9-88	5-24-88	953.02, 953.06, 953.07 to 953.09
47-88	6-28-88	1361.03
48-88	9-13-88	1165.02, 1165.10
49-88	9-13-88	1163.02
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
54-88	1-10-89	1183.01 to 1183.14
56-88	1-10-89	1123.03(x)
60-88	6-28-88	331.41, 333.03, 335.08, 335.09, 337.10, 541.04, 541.07, 541.10, 537.14, 545.01, 549.01
69-88	7-12-88	159.01 to 159.09, 159.15
71-88	9-21-88	935.01, 935.99
72-88	9-21-88	703.03 to 703.05, 703.11 to 703.14
77-88	8-30-88	Chtr. Art., IV, Sec. 1. (b), Art. V., Sec. 1.
78-88	8-23-88	Chtr. Art. XII, Sec. 2
79-88	8-23-88	Chtr. Art. VI, Sec. 6
80-88	8-23-88	Chtr. Art. VI, Sec. 8
82-88	8-23-88	Chtr. Art. VI, Sec. 4(c)
96-88	12-13-88	901.02
123-88	1-10-89	1302.06
124-88	12-27-88	1313.01 to 1313.07, 1313.99
127-88	1-10-89	121.11, 121.35
9-89	3-28-89	337.28
28-89	6-27-89	139.01 to 139.11
35-89	4-11-89	789.01, 789.99
36-89	12-26-89	313.10
37-89	4-25-89	741.03, 741.08, 741.14
39-89	5-23-89	1303.98
44-89	4-25-89	337.26, 337.27, 337.28, 339.08, 351.04, 373.06, 525.01, 525.02, 525.05, 529.02, 529.021, 529.07, 533.01, 533.11, 533.12, 533.14, 533.15, 537.03, 537.14, 1519.04
77-89	6-13-89	953.02(c)
86-89	6-27-89	953.06
89-89	9-26-89	159.16
90-89	10-10-89	161.01(e)
128-89	9-26-89	791.07, 1501.08
132-89	2-13-90	1321.01 to 1321.10, 1321.99
158-89	3-13-90	1177.01, 1177.04, 1177.06, 1177.07
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
168-89	12-26-89	1304.01
169-89	12-26-89	1301.01
1-90	3-13-90	1101.05(b)
2-90	1-9-90	1313.06
8-90	3-13-90	1180.01 to 1180.04, 1180.99
16-90	3-27-90	159.11
83-89	5-10-90	903.06, 903.07
38-90	5-10-90	301.32, 301.46, 303.01, 303.06, 303.99, 313.01, 313.02, 313.11, 331.42, 335.01 to 335.04, 335.06, 335.07, 335.13, 335.14, 337.01, 337.22, 337.29, 339.03, 341.02, 341.03, 371.01, 371.06, 505.07, 513.01, 513.02, 513.05, 513.08, 525.02, 529.02, 529.021, 533.07
50-90	5-10-90	1333.01 to 1333.03, 1333.99
66-90	6-26-90	311.05
75-90	9-11-90	143.02
87-90	7-3-90	141.23
89-90	7-3-90	505.08
98-90	8-27-90	303.99(a)(6), (7), 333.01, 335.07
108-90	10-23-90	1131.02
115-90	8-28-90	951.06, 951.99
121-90	9-25-90	145.04
123-90	10-23-90	143.09
124-90	9-25-90	147.03
127-90	9-25-90	131.01
144-90	10-23-90	726.01 to 726.05
162-90	11-13-90	303.08(k)
165-90	12-11-90	1361.03(c)(5); 1361.03(d) repealed
167-90	12-11-90	951.08
170-90	12-27-90	351.19
173-90	12-11-90	151.04
18-91	1-22-91	181.24
164-90	2-12-91	1179.06, 1179.13 to 1179.15
23-91	3-12-91	1325.25
<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
53-91	3-26-91	147.01
56-91	4-9-91	301.27, 301.32, 301.46, 301.51, 301.52, 303.99, 313.07, 313.08, 313.10, 333.01, 333.03, 335.07, 335.11, 339.03, 371.11, 373.11, 375.05, 501.99, 509.03, 513.99, 525.01, 525.02, 525.04, 529.01, 529.02, 529.021, 529.04, 529.07, 533.03, 533.04, 533.07, 537.02, 545.01, 545.05, 545.07, 545.09, 549.01
65-91	9-10-91	953.01, 953.02, 953.05 to 953.07, 953.09, 953.99
71-91	6-11-91	1333.04
73-91	9-10-91	1135.02(d)
109-91	8-6-91	1177.07(a)
110-91	6-11-91	159.01 to 159.09, 159.15
112-91	6-25-91	337.27(b)
122-91	7-23-91	143.01
183-91	12-23-91	303.13, 303.99 (a)(15), 525.15
08-92	1-28-92	955.02
09-92	1-28-92	131.03, 137.12
21-92	2-25-92	143.09(b)

179-91	3-10-92	1301.01, 1302.01, 1303.01, 1304.01, 1501.01, 1505.01
15-92	3-10-92	1304.02
30-92	3-24-92	351.04(d), (h), 351.99
36-92	4-14-92	303.082, 303.083, 303.99, 333.03, 333.04, 335.09, 341.03, 351.04, 513.01, 513.03, 513.06, 517.01, 517.02, 517.06, 517.09, 525.02, 529.07, 537.14, 537.16, 545.20
43-92	6-23-92	741.01, 741.08, 741.09, 741.17, 741.20, 741.21, 741.99
55-92	6-9-92	159.05
67-92	8-11-92	181.03, 181.04, 181.17
68-92	8-25-92	741.22
71-92	8-25-92	159.17
76-92	10-27-92	151.05
104-92	9-22-92	533.16
122-92	11-24-92	533.01(n), (o)
130-92	11-24-92	1501.98
18-93	3-23-93	181.02(q), 181.10
20-93	3-23-93	955.01
32-93	3-23-93	313.10
34-93	4-13-93	1325.01 to 1325.07, 1325.99
36-93	4-27-93	301.11, 301.20, 301.27, 301.35, 301.48, 333.03, 335.09, 337.02, 337.10, 337.18, 337.19, 337.26, 337.27, 339.07, 341.01 to 341.06, 341.99, 351.04, 373.02, 373.06, 373.11, 501.09, 513.02, 513.05, 513.08, 525.01, 525.05, 525.10, 529.08, 537.03, 537.051, 537.11, 537.12, 537.14, 537.15, 541.03, 541.051
41-93	4-27-93	1301.98
42-93	4-27-93	1303.98
88-93	7-13-93	509.13
90-93	7-27-93	159.18
120-91	8-9-93	1101.01 to 1101.07, 1105.01 to 1105.19, 1105.99, 1107.01 to 1107.12, 1109.01 to 1109.09, 1111.01 to 1111.20, 1113.01 to 1113.14
120-93	9-14-93	303.99(a)(7), (9)
137-93	10-12-93	313.10(a)(6), (7) Repealed
145-93	12-14-93	335.07(b), (d)
146-93	12-14-93	521.08(c), 951.99
158-93	1-11-94	907.03
164-93	12-14-93	1304.02
129-92	3-8-94	505.18
143-93	3-8-94	519.01 to 519.12
17-94	3-22-94	121.28, 121.30, 121.33, 121.36, 121.37
21-94	3-8-94	147.01
11-94	9-27-94	783.01 to 783.03
14-94	5-10-94	922.01 to 922.04
23-94	4-26-94	505.01, 505.18, 505.19
41-94	4-26-94	301.51, 303.041, 303.99, 331.12, 331.21, 331.40, 335.05, 335.07, 337.27, 339.03, 371.06, 513.01, 517.02, 517.06, 525.02, 525.10
44-94	5-24-94	955.01, 955.02
71-94	7-5-94	337.26
72-94	7-5-94	303.99(7), (17), (18), 333.01
78-94	9-13-94	1319.01 to 1319.06, 1319.99
86-94	9-13-94	749.01 to 749.03, 749.99
105-94	9-27-94	955.01
113-94	12-27-94	346.01 to 346.03, 346.99
122-94	12-13-94	931.05
10-95	3-14-95	1155.01, 1159.01
21-95	3-14-95	1374.03
26-95	3-14-95	1303.98
27-95	3-14-95	1335.01 to 1335.13, 1335.99
28-95	3-14-95	349.01 to 349.03, 349.99
<u>Ord. No. Date C.O. Section</u>		
38-95	5-9-95	1361.06(e)
43-95	5-9-95	303.99, 341.01, 513.08, 525.01, 525.05, 525.10, 525.16, 529.01, 529.02, 529.03, 529.06, 537.07, 537.14, 537.15, 541.06
90-95	5-9-95	953.06
95-95	11-28-95	181.12
111-95	2-13-96	1181.04
117-95	12-12-95	1313.02
118-95	1-9-96	1325.02, 1325.06
119-95	1-9-96	1321.05
02-96	1-23-96	1303.98
05-96	1-23-96	521.04
07-96	4-9-96	1501.98
08-96	1-23-96	1501.09
10-96	2-13-96	521.04(c)
11-96	2-27-96	953.02(e)
16-96	4-9-96	553.03
22-96	4-9-96	333.07, 335.07, 517.06, 525.01, 525.02, 525.05, 525.11, 529.01, 529.04, 529.07, 549.08
27-96	5-14-96	911.14
28-96	4-23-96	159.11
51-96	7-8-96	1313.01, 1313.02
56-96	7-8-96	141.12
74-96	9-10-96	1303.98
104-96	11-12-96	1303.98
110-96	12-23-96	182.01 to 182.06, 182.99
119-96	12-10-96	1335.01, 1335.04
12-97	4-22-97	1172.01 to 1172.05
15-97	4-22-97	1125.02
17-97	4-22-97	1123.07(j)
18-97	3-25-97	1175.05
19-97	3-25-97	1175.04
26-97	6-24-97	505.17
<u>Ord. No. Date C.O. Section</u>		
38-97	5-13-97	303.99, 333.03, 333.11, 337.10, 337.16, 337.22, 509.011, 509.03, 513.01 to 513.06, 513.08, 513.13, 513.99, 517.05, 525.01, 525.02, 525.05, 525.08, 525.09, 533.01, 533.02, 533.04, 533.07, 533.091, 533.12, 533.14, 537.01 to 537.06, 537.15, 537.17, 541.02, 545.03, 545.05 to 545.10, 545.13 to 545.15, 545.17 to 545.19, 549.02
43-97	5-27-97	1501.01 to 1501.15, 1503.01 to 1503.03, 1503.99, 1505.01 to 1505.13, 1505.99, 1507.01 to 1507.05, 1507.99, 1509.01 to 1509.17, 1509.99, 1511.01 to 1511.10, 1511.99, 1513.01 to 1513.08, 1513.99, 1515.01 to 1515.05, 1515.99
94-97	10-28-97	335.07
95-97	11-25-97	313.09
99-97	10-28-97	1511.06(h), (i), 1511.07(h), (i)
100-97	10-28-97	1513.09
101-97	10-28-97	537.16
102-97	10-28-97	537.161
135-97	12-9-97	553.03
139-97	12-23-97	1361.03(c)(5)
2-98	1-13-98	137.06
8-98	2-10-98	1303.98
<u>Ord. No. Date C.O. Section</u>		
6-98	6-9-98	1135.02(h)
14-98	4-14-98	1185.07(c)
20-98	4-14-98	1303.98
21-98	4-14-98	1303.98
22-98	4-14-98	1304.02(h)
28-98	4-14-98	301.27, 303.041, 303.99, 331.15, 331.21, 331.39, 335.09, 335.11, 337.10, 337.16, 337.27, 501.01, 509.06, 509.07, 513.03, 513.07, 513.10, 513.11, 517.02, 525.05, 525.08, 525.09, 529.07, 533.06, 537.03, 537.10, 537.12, 537.14, 537.15, 545.01, 545.07, 549.08, 549.15
68-98	9-8-98	1175.05(c)
69-98	9-8-98	1123.05(f) to (l)
70-98	9-8-98	1123.07(n) to (x)
80-98	9-8-98	1513.04
81-98	9-22-98	505.09

88-98 10-27-98 159.01 to 159.06, 159.08, 159.09, 159.15
Res.
138-98 12-22-98 166.01, 166.02
16-99 5-11-99 1144.01 to 1144.08
22-99 4-13-99 331.38, 335.03, 335.031, 335.99, 339.07, 341.02, 373.11, 501.01, 501.05, 513.01, 513.03, 513.04, 513.09, 513.10, 513.12, 525.01, 525.11, 533.01, 537.03, 537.051, 537.10, 537.15, 541.07, 545.01, 545.02, 545.05, 545.14, 545.18
32-99 6-8-99 1165.06(b), (e)
40-99 6-22-99 105.01
Ord. No. Date C.O. Section
65-99 10-12-99 1175.12
19-00 4-25-00 303.99(a)(7), (7.5), 333.031, 335.07, 351.04, 351.99, 375.01 to 375.08, 501.01, 501.04, 501.05, 501.09, 509.03, 509.05, 513.03, 513.05, 513.06, 537.02, 537.03, 537.051, 537.07, 541.07, 545.01, 545.02, 545.05, 545.06, 545.08, 545.10, 545.14, 545.15, 545.18, 545.21, 549.15
24-00 5-9-00 151.01(c)
36-00 6-13-00 159.11
48-00 7-11-00 521.10
88-00 12-12-00 953.06, 953.07(a), (e), 953.08(h) and (l)
89-00 11-28-00 181.18
11-01 2-13-01 137.06
24-01 3-27-01 521.04(c)
27-01 4-10-01 541.05(d)
32-01 4-24-01 301.20, 303.082, 303.083, 333.01, 333.99, 335.09, 337.02, 337.18, 337.24, 337.30, 337.99, 339.03, 375.03, 501.07, 513.08, 513.12, 525.01, 525.03, 525.07, 525.12, 525.16, 525.17, 529.07, 533.03, 533.05, 533.06, 537.03, 537.05, 537.051, 537.06, 537.17
42-01 5-22-01 521.08(c), (d)
52-01 6-26-01 161.01(f), (g), (h)
82-01 10-23-01 1175.13
97-01 12-11-01 1167.02
2-02 1-15-02 953.07(h)
Ord. No. Date C.O. Section
10-02 4-9-02 953.08(o)
34-02 4-23-02 335.08, 337.27, 375.08, 501.06, 509.03, 509.05, 513.01, 513.12, 517.01, 525.02, 525.08, 533.01, 533.04, 537.03, 537.05, 537.051, 537.06, 537.18, 549.04, 549.08, 549.12
38-02 4-23-02 955.01, 955.02
49-02 5-28-02 141.25, 141.26
69-02 9-24-02 1123.02(c) to (i)
70-02 9-24-02 1163.02(p)
82-02 9-10-02 505.08(d)
98-02 11-26-02 1167.01 to 1167.10
99-02 11-26-02 1171.01 to 1171.11
100-02 11-26-02 1173.04, 1173.05
109-02 11-12-02 137.02
8-03 3-11-03 1301.01 to 1301.05, 1301.99, 1302.01 to 1302.05, 1302.99, 1303.01 to 1303.05, 1303.98, 1303.99
10-03 3-11-03 159.19
14-2003 6-10-03 1135.03
18-2003 4-22-03 166.01 to 166.03
26-2003 5-13-03 301.20, 301.51, 331.24, 333.01, 371.12, 371.99, 501.01, 501.99, 505.04, 505.071, 513.01, 517.01, 517.02, 517.04 to 517.14, 525.05, 525.08, 529.01, 529.02, 529.021, 529.07, 529.08, 533.01, 533.02, 533.04, 533.05, 537.14, 537.16, 541.11, 545.21
38-2003 7-8-03 333.01
44-2003 8-12-03 553.03(b)(4)
Ord. No. Date C.O. Section
76-2003 9-23-03 333.09, 501.15, 509.03(e), 521.01, 521.03 to 521.11, 703.99, 705.99, 713.99, 725.99, 729.99, 732.99, 741.99, 757.99, 773.99, 783.99, 789.99, 791.99, 901.99, 903.99, 905.99, 907.99, 911.99, 931.99, 933.99, 935.99, 951.99, 953.99, 1103.99, 1105.99, 1180.99, 1187.99, 1302.99, 1305.99, 1307.99, 1309.99, 1313.99, 1317.99, 1321.99, 1325.01, 1325.99, 1333.99, 1335.99, 1341.99, 1345.99, 1347.99, 1361.99, 1372.99, 1392.99, 1501.10, 1503.99, 1505.99, 1507.99, 1509.99, 1511.99, 1513.99, 1515.99
1-2004 1-27-04 Traffic Code
29-2004 4-20-04 333.01, 513.02 to 513.08, 513.12, 517.01, 529.021, 529.04, 529.07, 533.01, 533.02, 533.09, 533.11, 537.02, 537.03, 537.051, 537.07, 537.09, 537.14, 537.15, 537.18, 541.05, 549.01, 549.02, 549.04, 549.15
Ord. No. Date C.O. Section
43-2004 5-11-04 959.01 to 959.09, 959.99
52-2004 7-13-04 151.05(a)(8)
58-2004 7-27-04 305.10
80-2004 10-26-04 305.10
87-2004 11-9-04 182.03(b)
94-2004 12-14-04 159.01 to 159.06, 159.08, 159.09, 159.15, 159.20
5-2005 2-22-05 181.02, 181.05, 181.10, 181.11 to 181.15, 181.17 to 181.20, 181.46, 181.48
22-2005 4-26-05 301.201, 313.13, 333.01, 333.02, 333.07, 335.01, 335.03, 337.27, 337.28, 501.04, 501.99, 509.02, 509.05, 513.01, 513.06, 517.01, 517.06, 517.08, 517.09, 517.14, 525.16, 529.03, 529.05, 529.07, 537.02, 537.021, 537.14, 541.04, 541.05, 545.01, 545.05, 545.06
44-2005 8-30-05 1507.06
52-2005 9-13-05 505.17, 505.20
77-2005 12-13-05 933.05
3-2006 2-28-06 1179.01 to 1179.11
9-2006 1-24-06 1501.06(b)
Ord. No. Date C.O. Section
23-2006 3-14-06 1313.01, 1313.03
26-2006 3-28-06 1111.07
28-2006 4-11-06 2006 Replacement Pages
29-2006 6-27-06 1135.03(g), (l), (m)
49-2006 6-27-06 953.06 to 953.08
91-2006 11-14-06 749.01 to 749.14, 749.99
5-2007 3-13-07 1123.02, 1123.03, 1123.05, 1123.07, 1123.08, 1173.04, 1173.05, 1177.02, 1151.01 to 1151.09, 1169.01 to 1169.09; repeals Chapters 1151, 1155, 1159, 1163
8-2007 1-23-07 1303.01 to 1303.05, 1303.99
10-2007 1-23-07 1304.01 to 1304.22
19-2007 5-8-07 1190.01, 1191.01, 1191.02, 1192.01, 1193.01, 1194.01 to 1194.20, 1194.99, 1195.01 to 1195.09, 1195.99, 1196.01 to 1196.06, 1196.99, 1197.01 to 1197.15, 1197.99, 1198.01 to 1198.10, 1198.99
27-2007 5-8-07 1309.01 to 1309.03; Repeals Ch. 1361
28-2007 5-8-07 1306.01 to 1306.11, 1306.99
29-2007 5-8-07 1341.01 to 1341.05, 1341.99
32-2007 4-10-07 141.27
64-2007 7-10-07 2007 Replacement Pages
Res.
74-2007 7-24-07 137.13
89-2007 11-13-07 901.01 to 901.10, 901.99
93-2007 8-28-07 795.01
104-2007 9-25-07 137.06; repeals 141.09, 141.10
130-2007 11-13-07 Repeals 1335.03
28-2008 4-8-08 1325.02
32-2008 6-10-08 521.08(c), (d)
52-2008 6-24-08 301.20, 333.01, 333.08, 335.072, 337.10, 337.18, 339.03, 339.05, 501.06, 509.06, 517.01, 517.15, 525.10, 533.01, 537.051, 537.08, 537.17, 549.04
74-2008 9-9-08 121.20
76-2008 12-9-08 1304.16, 1309.05
93-2008 11-25-08 903.01, 903.05
94-2008 11-25-08 1313.05
107-2008 1-13-09 159.01 to 159.09, 159.15
11-2009 2-10-09 955.02(a)
18-2009 3-10-09 953.07
27-2009 5-26-09 301.19, 333.01,

335.031, 335.05,
 335.072, 337.26,
 339.11, 341.03,
 373.02, 513.01,
 513.03, 525.02,
 525.05, 529.07,
 533.06, 537.02,
 537.03, 537.14,
 537.15, 545.01,
 545.05, 549.01,
 549.02, 549.04,
 549.08
 29-2009 6-9-09 1519.01 to 1519.10,
 1519.99
 41-2009 7-14-09 521.10
 42-2009 7-14-09 151.05(b), 959.99
 54-2009 8-25-09 159.18
 60-2009 9-22-09 141.29
 61-2009 9-22-09 141.28
 66-2009 10-13-09 953.02
 4-2010 3-23-10 1325.021
 25-2010 5-25-10 725.01 to 725.07,
 725.99
 28-2010 5-11-10 951.05, 951.07
 48-2010 7-13-10 301.04, 301.321,
 303.082, 303.10,
 331.38, 333.03,
 333.031, 335.01,
 335.02, 335.07,
 335.072, 335.10,
 337.02 to 337.06,
 337.08, 337.10 to
 337.17, 337.19 to
 337.22, 337.24,
 337.26, 337.27,
 351.04, 375.05,
 517.01, 525.02,
 525.03, 537.14,
 537.15, 549.04
 58-2010 8-24-10 159.01 to 159.09, 159.15
 77-2010 12-14-10 1135.02(h)
 78-2010 11-23-10 1390.01 to
 1390.10, 1391.01
 to 1391.39,
 1392.01 to
 1392.12, 1393.01
 to 1393.09,
 1394.01 to
 1394.06, 1395.01
 to 1395.03
 Res.
 80-2010 11-23-10 137.14
 12-2011 3-22-11 1306.03, 1306.04
 13-2011 3-22-11 951.07
 35-2011 8-9-11 723.01 to 723.10,
 723.99
 36-2011 8-9-11 725.01
 37-2011 8-23-11 1123.03, 1123.07,
 1151.03, 1169.08,
 1169.09, 1169.10
 38-2011 7-12-11 743.01 to 743.06,
 743.99
 47-2011 6-28-11 333.01, 335.01,
 335.02, 335.07,
 335.12, 335.13,
 337.28, 337.29,
 501.01, 501.13,
 501.99, 517.01,
 517.02, 517.06,
 517.07, 529.07,
 537.10, 537.11,
 537.12
 70-2011 10-23-11 159.21
 75-2011 1-10-12 1190.01, 1192.01,
 1193.01, 1195.01 to
 1195.12, 1195.99,
 1196.01 to 1196.15,
 1196.99
 79-2011 12-31-11 509.06, 509.07,
 517.05, 537.10,
 541.02, 545.05,
 545.07, 545.08,
 545.09, 545.10,
 545.13, 545.14,
 545.15, 545.17,
 545.18
 14-2012 2-14-12 137.15
 22-2012 4-10-12 505.21
 27-2012 5-18-12 159.15
 50-2012 6-26-12 333.01, 335.01,
 335.02, 335.05
 to 335.074,
 335.12 to 335.14,
 337.22, 351.04,
 373.02, 501.99,
 509.06, 509.07,
 513.03, 517.05,
 525.02, 529.07,
 537.10, 541.02,
 545.02, 545.04,
 545.05, 545.07
 to 545.10, 545.13
 to 545.15,
 545.17, 545.18,
 549.04
 51-2012 7-10-12 793.01 to 793.04
 61-2012 9-25-12 159.11
 66-2012 9-11-12 951.07
 99-2012 12-11-12 1349.01, 1349.02
 4-2013 1-8-13 181.03, 181.04

17-2013 4-9-13 307.01 to 307.08
41-2013 8-13-13 301.031, 301.161,
301.17, 301.181,
301.26, 301.361,
301.45 to 301.47,
303.01, 303.99,
313.03 to 313.06,
331.12, 333.12,
335.032, 335.07,
335.072, 335.074,
337.01, 337.09,
337.18, 337.23,
337.29, 339.01,
339.06 to 339.08,
341.05, 373.02,
513.01, 513.03,
513.12, 513.121,
517.01, 517.02,
517.06 to 517.11,
517.13, 517.15,
529.021, 529.04,
533.08, 533.09,
537.03, 537.12,
549.01, 549.02,
549.04, 549.15
42-2013 8-13-13 1505.11
43-2013 8-13-13 123.01
79-2013 4-22-14 159.01 to 159.09, 159.15
3-2014 1-14-14 154.02, 154.08
23-2014 5-3-14 1179.02, 1179.05
to 1179.08
34-2014 6-24-14 1306.04
51-2014 7-8-14 141.29
78-2014 8-26-14 301.04, 301.161,
301.162, 303.04,
303.041, 313.03,
333.01, 333.03,
333.031, 337.16,
337.17, 339.01,
339.03, 341.01,
341.03, 351.03,
351.04, 501.01,
501.11, 505.071,
517.01, 517.02,
525.01, 525.02,
525.05, 529.01,
529.07, 537.03,
537.12, 537.16,
537.17, 545.01,
545.05, 545.18
113-2014 1-27-15 1301.05, 1501.04,
1501.05, 1501.08,
1501.12
117-2014 12-9-14 Repeals 131.01
5-2015 1-13-15 1325.02
11-2015 2-10-15 1321.03, 1321.04,
1321.05, 1321.07,
1321.09, 1325.06
12-2015 3-10-15 1177.05
13-2015 2-10-15 181.47
20-2015 3-24-15 1123.04, 1151.03
27-2015 4-14-15 143.10
36-2015 4-14-15 521.10
63-2015 7-14-15 303.081, 303.082,
331.43, 335.072,
335.074, 501.07,
501.08, 533.09,
533.18, 537.05,
537.051, 537.06,
545.01, 545.02,
545.05, 545.15,
549.01
74-2015 9-8-15 505.17, 505.20
81-2015 9-8-15 351.17
90-2015 11-24-15 184.01 to 184.26, 184.99
68-2016 8-23-16 505.03, 505.07,
505.071, 505.072,
505.17, 505.22
72-2016 8-23-16 301.19, 303.081,
303.082, 335.021,
335.031, 335.09,
335.10, 341.01,
341.03, 341.05,
341.06, 351.04,
373.02, 529.01,
529.07, 537.051,
537.10
76-2016 10-11-16 1175.10
77-2016 8-23-16 1175.03
79-2016 8-23-16 1309.03 to 1309.05
80-2016 8-23-16 351.03 to 351.07,
351.09 to 351.18,
351.99, 352.03
85-2016 9-13-16 184.04, 184.05
96-2016 10-25-16 959.01, 959.04,
959.07
120-2016 1-17-17 1196.01 to
1196.18, 1196.99
121-2016 1-17-17 1195.01 to
1195.15, 1195.99
10-2017 2-28-17 1151.03, 1151.04
11-2017 2-28-17 1123.06, 1151.03,
1167.02, 1171.02,
1171.03, 1313.02
12-2017 2-28-17 1175.09
37-2017 5-9-17 1325.02
54-2017 7-25-17 1175.13
70-2017 7-25-17 159.01 to 159.09, 159.15
99-2017 10-24-17 137.16
109-2017 11-14-17 159.23

115-2017 11-15-17 505.07, 505.071,

505.072, 505.17,

505.22
131-2017 12-12-17 141.11
143-2017 2-13-18 951.04, 952.01,
952.02
144-2017 3-13-18 1103.03
31-2018 4-10-18 1165.99, 1195.99,
1196.99, 1319.99
32-2018 3-27-18 1351.01, 1351.99
42-2018 3-27-18 184.02, 184.03,
184.05, 184.07,
184.18, 184.27
64-2018 7-10-18 915.01 to 915.13,
915.99
65-2018 7-10-18 913.01 to 913.19,
913.99
68-2018 6-26-18 1306.02, 1306.03,
1306.07, 1306.09,
1306.10
73-2018 6-26-18 131.04
75-2018 7-24-18 1151.01, 1151.03,
1151.10
97-2018 8-28-18 1501.06
102-2018 9-25-18 311.06
104-2018 9-11-18 Repeals 509.09
117-2018 10-23-18 1325.02
136-2018 12-11-18 Repeals 141.02
98-2018 2-12-19 1325.01 to
1325.16, 1325.99
8-2019 1-22-19 101.99
16-2019 2-12-19 137.17
46-2019 5-14-19 521.10
49-2019 5-14-19 168.01 to 168.03
51-2019 5-14-19 915.01 to 915.14,
915.99
52-2019 5-14-19 913.01 to 913.20,
913.99
59-2019 6-11-19 373.02
61-2019 6-11-19 549.01, 549.02,
549.07, 549.12;
Repeals 549.14
86-2019 9-10-19 951.07
87-2019 9-24-19 303.99, 331.01 to
331.37, 331.39
to 331.43, 333.02,
333.04, 333.05,
333.08, 333.10,
333.12, 335.01,
335.021, 335.03,
335.031, 335.09
to 335.11, 337.01
to 337.05, 337.07
to 337.22, 337.24
to 337.30, 339.01
to 339.11
94-2019 10-22-19 1309.05
97-2019 11-12-19 159.01 to 159.09, 159.15
112-2019 11-26-19 141.08
3-2020 1-14-20 Repeals 150.07
12-2020 3-10-20 335.15
15-2020 3-10-20 537.19
45-2020 5-12-20 549.06
46-2020 5-26-20 521.12
57-2020 6-9-20 137.02; Repeals 145.03
103-2020 10-27-20 951.01 to 951.08, 951.99
108-2020 12-22-20 164.01 to 164.07
129-2020 12-22-20 137.18
3-2021 1-12-21 1376.141
13-2021 4-27-21 159.01 to 159.09, 159.15
21-2021 3-9-21 1313.01, 1313.02, 1313.07
23-2021 4-27-21 549.01, 549.07
37-2021 5-11-21 1175.07
82-2021 8-24-21 159.01
103-2021 12-14-21 787.01 to 787.09
2-2022 1-25-22 121.22(b)
31-2022 4-26-22 159.01 to 159.09, 159.15
64-2022 5-10-22 1519.07(b)
65-2022 5-24-22 1380.01 to 1380.09, 1380.99
76-2022 6-14-22 159.01
96-2022 8-23-22 1319.02, 1319.03
99-2022 9-13-22 162.01 to 162.05
101-2022 9-27-22 501.99(d)
128-2022 10-25-22 1353.01 to 1353.08;
Repeals 1309.05
(301.4.1.2)
154-2022 2-14-23 137.19; Repeals
133.01
15-2023 3-14-23 761.04, 761.99
22-2023 3-14-23 1325.16
24-2023 2-14-23 159.02 to 159.09,
159.15
77-2023 5-23-23 333.12, 335.15
81-2023 6-27-23 763.01 to 763.07
97-2023 6-27-23 935.01; Repeals 935.99

TABLES OF SPECIAL ORDINANCES

EDITOR’S NOTE: The Codified Ordinances of Richmond Heights 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, easements, purchase, sale, etc. In the following Tables A through G, all such ordinances are listed. These tables list ordinances chronologically by subject, and include both a citation to and a brief description of each ordinance.

- TABLE A - Franchises
- TABLE B - Easements
- TABLE C - Dedication of Property
- TABLE D - Authorization for Purchase and Sale of Real Property
- TABLE E - Change of Street Name
- TABLE F - Zoning Map Changes
- TABLE G - Vacating Property

TABLE A - FRANCHISES

Ord. No.	Date	Description
52	11-2-25	To the Cleveland Illuminating Co., to establish and maintain an electrical distribution system.
265	6-21-48	To R. J. Heinz, to operate a taxi service.
41-66	4-26-66	To the Cleveland Electric Illuminating Company, to furnish electric street lighting service.
Res.		
71-71	10-26-71	To the Cleveland Illuminating Co., to furnish electric street lighting service.
134-78	12-12-78	To Cleveland Illuminating Co., to furnish electric street lighting service.
46-80	4-22-80	To Viacom Cablevision of Cleveland, for transmission of television signals for fifteen years.
Res.		

16-92	6-19-92	Consents to the transfer of franchise agreement and cable system assets from Telerama, Inc. to V-Cable L.P.
61-00	9-12-00	Authorizes a cable television franchise renewal agreement with Telerama, Inc.
63-00	8-29-00	Conditionally approves the request to transfer control of the cable television franchise from Cablevision to Adelphia.
60-05	10-11-05	Conditionally approves the request for an assignment of the cable television franchise from Adelphia to Time Warner.

TABLE B - EASEMENTS

Ord. No. Date Description

501-54 12-6-54 To the City of Euclid, for water line under Harms Rd.
659-56 6-18-56 To the General Electric Co., for a storm sewer line.
676-56 9-17-56 To the General Electric Co.; amends Ord. 659-56.
38-65 5-11-65 Accepting easement across property of St. Gregory of Narek Armenian Apostolic Church, for storm drainage purposes.
Res. 81-65 10-26-65 Accepting easement from Gayland, Inc., for sewer purposes.
Res. 20-66 2-8-66 Accepting easement across property of the Richmond Hts. Bd. of Education et al, for storm drainage purposes.
Res. 23-66 3-22-66 Accepting easement across the property of Ralph and P.M. Livsey, for storm sewer purposes.
Res. 46-66 5-10-66 Cancellation of easement for sewer purposes across property owned by Sunrise Development, Inc.
Res. 21-67 3-28-67 Transfer of easement rights to the Board of County Commissioners in Parcel No. 72 of Auditor's Permanent Parcel No. 662-4-4.
115-69 10-14-69 Accepting a temporary easement from John M. Ciresi for drainage and sewer purposes.
116-69 10-14-69 Accepting easement from John M. Ciresi for drainage and sewer purposes.
117-69 10-14-69 Accepting a temporary easement from Francis A. and F.M. Geisler for drainage and sewer purposes.
118-69 10-14-69 Accepting easement from Francis A. and F.M. Geisler for drainage and sewer purposes.
119-69 10-14-69 Accepting easement from Viktor and Agnes Tominec for drainage and sewer purposes.
120-69 10-14-69 Accepting easement from Mark S. and J.S. Kasunic for drainage and sewer purposes.
121-69 10-14-69 Accepting easement from Charles and Mary Samsa for drainage and sewer purposes.
122-69 10-14-69 Accepting easement from Margie A. and James G. Gorslene for drainage and sewer purposes.
123-69 10-14-69 Accepting easement from Ralph and Sophie M. Urigel for drainage and sewer purposes.
124-69 10-14-69 Accepting easement from James C. and E.E. Sheeham for drainage and sewer purposes.
125-69 10-14-69 Accepting easement from Joseph and Joyce Ventura for drainage and sewer purposes.
151-69 11-11-69 Appropriating easements from Jack A. Dryfuse to improve Storm Sewer District No. 1.
152-69 11-11-69 Appropriating easements from Edward S. and Ferne B. Winters to improve Storm Sewer District No. 1.
153-69 11-11-69 Appropriating temporary easements to improve Storm Sewer District No. 1.
154-69 11-11-69 Appropriating easements from Anthony and Olga Maizel to improve Storm Sewer District No. 1.

Ord. No. Date Description

155-69 11-11-69 Appropriating temporary easements from Hazel B. Ruby to improve Storm Sewer District No. 1.
156-69 11-11-69 Appropriating easements from Hazel B. Ruby to improve Storm Sewer District No. 1.
157-69 11-11-69 Appropriating temporary easements from Carl and Helen J. Keidel to improve Storm Sewer District No. 1.
158-69 11-11-69 Appropriating easements from Carl and Helen J. Keidel to improve Storm Sewer District No. 1.
159-69 11-11-69 Appropriating temporary easements from Frank and Marie Brodnick to improve Storm Sewer District No. 1.
160-69 11-11-69 Appropriating easements from Frank and Marie Brodnick to improve Storm Sewer District No. 1.
164-69 11-25-69 Accepting easement from Peter and Mary Ann Sangin for drainage and sewer purposes.
20-70 1-27-70 Accepting easement from Jack A. Dryfuse for drainage and sewer purposes.
23-70 2-3-70 Accepting temporary easement from Anthony and Olga Maizel for drainage and sewer purposes.
24-70 2-3-70 Accepting easement from Anthony and Olga Maizel for drainage and sewer purposes.
25-70 2-3-70 Accepting temporary easement from M. Allen and Hazel B. Ruby for drainage and sewer purposes.
26-70 2-3-70 Accepting easement from M. Allen and Hazel B. Ruby for drainage and sewer purposes.
35-70 2-10-70 Accepting easement from Edward S. and Ferne B. Winters for drainage and sewer purposes.
36-70 2-10-70 Accepting temporary easement from Frank Joseph and Maria F. Brodnick for drainage and sewer purposes.
37-70 2-10-70 Accepting easement from Frank Joseph and Maria F. Brodnick for drainage and sewer purposes.
38-70 2-10-70 Accepting temporary easement from Helen J. and Carl C. Keidel for drainage and sewer purposes.
39-70 2-10-70 Accepting easement from Helen J. and Carl C. Keidel for drainage and sewer purposes.

Res.
20-73 2-27-73 Accepting an easement from Sunrise Development Co. for sanitary and storm sewers.
Res.
16-73 2-13-73 Accepting easement from Sunrise Development Co. for water mains and appurtenances.
Res.
45-74 3-26-74 Accepting Trebisky Rd. storm sewer easements.
135-74 11-26-74 Accepting permanent and temporary easement for Snively Rd. ditch elimination.

Ord. No. Date Description

Res.
142-74 12-17-74 Sanitary and storm sewer easement from John Kollar.
Res.
35-75 2-25-75 Ingress and egress easement to Richmond Hts. Local School District.
Res.
80-75 6-24-75 From Rich-Com, Inc. for water mains in Richmond Commons Development Phase II.
Res.
70-77 6-28-77 Releasing obsolete easements and accepting new easements in place thereof for water mains and necessary appurtenances in Richmond Commons Development.
Res.
2-78 2-14-78 Accepting easement from A. Drost, K. Simon, D. Simon and H. Holz for sanitary sewer facilities.
Res.
62-78 6-13-78 Accepting easements from J. L. Kollar and E. Kollar for storm and sanitary sewers.
Res.
16-79 1-23-79 Accepting easement from Richmond Development Co. for storm sewers.
Res.
17-79 1-23-79 Accepting easement from Richmond Development Co. for water main.
Res.
18-79 1-23-79 Accepting easement from Richmond Development Co. for water main.
Res.
3-80 1-8-80 Accepting easement from D. C. Winslow Construction Co. for storm sewer facilities.
Res.
39-80 3-25-80 Accepting easement from Richmond Park Apartments for public parking area.
Res.
85-80 9-23-80 Accepting easement from Joseph and Alma Golic for the construction and maintenance of a cul-de-sac.
Res.
86-80 9-23-80 Accepting easement from Wayne and Shirley Montgomery for the construction and maintenance of a cul-de-sac.
Res.
23-86 2-11-86 Accepting easement from Capco Enterprises Co. for installation, and maintenance of water main.
Res.
95-88 9-27-88 Accepting easement from Carl Milstein for installation and maintenance of water main.

Res. No. Date Description

15-89 3-7-89 Accepts easement as tendered by S-L Investment Partnership for installation and maintenance of a water main.
16-89 3-7-89 Accepts easement as tendered by S-L Investment Partnership for installation and maintenance of a water main.
148-89 11-14-89 Accepts easement for storm sewer facilities from Arthur and Thelma Westover.
149-89 11-14-89 Accepts an easement for storm sewer facilities from Nicholas J. Matteo.
150-89 11-14-89 Accepts an easement for storm sewer facilities from Anne Marie and Stephen Hovancsek.
39-90 5-10-90 Release of easement set forth in Res. 15-89.
49-90 5-10-90 Appropriates an easement across certain real property.
105-90 8-27-90 Accepts easement for storm sewer facilities from Trevor and M. C. Mordecai.
45-93 5-18-93 Grants an easement to the Northeast Ohio Regional Sewer District for the installation and maintenance of the Heights Hilltop interceptor sewer.
78-93 7-13-93 Accepts the standard easement for the installation and maintenance of a water main from Whitlatch and Co.
79-93 7-13-93 Accepts the standard easement for the installation and maintenance of a water main from Richmond Development Co.
45-95 5-9-95 Purchase of an easement for storm sewer facilities from Edna McKain Crowe for \$500.00.
46-95 5-9-95 Purchase of an easement for storm sewer facilities from Molly Dietrick for \$3,125.
47-95 5-9-95 Purchase of an easement for storm sewer facilities from Alda Opalich for \$4,835.
48-95 5-9-95 Purchase of an easement for storm sewer facilities from Thurlow and Beth Phipers for \$500.00.
49-95 5-9-95 Purchase of an easement for storm sewer facilities from Cleveland Christian Assembly for \$500.00.
50-95 5-9-95 Purchase of an easement for storm sewer facilities from Paul Vanjo for \$735.00.
Res.
101-96 11-12-96 Accepts the donation of an easement for a sanitary sewer force main for the Brushview Sanitary Sewer Project.
Res.
112-96 11-26-96 Authorizes the Mayor to execute a certain easement agreement for sanitary sewer facilities (SUPONCIC).
Res.
113-96 11-26-96 Authorizes the Mayor to execute a certain easement agreement for sanitary sewer facilities (LeSUER/OLBRYSH)

Res.
114-96 11-26-96 Authorizes the Mayor to execute a certain easement agreement for sanitary sewer facilities. (VARGO).
Res.
11-97 2-11-97 Authorizes the Mayor to execute certain easement agreements for sanitary sewers and pump station facilities thereto (PHS MT. SINAI, INC.).
21-97 3-25-97 Appropriates property for a sanitary sewer easement for the Brushview Drive Sanitary Sewer.
Ord. No. Date Description
21-97 3-25-97 Appropriates an easement interest in a 15.715 acre parcel at the eastern end of Brushview Drive.
Res.
65-97 7-1-97 Authorizes payment of \$11,500 to Zigman Enterprises for an easement agreement for the Brushview Drive Sanitary Sewer.
Res.
91-97 10-28-97 Accepts a certain easement for the installation and maintenance of a water main located south of the corner of Loxley Drive and Wadsworth Court in Richwood Subdivision Phase 3.
Res.
80-00 10-10-00 Authorizes the Mayor to execute certain easement agreements for sanitary sewer facilities.
Res.
86-00 10-24-00 Authorizes the Mayor to execute certain easement agreements for sanitary sewer facilities.
Res.
94-00 12-12-00 Authorizes the Mayor to execute certain easement agreements for sanitary sewer facilities.
Res.
6-01 1-23-01 Authorizes the Mayor to execute certain easement agreements for sanitary sewer facilities.
Res.
9-01 2-13-01 Authorizes the Mayor to execute certain easement agreements for sanitary sewer facilities.
Res.
48-01 6-12-01 Authorizes the Mayor to execute easement agreements with the Richmond Heights Local School District.
Res.
53-01 6-26-01 Accepts a certain easement at 26800 Highland Road for a public sidewalk and utility purposes.
Res.
78-01 8-28-01 Authorizes the Mayor to enter a certain easement agreement for property at 26900 Highland Road for public sidewalk and utility purposes.
Res.
18-02 3-12-02 Authorizes an easement agreement with Donald and Kathleen Kne and Dolores Kramer over property at 160 Richmond Road for public sanitary sewer facilities.
Res.
68-04 8-24-04 Authorizes an easement agreement for storm sewer facilities at 497 Trebisky Road.
Res.
74-05 11-29-05 Authorizes an easement agreement for sanitary sewer facilities at 4909 Sweetland Blvd.
Res.
82-05 12-13-05 Authorizes an easement agreement for sanitary sewer facilities at 304 Richmond Road.
Res.
83-05 12-13-05 Authorizes an easement agreement for sanitary sewer facilities at 302 Richmond Road.
Res.
84-05 12-13-05 Authorizes an easement agreement for sanitary sewer facilities at 4944 Horizon Drive.
Res.
12-06 2-14-06 Authorizes an easement agreement for sanitary sewer facilities at 4903 Sweetland Blvd.
Res.
15-06 2-28-06 Authorizes an easement agreement for sanitary sewer facilities (Buccilli).
Res.
16-06 2-28-06 Authorizes an easement agreement for sanitary sewer facilities (Nicholas and Afaf Nykulak).
Res.
17-06 2-28-06 Authorizes an easement agreement for sanitary sewer facilities (Najfach and Naifach).
Res.
25-2006 3-28-06 Authorizes an easement agreement for sanitary sewer facilities at 358 Richmond Road.
Res.
30-2006 4-25-06 Accepts a standard easement for the installation and maintenance of a water main at Trebisky Woods Subdivision.
Res.
87-2006 10-24-06 Accepts a standard easement for the installation and maintenance of a water main at Woods of Richmond Subdivision.
Res.
39-2007 4-24-07 Authorizes the Mayor to execute an easement agreement for water main facilities. (Kluk)
Res.
41-2007 4-24-07 Authorizes the Mayor to execute an easement agreement for water main facilities. (Sova)
Res.
42-2007 4-24-07 Authorizes the Mayor to execute an easement agreement for water main facilities. (Raddell)
Res.
43-2007 4-24-07 Authorizes the Mayor to execute an easement agreement for water main facilities. (Kitchell/Whiting)
Res.
97-2007 8-28-07 Accepts a standard easement for the installation and maintenance of a water main at Highland Ridge Subdivision, Phase I.
Res.
54-2010 8-10-10 Authorizes the Mayor to execute certain documents related to the granting of easements for public sanitary sewer and water main facilities over private properties.
Res.
60-2010 8-24-10 Authorizes the Mayor to execute easement documents for public sanitary sewer and storm water facilities over private properties on Hilltop Road.
Res.
63-2010 9-7-10 Accepts an easement for access and work for the installation and maintenance of a public water main on Hilltop Road.
Res.
64-2010 9-7-10 Accepts easements for access and work for the installation and maintenance of a water main on Hilltop Road from abutting property owners.
Res.
52-2023 4-11-23 Authorizes the Mayor to execute a "right of way and easement for the maintenance of a water main for the purpose of supplying water service" with the City of Cleveland and Richmond Heights Town Square owner LLC.
Res.
75-2023 5-23-23 Authorizes the Mayor to execute a purchase agreement with the Richmond Heights Local School District Board of Education to acquire a strip of land for the widening of Richmond Road for a public sidewalk and associated easements.

TABLE C - DEDICATION OF PROPERTY

Ord. No. Date Description
26 12-4-22 Plat of Brooksdale Ave., Chelford Ave., Elsdale Ave., Argyle Rd. and Edgemont Dr. in Euclid Manor Subdivision.
57 3-1-26 Plat of property fronting on Richmond Rd. in Dubam's Richmond Heights Subdivision.
58 3-1-26 Plat of Geraldine Ave.
59 3-1-26 Plat of Donald Ave.
60 3-1-26 Plat of Orchard Grove Dr.
216 1-7-46 Plat of Scottish Highlands Subdivision for record.
233 12-2-46 Plat of Scottish Highlands Subdivision.
406-53 11-2-53 Plat of Richmond Rd. widening.
414-53 12-21-53 Plat of F. Berzin's Chardon Estates No. 1.
476-54 8-9-54 Plat of Stakich Subdivision No. 1.
477-54 7-19-54 Plat of Berzin's Chardon Estates and Subdivision No. 2.
480-54 8-16-54 Plat of Edgewood Estates Inc.
522-55 3-7-55 Plat of M. Pacini's Subdivision.
523-55 3-21-55 Plat of R. Dvore's Subdivision.
524-55 3-21-55 Plat of F. Berzin's Chardon Estates No. 3.
525-55 3-21-55 Plat of Cary-Jay's Richmond Country Club Estates Subdivision.
535-55 4-4-55 Plat of Meadow Lane Allotment.
540-55 4-18-55 Plat of Lancaster Estates Subdivision.
561-55 7-5-55 Plat of R. Dvore's resubdivision of sublots 1-20, Dvore's Subdivision.
582-55 10-3-55 Plat of Whiteacres Estate Stakich Subdivision No. 3.
583-55 10-3-55 Plat of Fairlawn Homes Subdivision.
584-55 10-3-55 Plat of Newcome St.
603-55 11-14-55 Plat of Skyline Dr. and Glen Oval.
621-56 4-2-56 Plat of Hillcrest Dr. Subdivision.
648-56 5-21-56 Plat of Cary-Jay's Richmond Country Club Estates Subdivision No. 2.
649-56 5-21-56 Plat of Harris Rd. Subdivision.
681-56 11-5-56 Plat of D. Nero's Subdivision No. 9.
688-56 12-3-56 Plat of Meadow Lane Allotment.
699-57 2-4-57 Plat of Howell's resubdivision of Sublot 28.
707-57 3-4-57 Plat of Kazen's Chardon Rd. Subdivision.
711-57 4-1-57 Plat of Hillcrest Dr.
723-57 6-17-57 Plat of Fairlawn Homes Subdivision.

724-57	7-1-57	Plat of D. Nero's Subdivision No. 9.
738-57	10-7-57	Plat of Cary-Jay Blvd.
742-57	10-21-57	Plat of Meadow Lane Dr.
747-57	12-2-57	Plats of Fairlawn and Allendale Dr.
756-58	1-6-58	Plat of Richmond Country Club Estates Subdivision No. 2.
762-58	1-20-58	Plat of Harris and Catlin Rds.
767-58	3-17-58	Plat of Pacini Rd.
771-58	4-21-58	Plat of Harris Rd. Subdivision No. 2.
<u>Ord. No. Date Description</u>		
813-60	4-20-59	Plat of D. Nero's Subdivision No. 9D.
36-65	5-11-65	Plat of Anthony St.
Res.		
41-65	5-25-65	Plat of Ruth Ellen Dr.
Res.		
45-65	6-22-65	Resubdivision plat of Scottish Highlands No. 5, for record purposes only.
59-65	7-13-65	Royal Oak Blvd., Euclid Chagrin Pkwy., Claymore Blvd., Dundee Dr., Dumbarton Blvd., Stevens Blvd., Albert Ct., Audrey Dr., Rockledge Lane and Heather Lane.
Res.		
54-66	6-14-66	Subdivision Plat of Irwin Marmorstein.
113-66	12-27-66	Plat of Edgewood Estates, Inc.
79-67	10-24-67	Plat of a portion of Loganberry Dr.
Res.		
43-68	4-9-68	Resubdivision Plat for three lots on relocated Anthony St.
97-68	8-13-68	Plat of Richmond Park Dr. east and Richmond Park Dr. west, for record purposes only.
25-69	3-25-69	Plat of Donna Dr.
Res.		
22-73	2-27-73	Donna Dr.
40-73	5-22-73	Plat of Frank Berzin Subdivision for record purposes only.
106-73	12-19-73	Plat of Foxcroft Subdivision No. 1 for record purposes only.
57-74	4-23-74	Plat of Foxcroft Subdivision No. 2 for record purposes only.
114-74	10-22-74	Plat of Richmond Development Co. 's Richmond Rd. Subdivision for record purposes only.
18-76	2-10-76	Plat of Richmond Run Subdivision for record purposes only.
11-77	7-14-77	Resubdivision of Sublot Nos. 53-56 and part of Sublot Nos. 50- 52 of Original Euclid Twp. Lot 35, Tract 5.
79-77	7-14-77	Resubdivision of part of Ammon Rd. in Richmond Hts. Subdivision and part of Block "E" in Richmond Run Subdivision, part of Original Euclid Twp. Lot 35, Tract 5.
6-78	2-14-78	Plat of Pleasant Trail Subdivision for record purposes only.
49-78	4-11-78	Plat of Marcella Estates Subdivision for record purposes only.
61-79	5-22-79	Approving lot split and subdivision of parcel at 156 Richmond Rd.
102-79	9-25-79	Dedication of 10-foot strip of land on north side of Highland Rd. east of Richmond Rd.
103-79	9-25-79	Dedication of land set forth in dedication plat prepared by C.W. Courtney Co., Engineers, in September 1979 under Job No. 17- 041.
31-81	7-14-81	Dedication of Donna Drive.
26-82	3-9-82	Plat of Celestia Drive Subdivision for record purposes only.
4-84	1-10-84	Accepts various roads within Richmond Run Subdivision for dedication.
Res.		
63-84	6-12-84	Plat for Richmond Run Subdivision No. 2 as modified.
Res.		
79-84	7-10-84	Plat for Richmond Run Block A, Phase 3A and 3B.
Res.		
125-84	11-27-84	Plat for Royalwood Estates.
142-84	12-18-84	Dedication of Foxwynde Trail, Foxlair Trail and Tally Ho Lane within Foxcraft Subdivision I and II.
<u>Ord. No. Date Description</u>		
13-85	3-12-85	Accepts dedication of Celestia Drive.
Res.		
34-85	5-14-85	Subdivision Plat for Royalwood Estates for record purposes only.
67-85	6-25-85	Dedication of Pleasant Trail.
47-86	5-13-86	Accepts dedication of Edgewood Drive in Marian Subdivision.
Res.		
22-87	3-10-87	Subdivision Plat for Royalwood Estates Phase 2 for record purposes only.'
55-89	5-9-89	Subdivision plat for Richmond Bluffs Phase I for record purposes only.
96-89	7-11-89	Plat of Richmond Bluffs Subdivision for record purposes only.
116-91	7-9-91	Dedication of Merit Drive.
11-92	1-28-92	Dedication of Gleton Square Subdivision.
55-95	5-30-95	Plat of Phase II of Richmond Bluffs Subdivision for record purposes only.
63-95	6-13-95	Plat of Phase II of Richwood Subdivision for record purposes only.
79-95	10-8-96	Accepts Cynthia Court in Richmond Run Subdivision as a dedicated street.
105-95	11-28-95	Plat of Phase I of Rushmore Subdivision.
12-96	2-27-96	Plat of Phase II of Rushmore Subdivision.
73-97	7-22-97	Approves the plat for Tally-Ho Lane Extension Subdivision.
74-97	8-26-97	Approves the plat for Phase III of Richwood Subdivision for record purposes only.
90-98	10-13-98	Approves the plat for Phase II of Rushmore Subdivision for record purposes only.
109-98	11-10-98	Approves the plat for Phase III of Richmond Bluffs Subdivision for record purposes only.
42-99	6-8-99	Approves the revision to the final plat for the Rushmore Subdivision, Phase I.
Res.		
51-00	7-11-00	Confirms the action of the Planning Commission to revise the final plat of the Richmond Bluffs Subdivision.
85-02	8-27-02	Accepts the streets in Richmond Bluffs Subdivision, Phases IA, IB, II and III as dedicated public streets.
Res.		
87-02	8-27-02	Confirms the action of the Planning Commission to revise the final plat for Sublot 1 in Phase 1 and Sublot 47 in Phase 2 of the Rushmore Subdivision.
Res.		
55-05	9-27-05	Approves the plat for the Woods of Richmond Subdivision for record purposes only.
Res.		
55-06	7-11-06	Approves a plat of consolidation for Speedway Super America, LLC. at 230 Richmond Road.
Res.		
25-07	5-8-07	Approves the re-plat for the Woods of Richmond Subdivision for record purposes only.
Res.		
78-2007	7-31-07	Approves the detailed development plan and associated final plat for Phase I of the Highland Ridge Subdivision Residential Cluster Development.
Res.		
32-2008	4-8-08	Approves a revised final plat for Phase I of the Highland Ridge Subdivision Residential Cluster Development.
Res.		
47-2016	5-24-16	Confirms action of the Planning Commission to approve a lot split and consolidation plat for Sublot 71 on Loxley Drive.
Res.		
33-2021	4-27-21	Approves a lot split of current Permanent Parcel No. 662-30-090 at 621 Richmond Road.
Res.		
49-2021	5-11-21	Approves a lot split of current Permanent Parcel No. 662-27-048 at 621 Richmond Road.
Res.		
74-2021	8-10-21	Approves a lot split of current Permanent Parcel No. 661-07-016 at 150 Brush Road.
Res.		
9-2022	1-25-22	Approves consolidation of lots at the Northeast Quadrant of Richmond and Wilson Mills Roads.
42-2022	6-14-22	Dedicating the Greenwood Farm property as a Municipal Public Park.
Res.		
156-2022	12-13-22	Approves lot split and consolidation plat for lots included in the Belle Oaks Development Project at the Northeast Quadrant of Richmond and Wilson Mills Roads.
Res.		
33-2023	3-14-23	Approves the consolidation of thirteen (13) unbuildable lots (Permanent Parcel Nos. 662-29-076, 662-29-082 to -092, and 662-29-095) on the east side of Richmond Road across from the former Richmond Town Square Mall.
Res.		
91-2023	6-27-23	Approves a lot split and consolidation plat submitted by Richmond Heights Town Square Owner LLC.

TABLE D - AUTHORIZATION FOR PURCHASE AND SALE OF REAL PROPERTY

<u>Ord. No. Date Description</u>		
197	5-1-44	Property at 25800 Chardon Rd.
500-54	1-17-54	Property in Sublot 34 for water lines.
511-54	12-20-54	Property in Euclid Twp. Lot 25 for dump.
660-A-56	6-18-56	Property in Euclid Twp. Tract 13 for municipal buildings.
Res.		
17-67	3-14-67	Property situated on Richmond Rd., adjacent to and surrounded by the Cuyahoga County Airport.
45-69	4-22-69	Property in Euclid Twp. Lot 25, Tract 11.

97-69	9-9-69	Transfer of part of Original Euclid Twp. Lot 35, Tract 5, to Douglas G. Oviatt.
104-69	9-23-69	Authorizes purchase of property from the Richmond Hts. Local School District for recreational purposes.
146-69	10-28-69	Authorizes transfer of a parcel of land from the Richmond Hts. Local School District to the City.
64-70	5-26-70	Purchase of 4.118 acres known as 26260 Chardonview Dr.
80-94	8-2-94	Authorizes the purchase of property from Chardon Realty Co. for \$32,000.
97-94	9-13-94	Authorizes sale of real property to William Kinkopf.
54-95	5-23-95	Authorizes the sale of 10 acres of vacant land north of Highland Road to Rushmore Subdivision, Ltd.
75-96	9-10-96	Authorizes purchase of Permanent Parcel No. 662-24-003 for \$3,000.
99-96	10-22-96	Authorizes purchase of property located at 27223 Highland Road for \$120,000.
111-96	11-26-96	Repeals Res. 99-96 and authorizes purchase of property located at 27223 Highland Road for \$100,000.
20-00	4-25-00	Authorizes the acceptance of a deed for “Block H” at the Richmond Run Subdivision under the State Land Reutilization Program.
62-00	8-28-00	Authorizes the acceptance of a deed for “Block F” at the Richmond Run Subdivision under the State Land Reutilization Program.
109-03	12-9-03	Authorizes purchase agreement for real property known as Permanent Parcel No. 661-08-040.
20-04	4-6-04	Appropriates five parcels totalling 0.895 acres in the McKinley Heights Subdivision for public road purposes.
21-04	4-6-04	Appropriates two parcels totalling 0.38 acres in the McKinley Heights Subdivision for public road purposes.
50-2004	6-22-04	Authorizes a residential real estate purchase agreement with Lorna M. Walsh for \$125,000.
70-2004	9-14-04	Authorizes the acquisition of 264 Richmond Road for \$480,000.
49-2005	8-30-05	Authorizes the acquisition of 442 Richmond Road for \$295,000.
50-2005	8-30-05	Authorizes the acquisition of 434 Richmond Road for \$210,000.
51-2005	8-30-05	Authorizes the purchase of 430 Richmond Road for \$108,000.
52-2006	6-27-06	Authorizes the acquisition of real property on Georgetown Road (Permanent Parcel No. 662-03-008).
83-2006	10-10-06	Authorizes the acquisition of 266 Richmond Road.
99-2006	12-5-06	Authorizes the acquisition of a parcel of land from the Board of Commissioners of Cuyahoga County for a sanitary sewer project.
36-2010	6-8-10	Authorizes the Mayor and Director of Finance to enter into a purchase agreement for property at 523 Harris Road.
62-2010	8-24-10	Authorizes the Mayor to enter into a purchase agreement for the sale of property at 2547 Hilltop Road.
39-2012	6-12-12	Authorizes the Mayor to sell property at 1954 Chelford Road, pursuant to the Neighborhood Stabilization Program.
40-2012	6-12-12	Authorizes the Mayor to sell property at 523 Harris Road, pursuant to the Neighborhood Stabilization Program.
22-2013	3-12-13	Authorizes the Mayor to sell property at 1954 Chelford Road, pursuant to the Neighborhood Stabilization Program.
110-2014	11-11-14	Authorizes the Mayor to enter into a pass-through sale-purchase agreement with the Cuyahoga County Land Reutilization Corporation for the conveyance of property located at 26102 Chardon Road to the City.
2-2016	1-9-16	Authorizes sale of property at 497 Karl Drive and Kenbridge Drive.
15-2016	3-22-16	Authorizes sale of 0.34 acres of vacant residential property on Wethersfield Court in the Richmond Bluffs Subdivision.
2-2019	1-8-19	Authorizing the Mayor to enter into a pass-through sale-purchase agreement with the Cuyahoga County Land Reutilization Corporation for the conveyance of certain property to the City.
113-2021	11-23-21	Authorizing the acceptance and conveyance of certain real property in the City in connection with the establishment of a Tax Increment Financing Program under Ohio Revised Code Section 5709.41; (PPN 662-27-050, 662-28-068, 662-27-049, 662-30-120, 662-30-122, 662-30-098, 662-30-105).
11-2022	3-8-22	Authorizing the Mayor to sell real property at 516 Trebisky Road.
120-2022	9-6-22	Authorizing the Mayor to sell real property at 27227 Chardon Road.
1-2023	1-24-23	Authorizing the donation and transfer of fee title ownership to two City-owned parcels to the Cleveland Metroparks, Permanent Parcel Nos. 662-02-001 and 662-02-002 located on an unimproved portion of Hilltop Road.
66-2023	4-25-23	Authorizing an amendment to a deed restriction in favor of the city related to its transfer of title to the real property at 27227 Chardon Road.

TABLE E - CHANGE OF STREET NAME

Ord. No.	Date	Description
27	12-4-22	Elsdale Ave. to Beverly Hills Dr.
772-A-58	7-21-58	Pacini Rd. to Brushview Dr.
89-67	12-12-67	Old Chardon Rd. to Chardonview Dr.
Res.124-68	11-12-68	Butternut Dr. to Catlin Rd.
20-69	2-25-69	Part of Highland Rd. west to Georgetown Rd.
149-90	10-23-90	Gleeton Road to Gleeten Road.
45-06	6-27-06	Swetland Court to AEC Parkway.

TABLE F - ZONING MAP CHANGES

Ord. No.	Date	Description
112	12-4-33	Property in Euclid Twp. Morse Tract, from U-1 to U-4 use.
113	12-4-33	Property in Euclid Twp. Morse Tract, from U-1 to U-4 use.
214	10-22-45	Property in Euclid Twp. Morse Tract, from U-1 to U-2 use.
263	6-7-47	Property in Euclid Twp. Morse Tract, from U-1 to U-4 use.
292	11-7-49	Property in Euclid Twp. Morse Tract, from U-1 to U-4 use.
293	10-17-49	Property in Euclid Twp. Morse Tract, from U-1 to U-4 use.
301-50	5-1-50	Sublot 5 in Richmond Heights Subdivision, from U-1 to U-4 use.
301-A-50	7-24-50	Property in Euclid Twp. Morse Tract from U-1 to U-4 use.
306-50	9-5-50	Property in Euclid Twp. Morse Tract from U-1 to U-4 use.
335-51	11-5-51	Property in Euclid Twp. Morse Tract from U-1 to U-4 use.
383-53	5-4-54	Part of Euclid Twp. Lot 26 from U-1 to semi-public golf course district.
403-53	9-21-53	Part of Euclid Twp. Morse Tract from U-1 to U-4 use.
472-54	8-2-54	Property of J. L. Kollar from U-1 to U-4 accessory use.
497-54	12-6-54	Part of Euclid Twp. Morse Tract from U-1 to U-4 use.
615-56	3-19-56	Property of Dorothy Burger, et al from U-1 to U-3 use.
643-56	6-18-56	Part of Euclid Twp. Lot 76 from U-1 to U-3 use.
679-56	11-5-56	Part of Euclid Twp. Lot 35 from U-1 to U-3 use.
697-57	3-18-57	Part of Euclid Twp. Lot 74 from U-1 to U-3 use.
735-57	11-4-57	Part of Euclid Twp. Morse Tract from U-1 to U-4 use.
745-57	12-16-57	Part of Euclid Twp. Morse Tract from U-1 to U-4 use.
772-58	5-19-58	Part of Euclid Twp. Morse Tract from U-1 to U-4 and U-4 accessory use.
804-59	3-16-59	Part of Euclid Twp. Morse Tract from U-1 to U-3 use.
812-60	5-4-59	Part of Euclid Twp. Morse tract from U-1 to U-4 use.
816-59	7-6-59	Part of Euclid Twp. Morse Tract from U-1 to U-4 and U-4 accessory use.
20-60	9-20-60	Part of Euclid Twp. Lots 25 and 26 from U-1 to U-4 use.
24-65	4-27-65	Property in Euclid Twp. Lot, 76, Tract 5, from U-1 to U-5 use.
25-65	4-27-65	Property in Euclid Twp. Lot 76, Tract 5, from U-1 to U-5 use.
26-65	4-13-65	Property in Euclid Twp. Lot 33, Tract 12, from U-1 to U-3 use.
42-65	5-25-65	Property in Euclid Twp. Lot 33, Tract 12, from U-1 to U-6 use.
60-65	8-24-65	Sublot 14 in Richmond Heights Subdivision, from U-1 to U-5 use.
84-65	12-21-65	Portion of Chardon Rd. from U-1 to U-5 use.
97-65	1-25-66	Property in Euclid Twp. Lot 75, Tract 12, from U-6 to U-5 use.
20-66	3-22-66	Property in Euclid Twp. Sublots 1 and 2 in the Marian Subdivision, from U-1 to U-5 use.
29-66	4-12-66	Property in Euclid Twp. Lot 33, Tract 12, from U-1 to U-3(5) use.

30-66	4-12-66	Property in Euclid Twp. Lot 33, Tract 12, from U-3(5) to U-1 use.
40-66	5-24-66	Property in Euclid Twp. Morse Tract (portion of Richmond and Chardon Rds.) from U-6 to U-5 use.
<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
47-66	6-14-66	Property in Euclid Twp. Morse Tract, from U-1 to U-3(1) use.
99-66	12-13-66	Property in Euclid Twp. Lot 35, Tract 5, from U-1 to U-5 use.
116-66	2-14-67	Property in Euclid Twp. Lot 33, Tract 12, from U-1 to U-5 use.
18-68	3-26-68	Property in Euclid Twp. Lot 76, Tract 5, from U-1 to U-5 use.
28-68	5-14-68	Four parcels in Euclid Twp. Lot 35, Tract 5, from U-1 to U-5 use.
29-68	4-23-68	Sublots 105, 106, 107, 108, 206, 207 and 208 in Dubain Realty Co.'s Richmond Hts. Subdivision, from U-1 to U-5 use.
104-68	10-22-68	Property in Euclid Twp. Lot 33, Tract 12, from U-1 to U-5 use.
126-68	3-25-68	Property in Euclid Twp. Lot 34, Tract 12, from U-1 to U-3(6) use.
127-68	3-11-69	Property in Euclid Twp. Lots 25 and 26, Tract 11, from U-1 to U-3 use.
128-68	3-11-69	Property in Euclid Twp. Morse Tract, Sublots 3 and 4 in Whiteacres Estates, from U-1 to U-5 use.
44-69	6-24-69	Property in Euclid Twp. Lot 76, Tract 5, from U-1 to U-5 use.
101-69	10-14-69	Part of Original Euclid Twp., Morse Tract, from U-1 to U-4 use.
81-70	8-25-70	Five parcels in Euclid Twp. Lot 76, Tract 5 from U-1 to U-5 use.
62-72	6-27-72	Property in Euclid Twp. Lot 35, Tract 5 from U-1 to U-5 use.
72-72	8-31-72	New Zoning Map adopted.
89-72	1-9-73	71,225 acres near intersection of Ammon and Richmond Rds. from R-1 (Single-Family Residential) to R-3 (Single-Family Residential).
90-72	1-9-73	6,261 acres on Richmond Rd. from R-1 (Single-Family Residential) to O-S (Office-Service) District.
31-73	6-12-73	Four parcels being SW, NW and E. portions of Parcel 662-4-4 and part of former parcel 662-16-20 from R-1 (Single-Family Residential) to PF (Public Facilities) District.
97-73	1-22-74	26. 5 acres on Richmond Rd. owned by American Housing Systems from R-1 (Single-Family Residential) to R-2 (Single- Family Residential) District.
138-74	1-28-75	0.27545 acres being part of Sublot 35 in Richmond Hts. Subdivision on Chardon Rd. from B-3 (Regional Business) to B- 1 (Neighborhood Business) District.
97-75	11-25-75	Sublot 11 in Whiteacres Estates Stakich Subdivision 3 from R-1 (Single-Family Residential) to B-1 (Neighborhood Business) District.
100-75	11-25-75	Part of Original Euclid Twp. Lot 35 in Tract 5 on Richmond Rd. owned by Forest City Enterprises, Inc. from R-1 (Single- Family Residential) to O-S (Office-Service) District.
101-75	11-25-75	Part of Original Euclid Twp. Lot 67 in Tract 12 on Trebisky Rd. owned by Forest City Enterprises, Inc. from R-1 (Single- Family Residential) to R-3 (Single-Family Residential) District.
98-78	8-29-78	Premises at 26915 Chardon Rd. from R-1 (Single-Family Residential) to B-1 (Neighborhood Business) District.

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
92-80	12-9-80	Property rezoned from R-1 to R-2 Residential District.
37-81	9-8-81	Property near Richmond Heights General Hospital from I-1 Industrial Office, RMF-1 Low Rise Multiple Family and R-1 Single Family Residential use to P-F Public Facilities District.
92-83	9-13-83	Property rezoned from B-3 to B-1 Business District.
9-84	3-13-84	Making previously unzoned property R-3 Residential Use District.
21-85	4-23-85	Property owned by Robert Stefancik from R-1 to R-2.
89-85	8-20-85	Cuyahoga County Airport property from R-1 to I-1.
51-86	7-8-86	Richmond Heights Hospital property from A P-F Public Facilities Use District to RS-1 Senior/Adult Residence District.
90-86	8-26-86	Property at 26502 White Rd. from R-1 to I-1.
118-86	2-10-87	Property in Joseph Huber Realty Co.'s Richmond-Highland Subdivision from B-3 to B-1.
70-87	8-11-87	Ann P. Schmerheim property from R-1 to O-S.
154-87	3-3-88	Property located north of the Cuyahoga County Airport from I-1 to I-2.
17-88	5-10-88	Property of Richmond Run Development Co. located at Hillary Rd. and Richmond Rd. from O-S to B-1.
74-88	11-22-88	A 0.5615 acre parcel north of Merit Brass from I-1 to R-1.
75-88	11-22-88	A 0.2104 acre parcel north of Merit Brass from I-2 to R-1.
71-89	7-8-89	Property from an R-1 to B-1 (DiPadova).
107-90	9-11-90	Repeals 51-86 and reverts certain property from P-F to RMF-2.
111-90	10-23-90	Property from B-3 to B-1.
47-92	7-7-92	Property from an I-2 Industrial Use District to a combined conditional RS-1 Senior/Adult Residence District and O-S Office Service District.
49-93	7-13-93	Property from R-1 to R-2.
102-94	10-25-94	Property in Julius Paris Richmond Subdivision from R-1 to R-2.
103-94	10-25-94	George Awis property from RMF-1 to B-1.
09-95	3-14-95	Property described in Exhibits "A", "B", "C" and "D" from B-1 to O-S.
53-95	7-25-95	Vacant land located north of Highland Road from R-1 and PF to R-2.
21-96	6-11-96	0.18 acres of vacant land located along the westerly 158.7 feet of the Speedway Gas Station property from B-3 to B-1.
16-97	4-22-97	Adds a new district designation to be known as the Wireless Telecommunication Tower Overlay (WTO) District.
134-97	3-10-98	Approximately 40,549 square feet located at the southwest corner of Highland Road and Pierson Drive from R-1 to R-2.
17-99	5-25-99	Five parcels, two of which are zoned RS-1 and three which are zoned I-1 zoned RS Senior Residence District.
39-99	7-27-99	Property located at 546 and 562 Richmond Road from R-1 to RS.
6-03	2-25-03	Permanent parcel No. 662-15-021 on Richmond Road from B-1 to B-3.
107-03	1-27-04	Fifteen parcels rezoned from R-1 to R-2.
7-07	3-13-07	Changes the Business zoning designation of properties set forth in Exhibit A.
52-2007	7-24-07	Lands located at or about 562 Richmond Road from OS to RS.
76-2007	8-28-07	Lands located at or about 24491, 24737, 24757, 24777 and 24801 Highland Road from R-1 to R-2.

TABLE G - VACATING PROPERTY

<u>Ord. No.</u>	<u>Date</u>	<u>Description</u>
104-75	10-14-75	Portion of Euclid-Chagrin Parkway between Cary-Jay Blvd. and Richmond Rd.
17-76	2-10-76	Part of Hillary Lane and all of S. Hillary Oval.
11-77	7-14-77	Parts of Anthony St. and Donald Ave.
79-77	7-14-77	Part of Ammon Rd.
94-86	9-9-86	Portion of Ammon Rd.

CHARTER
OF THE CITY OF RICHMOND HEIGHTS
TABLE OF CONTENTS

EDITOR’S NOTE: The Richmond Heights Charter was originally adopted by the voters at an election on May 5, 1959. Dates appearing in parentheses following a section heading indicate that those provisions were subsequently amended or adopted on the dates given.

	PREAMBLE
	ARTICLE I
	NAME
	ARTICLE II
	BOUNDARIES
	ARTICLE III
	FORM OF GOVERNMENT AND POWERS
Section 1 .	Form.
Section 2 .	Powers.
	ARTICLE IV
	THE COUNCIL
Section 1 .	Composition and Term. (11-7-78; 11-8-88; 5-8-90; 11-4-14; 11-6-18)
Section 2 .	Wards. (11-4-03)
Section 3 .	Qualifications. (11-7-78; 11-3-98; 11-6-18)
Section 4 .	Salaries and Bonds. (11-7-78; 11-6-18)
Section 5 .	Meetings. (11-3-09; 11-4-14; 11-6-18)
Section 6 .	Quorum. (11-3-09)
Section 7 .	Clerk. (11-3-09; 11-6-18)
Section 8 .	Vacancies in Council. (11-7-78; 11-6-18; 11-8-22)
Section 9 .	Powers. (11-6-18)
Section 10 .	Validation of Actions.
Section 11 .	President of Council. (11-8-83; 11-4-14; 11-6-18)
Section 12 .	Removal. (11-6-18)
	ARTICLE V
	THE MAYOR
Section 1 .	Term of Office. (11-8-88; 11-4-14; 11-6-18)
Section 2 .	Qualifications. (11-3-98; 11-4-14; 11-6-18; 11-8-22))
Section 3 .	Judicial Powers.
Section 4 .	Legislative Powers. (11-6-73)
Section 5 .	Executive Powers. (11-6-18)
Section 6 .	Veto. (11-6-18)
Section 7 .	Vacancy in Office of Mayor. (11-6-73; 11-4-14; 11-6-18; 11-8-22))
Section 8 .	Removal. (11-6-18)
	ARTICLE VI
	ADMINISTRATIVE DEPARTMENTS, BOARDS, AND COMMISSIONS
Section 1 .	Specific Provisions. (11-5-96; 11-3-98; 11-3-09)
Section 2 .	Director of Law. (11-3-09; 11-4-14; 11-6-18)

Section 3 . Director of Finance. (5-8-90; 11-2-93; 11-3-98; 11-4-03; 11-3-09; 11-4-14; 11-6-18; 11-8-22))
Section 4 . Department of Public Safety. (11-7-78; 11-8-88; 11-2-93; 11-5-96; 11-3-09; 11-6-18)
Section 5 . Department of Public Service and Properties and Department of Engineering and Construction. (11-2-93; 11-6-18; 11-8-22)
Section 6 . The Civil Service Commission. (11-8-88; 11-4-03; 11-8-22)
Section 7 . Planning Commission. (11-7-78; 11-3-81; 11-3-09; 11-6-18; 11-8-22)
Section 8 . Zoning Board of Appeals. (11-5-63; 11-7-78; 11-8-88; 11-3-09; 11-6-18; 11-8-22)
Section 9 . Recreation Board. (11-7-78; 11-3-98; 11-4-03; 11-3-09; 11-6-18; 11-8-22)

ARTICLE VII
GENERAL PROVISIONS
ARTICLE VIII
NOMINATIONS AND ELECTIONS

Section 1 . Municipal Elections.
Section 2 . Nominations and Qualifications. (11-4-14; 11-6-18)
Section 3 . Election Procedures.

ARTICLE IX
INITIATIVE - REFERENDUM - AND RECALL

Section 1 . Initiative.
Section 2 . Referendum.
Section 3 . Petition Procedure. (11-6-18)
Section 4 . Recall. (11-7-17; 11-6-18; 11-8-22)

ARTICLE X
ORDINANCES, EFFECTIVE DATE AND CODIFICATION

Section 1 . Ordinances.
Section 2 . Effective Date of Ordinances and Resolutions. (11-3-09)
Section 3 . Codification of Legislation.

ARTICLE XI
FRANCHISES
ARTICLE XII
LIMITATION ON THE RATE OF TAXATION

Section 1 . Maximum Levy.
Section 2 . Tax Credit. (11-8-88; 11-8-16; 11-6-18)
Section 3 . Additional Fire Department Personnel Levy. (11-6-90)
Section 4 . Additional Levy for the Fire/Paramedic Service Fund. (11-6-07)

ARTICLE XIII
AMENDMENTS TO CHARTER

Section 1 . Indexing.
Section 2 . Amendments.

ARTICLE XIV
CHARTER REVIEW COMMITTEE (11-4-14; 11-8-22)
ARTICLE XV
MISCELLANEOUS PROVISIONS

Section 1 . Effective Date of Charter.
Section 2 . Effect of Charter Upon Existing Laws and Rights.
Section 3 . Saving Clause.
Section 4 . Interpretation of Charter.
Section 5 . Continuance of Present Officers. (11-6-18)
Section 6 . Oath of Office. (11-4-14; 11-6-18)
Section 7 . Broadcasts of Council Meetings. (11-4-14; 11-6-18)
Section 8 . Gender Neutrality. (11-4-14)

CHARTER OF THE CITY
OF
RICHMOND HEIGHTS

EDITOR'S NOTE: Unless otherwise indicated by sectional histories, the effective date of all sections of the Charter is January 1, 1960.

PREAMBLE

We, the people of Richmond Heights, in the County of Cuyahoga, State of Ohio, in order to secure the benefits of municipal home rule and local self-government under the Constitution and Laws of the State of Ohio, do hereby adopt this Charter.

ARTICLE I

NAME

The Municipality now existing in the County of Cuyahoga, State of Ohio, and known as Richmond Heights shall continue to be a body politic and corporate under the name of Village of Richmond Heights. If and when the Municipality of Richmond Heights shall, under the Constitution and the general laws of the State of Ohio, become a city, it shall be known as the City of Richmond Heights, and wherever in this Charter the word "Village" appears, it shall then be construed to read "City", and the provisions of this Charter shall apply whether this Municipality is a Village or a City.

ARTICLE II

BOUNDARIES

The Municipality of Richmond Heights shall have the same boundaries as now exist, but with power and authority to change its boundaries in the manner authorized by the laws of Ohio.

ARTICLE III

FORM OF GOVERNMENT AND POWERS

SECTION III-1. FORM.

The Municipal government provided by this Charter shall be known as the "Mayor-Council Form of Government".

SECTION III-2. POWERS.

Pursuant to the provisions and subject only to the limitations imposed by the State Constitution and this Charter, all powers of the Municipality shall be vested in an elective council, hereinafter referred to as "the Council", which shall enact local legislation, adopt budgets, determine policies, and work with the Mayor, who shall execute the laws and administer the government of the Municipality. The Municipality of Richmond Heights shall have all the powers, general or special, governmental or proprietary, which may now or hereafter lawfully be possessed or exercised by municipalities under the laws of Ohio. All such powers may be exercised in the manner prescribed in this Charter, or, if not prescribed herein, in such manner as the Council may determine, or, unless a contrary intent or implication appears in this Charter or in the enactments of the Council, in such manner as may now or hereafter be provided by the Laws of Ohio.

ARTICLE IV

THE COUNCIL

SECTION IV-1. COMPOSITION AND TERM.

(a) Composition. The legislative powers of the Municipality, except as otherwise provided for by this Charter and by the Constitution of the State of Ohio, shall be vested in a Council of seven (7) members; one of whom shall be elected by the people at large as the President of Council, two (2) of whom shall be elected by the people at large as Councilperson at Large, and four (4) of whom shall be elected by the people from wards, one from each of the four (4) wards.

(b) Term. All members of Council shall serve terms commencing on the first day of January and no later than the next business day after January 1st following the Councilperson's election or until the Councilperson's successors are elected and certified by the Cuyahoga County Board of Elections.

Commencing at the regular Municipal election in the year 2017, members of Council to be elected at large shall serve four (4) year terms. The four (4) members of Council to be elected by ward shall be elected to serve a two (2) year term at the election in the year 1989 and shall be elected to serve four (4) year terms at the elections to be held in the year 1991 and thereafter.

(Amended 5-5-90; 11-4-14; 11-6-18)

SECTION IV-2. WARDS.

Not later than July 15, 1959, the then incumbent Council shall divide the Municipality into four (4) wards which shall be as nearly equal in population as is practicable. Four (4) years after such division, the Council shall, and every two (2) years after such division the Council may, adjust the boundaries of the four (4) wards so that following each such adjustment the substantial equality in population of the four (4) wards shall be maintained. Notwithstanding the aforesaid time periods for adjustment of the boundaries of the four (4) wards in the Municipality, Council shall review and consider adjusting the boundaries of the four (4) wards every ten (10) years following Council's previous adjustment of the boundaries so that the substantial equality in population of the four (4) wards shall be maintained. Each ward shall be composed of contiguous and compact territory bounded by natural boundaries and street lines to the end that the population of each ward will have representation equal to that of each of the other three (3) wards in the government of the Municipality.

(Amended 11-4-03.)

SECTION IV-3. QUALIFICATIONS.

(a) No person shall be eligible to be a member of Council unless that person is a qualified elector of the Municipality and shall have resided continuously in the Municipality or the ward from which the Councilperson's is elected or appointed for at least two (2) years immediately prior to the date of the Councilperson's election or appointment and the Councilperson's shall continue to be a qualified elector and reside therein during this term of office. Any Ward Councilperson who moves from the Councilperson's ward and any Councilperson who moves from the Municipality shall forfeit the office immediately.

(Amended 11-6-18)

(b) A member of Council shall hold no other public office or employment during the Councilperson's term which is incompatible with the Councilperson's elected office, except as otherwise provided in this Charter, and further excepting the office of Notary Public and membership in the State Militia or the Reserve Corps of the United States unless called to full-time military service therein for a period exceeding thirty (30) consecutive days.

(Amended 11-6-18)

(c) As used in this section of the Charter, the prohibition against holding other public office or public employment shall not apply to:

1. A person elected or appointed to the office of precinct, ward or district committee member, or any presidential elector or delegate to a national convention.
2. A person who is a teacher, instructor, professor, or any other kind of educator whose position does not involve the performance of, or authority to perform administrative or supervisory functions.
3. Part-time service as a member of a department, board, commission, authority, or other instrumentality of the State of Ohio or Cuyahoga County nor to any part-time position as a member of a board of inter-municipal organizations.

(Amended 11-3-98.)

(d) To the extent, as provided by general law, no member of Council shall, directly or indirectly, solicit, contract for, receive or be interested in any profit or emolument from, or on account of, any contract, job, work or service with, or for, the Municipality.

(Amended 11-7-78)

SECTION IV-4. SALARIES AND BONDS.

The Council shall have the power to fix the salary of its own members and of each other officer, employee and member of any board or commission of the Municipality whether elected, appointed or chosen, except as otherwise provided for in this Charter. Any such person may be required by the Council, from time to time, to furnish a bond or bonds for the faithful performance of such person's duties; and Council may provide that the premium for any such bonds shall be paid by the Municipality.

The compensation of the Mayor and each member of the Council shall be fixed at least thirty (30) days prior to the last date for filing the Mayor's and Councilperson's nominating petitions, and thereafter such compensation shall not be diminished, increased or changed in any respect during the term for which the Mayor and Councilperson were elected or for any part of such term.

Any person filling a vacancy for the unexpired term of an elected officer shall receive the compensation theretofore fixed for such elective office.

The compensation of each other officer, employee and member of any board or commission of the Municipality shall be fixed by the Council and may be changed at any time at the discretion of the Council.

The Council may authorize the payment or reimbursement of expenses incurred by any officials, employee or any member of a board or commission of the Municipality for travel, membership in an association or expenses otherwise incurred in the interest of or for the benefit of the Municipality. (Amended 11-7-78; 11-6-18)

SECTION IV-5. MEETINGS.

The Council shall meet at such times as may be prescribed by its rules, regulations, ordinances and bylaws, but it shall hold regular meetings at least twice in each calendar month. All regular meetings shall be accessible and unedited to residents and the public through media outlets and by other electronic means, as the technology becomes available. The inability to have a regular meeting accessible and unedited to residents and the public through media outlets and by other electronic means due to technological difficulties at any particular meeting shall not require the meeting to be suspended, continues or to not go forward and there shall be no effect upon the validity of any action taken at such a meeting. Council shall hold such special meetings as may be found necessary, which may be called by the Clerk upon the written request of the Mayor or upon the written request of three (3) members of Council, in a manner prescribed by ordinance. All regular and special meetings of Council shall be held in the Council Chamber of the Municipality or elsewhere in the Municipality as determined by majority vote of Council and shall be open to the public. Meetings of Council committees, including Committee of the Whole, shall be public, except as follows:

The members of the Council may hold an executive session after a majority of a quorum of Council determines, by a roll call vote at a regular or special Council meeting, and at Council committee meetings to hold such a session and only for the sole purpose of the consideration of any of the following matters which matter shall be stated in the motion and vote to hold the executive session or for the consideration of any further matters to be stated in any revision of Section 121.22 of the Ohio Revised Code:

1. To consider the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of an employee or official of the City, or the investigation of charges or complaints against an employee or official of the City unless the employee or official requests a public hearing. Except as otherwise provided by law, the Council shall not hold an executive session for the discipline of an elected official for conduct related to the performance of the elected official's official duties or for the elected official's removal from office. The motion and vote to hold the executive session stating one or more of the above approved purposes need not include the name of any person to be considered at the meeting.
2. To consider the purchase of property for public purposes, or the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal, private interest is adverse to the general public interest. If the minutes of the Council show that all meetings and deliberations of the Council have been conducted in compliance with this section, any instrument executed as provided in the Charter to convey, lease, or otherwise dispose of any right, title, or interest in any public property of the City shall be conclusively presumed to have been executed in compliance with this section insofar as title of bona fide purchasers, lessees, or transferees of the property is concerned.
3. Conference with an attorney for the City or the Council concerning disputes involving the City or the Council that are the subject of pending or imminent court action.
4. Preparing for, conducting or reviewing negotiations or bargaining sessions with public employees concerning the public employees' compensation or other terms or conditions of the public employees' employment.
5. Matters required to be kept confidential by federal law or rules or state statutes.
6. Specialized details of security arrangements where disclosure of the matters discussed might reveal information that could be used for the purpose of committing or avoiding prosecution for a violation of the law.
7. Any other reasons provided by State law.

(Amended 11-3-09; 11-4-14; 11-6-18)

SECTION IV-6. QUORUM.

A majority of the members of Council shall constitute a quorum for the transaction of business at any meeting, but a smaller number may adjourn the meeting and may compel the attendance of absent members in such manner and under such penalties as may be prescribed by the rules of Council. At any meeting at which a quorum is present any ordinance or resolution may be passed or adopted or any other action may be taken by the affirmative votes of said quorum, unless a larger number be required by the provisions of this Charter or by the Constitution or the Laws of Ohio. (Amended 11-3-09)

SECTION IV-7. CLERK.

The Council shall elect an individual, who shall have the title of Clerk, who shall give notice of its meetings, shall keep the journal of its proceedings, shall authenticate by the Clerk's signature and record in full, in a book kept for the purpose, all ordinances and resolutions and shall perform such other duties as shall be required by this Charter or by ordinance.

(Amended 11-3-09; 11-6-18)

SECTION IV-8. VACANCIES IN COUNCIL.

The Mayor by appointment shall fill any vacancy in the Council, other than in the office of the President of Council, by considering qualified persons, in wards or at large, as applicable. Such appointment by the Mayor must be approved by a majority of the remaining members of Council; provided, however, that the Mayor may vote on such matter in case of a tie vote of the Council.

In the event such vacancy is not filled by appointment by the Mayor within forty-five (45) days after the vacancy occurs, the Council shall fill such vacancy by appointment by a majority vote of the remaining members of Council.

If the vacancy occurs in the office of a Council member representing a ward, such vacancy must be filled from that ward. If the vacancy occurs in the office of a Council member elected at large, such vacancy can be filled from any ward within the Municipality.

A vacancy in the office of President of Council shall be filled by election by Council as provided for in Article IV, Section 11, of this Charter.

Any person so appointed or elected to fill a vacancy in the Council, shall hold office for the balance of the unexpired term of the member in whose office the vacancy occurs.

(Amended 11-7-78; 11-6-18; 11-8-22)

SECTION IV-9. POWERS.

The Council shall have and possess:

- (a) The power by ordinance to create, change and abolish any office, department or agency, other than the offices, departments and agencies established by this Charter. The Council by ordinance may assign additional functions or duties to offices, departments or agencies established by this Charter, but may not discontinue or assign to any other office, department or agency any function or duty assigned by this Charter to a particular office, department or agency. Council may authorize one person to serve in any capacity in two or more departments, divisions, boards or commissions.
- (b) The power to fix the number of employees in the various departments of the Municipality and to fix the rate of the employees' compensation.
- (c) The power to be judge of the election and qualifications of its own members.
- (d) The power to establish the form and method of enactment of its ordinances and resolutions, except as otherwise provided in this Charter.
- (e) Except as otherwise provided in this Charter and the limitations placed upon the Municipality's contracts set forth therein, the power to authorize all contracts and make the necessary appropriations therefor; and to delegate to the Mayor, by ordinance, the authority to authorize and execute contracts on behalf of the Municipality for services, labor, goods, materials and supplies in an amount designated by Council, provided Council has appropriated the funds therefor, and under such other conditions as may be provided for by Council.
- (f) Except as otherwise provided in this Charter, the power to approve and confirm or disapprove and reject the appointments of all personnel to positions established by this Charter, or to boards, commissions, committees and agencies created by ordinances of Council.

(Amended 11-3-09; 11-6-18)

SECTION IV-10. VALIDATION OF ACTIONS.

All ordinances passed and resolutions adopted by Council shall be signed by the President of Council, attested by the Clerk and presented to the Mayor within five (5) days after their passage by the Council.

SECTION IV-11. PRESIDENT OF COUNCIL.

The President of Council shall be a member of Council, elected by the people at large as President of Council, shall preside at all Council meetings, and the President of Council shall have all the rights and voting privileges of a Councilperson during such tenure.

The President of Council shall succeed to the Office of Mayor and be Mayor for the unexpired term, if and when a vacancy occurs in the office of Mayor on or after the first day of April next following the last regular municipal election at which said Mayor was elected. The office of Mayor shall then be filled at the next regular municipal election.

The President of Council shall be Acting Mayor when the Mayor is unable or unwilling for any cause to perform the Mayor's duties, or during the existence of a vacancy in the office of Mayor, pending the time when said vacancy is to be filled by special municipal election, with the same powers and duties of the Mayor and shall continue as a Councilperson with all of the powers and duties of a Councilperson, except that the Acting Mayor shall not be able to vote in Council meetings, except in the case of a tie, consistent with Article V, Section 4 of this Charter.

In case of a vacancy, the President of Council shall be elected by a majority of the remaining members of Council from among its members at the first meeting after such vacancy occurs; provided, however, that the Mayor may vote on such matter in case of a tie vote of the Council. (Amended 11-8-83; 11-4-14; 11-6-18)

(Amended 11-8-83; 11-4-14; 11-6-18)

SECTION IV-12. REMOVAL.

Council may, by a vote of five (5) of its members expel or remove any member for gross misconduct, malfeasance, nonfeasance, misfeasance in or disqualification for office, for violation of the Council member's oath of office, for the conviction while in office of a crime involving moral turpitude, for persistent failure to abide by the rules of Council, or for absence without justifiable excuse from three consecutive regular meetings. Prior to any such action by Council, the accused member shall be notified in writing of the charge against the Council member at least ten (10) days in advance of any hearing upon such charge, and the Council member and the Council member's counsel shall be given an opportunity to be heard, present evidence, and examine any witness appearing in support of such charge.

(Amended 11-6-18)

ARTICLE V

THE MAYOR

SECTION V-1. TERM OF OFFICE.

Commencing with the regular municipal election in the year 1989 and each four years thereafter, the Mayor shall be elected for terms of four (4) years beginning on the first day of January or the next business day after January 1st next-following such election and shall serve such terms of four (4) years or until the Mayor's successor is elected and certified by the Cuyahoga County Board of Elections. (Amended 11-8-88; 11-4-14; 11-6-18)

SECTION V-2. QUALIFICATIONS.

(a) The Mayor shall be a qualified elector of the Municipality and shall have resided continuously in the Municipality for not less than two (2) years immediately prior to the date of the Mayor's election and during the Mayor's term shall continue to be a resident and a qualified elector of the Municipality. If the Mayor moves from the Municipality, the Mayor shall forfeit the office immediately.

(b) Except as provided otherwise by this Charter, the Mayor shall not hold any other public office or employment during the Mayor's term which is incompatible with the Mayor's elected office, except as otherwise provided in this Charter, and further excepting the office of Notary Public and membership in the State Militia or Reserve Corps of the United States unless called to a full-time military service therein for a period not exceeding 30 days.

(Amended 11-6-18)

(c) As used in this section, the exemption from the prohibition of holding other public office or employment shall be the same as prescribed in Article IV, Section 3 of this Charter.

(d) To the extent, as provided by general law, the Mayor shall not, directly or indirectly, solicit, contract for, receive or be interested in any profit or emolument from, or on account of, any contract, job, work or service with, or for, the Municipality.

(Amended 11-3-98)

(e) A candidate for Mayor must receive a majority of the vote cast for the Office of Mayor in the general election in order to be declared the successful candidate. In the event no candidate receives a majority of the votes cast for the Office of Mayor in the general election, there shall be a run-off election on the first Tuesday after the first Monday in December between the two candidates receiving the highest number of votes cast. In the event the term of office of Mayor under this Charter is scheduled to commence on December 1st of that same year, the incumbent Mayor shall remain in office until the run-off election is held and the date upon which the final results of the run-off election are certified by the Cuyahoga County Board of Elections.

(Amended 11-4-14)

(f) Based on the powers and duties of the position of Mayor set forth in this Charter and the ordinances of Council, the position of Mayor shall be a fulltime position. The Mayor shall be entitled to the same benefits as all fulltime employees of the Municipality.
(Enacted 11-8-22)

SECTION V-3. JUDICIAL POWERS.

The Mayor shall have all the judicial powers granted to mayors by the laws of Ohio.

SECTION V-4. LEGISLATIVE POWERS.

The Mayor shall attend all Council meetings, but shall have no vote therein. The Mayor may, however, introduce ordinances and resolutions and take part in the discussions on all matters coming before the Council.

(Amended November 6, 1973)

SECTION V-5. EXECUTIVE POWERS.

The Mayor shall be the executive head of the Municipality. The Mayor shall supervise the administration of the Municipality's affairs. The Mayor shall appoint all department heads, subject to the approval of a majority of the members of Council. The Mayor shall be responsible to the electors for the operation of all departments and/or divisions. The Mayor shall be the chief conservator of the peace within the Municipality and shall see that all laws and ordinances are enforced therein. The Mayor shall have the power subject to the provisions of this Charter to appoint, promote, transfer, reduce or remove any officer or employee of the Municipality except those required by this Charter to be elected, or those whose terms of office are fixed by this Charter, or by the laws of the State of Ohio, where it is beyond this Charter to provide.

The Mayor shall execute on behalf of the Municipality all contracts, conveyances, evidence of indebtedness and all other instruments to which the Municipality is a party. The Mayor shall see that all terms and conditions imposed in favor of the Municipality or its residents in any franchise or contract, to which this Municipality is a party, are faithfully kept and performed. The Mayor shall be recognized as the official and ceremonial head of the government by the Governor for military purposes and by the courts for the purpose of serving civil processes.

(Amended 11-6-18)

SECTION V-6. VETO.

If the Mayor approves any ordinance or resolution, the Mayor shall approve it within ten (10) days after its passage or adoption by the Council. The Mayor may veto any ordinance or resolution passed by Council. The Mayor may approve or disapprove the whole or any item or part of any ordinance or resolution appropriating money, but otherwise the Mayor's approval or disapproval shall be addressed to the entire ordinance or resolution. In case of a veto, the matter shall be returned to Council with a statement in writing by the Mayor of the Mayor's objections, which shall be entered into the official journal. Council shall consider such ordinance or resolution not later than at its next regular meeting. Council may override the Mayor's veto by an affirmative vote of five (5) of its members and upon receiving such an affirmative vote, it shall then take effect as if it had received the signature of the Mayor. If any ordinance or resolution shall not be signed or vetoed by the Mayor within ten (10) days after passage, it shall become effective as if the Mayor had signed it on the last day of said ten (10) day period.

(Amended 11-6-18)

SECTION V-7. VACANCY IN OFFICE OF MAYOR.

(a) Absence. When extenuating circumstances, for example but not limited to, poor health, mental incapacity, or absence from City for an extended period of time, cause the Mayor to be unable to perform the Mayor's duties, the President of Council shall act as the Mayor with the same powers and duties as the Mayor and shall continue as a Council member with all of the powers and duties of a Council member, except that the Council President who is acting as the Mayor shall not be able to vote in Council meetings, unless there is a tie vote, consistent with Article V, Section 4 of this Charter. (Amended 11-8-22)

(b) Vacancy. In case of death, disqualification, removal from office, or resignation of the Mayor, or in the event that a Mayor-Elect fails to qualify or take office on the date set for the commencement of the term by reason of non-election, death, resignation, or for any other cause whatsoever, there shall be deemed a vacancy in the office of Mayor. In case of a Mayor-Elect failing to qualify or take office for the reasons set forth above, the vacancy shall be deemed to exist as of the date set for the commencement of the term for which such officer was elected.

In the event of a vacancy created by a Mayor-Elect or by the Mayor before the first day of April following the last regular municipal election at which such Mayor was elected, such vacancy in the office of Mayor shall be filled by a special election to be held not more than sixty (60) days after such vacancy occurs. If such vacancy in the office of Mayor occurs on or after the first day of April following the last regular Municipal election, the President of Council shall succeed to the office of Mayor and be Mayor and serve as Mayor for the unexpired term of Mayor until the Mayor's successor is elected and qualified. The ensuing vacancy in the office of the President of Council shall then be filled in the same manner provided in Article IV, Section 11 of this Charter. (Amended 11-6-73; 11-4-14; 11-6-18)

SECTION V-8. REMOVAL.

The Council may remove the Mayor for the Mayor's disqualification while in office, for the Mayor's conviction while in office of a crime involving moral turpitude, or for a violation of the Mayor's oath of office provided, however, that such removal shall not take place without the concurrence of five (5) of the members of Council nor until the Mayor shall have been notified in writing of the charge against the Mayor at least ten (10) days in advance of any hearing upon such charge and the Mayor and the Mayor's counsel have been given an opportunity to be heard, present evidence, and examine any witness appearing in support of such charge.

(Amended 11-6-18)

ARTICLE VI

ADMINISTRATIVE DEPARTMENTS, BOARDS, AND COMMISSIONS

SECTION VI-1. SPECIFIC PROVISIONS.

The City shall have a Law Department, a Finance Department, a Public Safety Department, a Public Service and Properties Department, an Engineering and Construction Department, a Division of Police, a Division of Fire and a Division of Building, Zoning and Housing. The City shall also have a Civil Service Commission, a Planning Commission, a Zoning Board of Appeals, and a Recreation Board.

(Amended 11-3-09)

SECTION VI-2. DIRECTOR-OF-LAW.

(a) Appointment. The Director-of-Law shall be appointed by the Mayor subject to the approval of a majority of the members of Council. The Director shall be an attorney-at-law duly admitted to the practice of law in Ohio for a minimum of five (5) years prior to the Director's appointment by the Mayor and also admitted to practice before the courts of the State of Ohio. The Director of Law may be removed from office by the Mayor with the concurrence of a majority of the members of Council.

(b) Duties. The Director-of-Law shall serve the Mayor, the Council, the various administrative departments, boards, commissions and officers of the Municipality in all proceedings in court or before any administrative body. The Director, or such assistants as Council may provide, may act as prosecuting attorney before the courts and upon appeals from the decision of the courts. The Director shall perform all other duties now or hereafter imposed by law upon directors of law of municipalities in Ohio unless otherwise provided by ordinance of Council, and shall perform such other duties as the Council or Mayor may require consistent with the Director's office. (Amended 11-3-09; 11-4-14; 11-6-18)

SECTION VI-3. DIRECTOR OF FINANCE.

(a) Appointment. The Director of Finance shall be appointed by the Mayor with the approval of a majority of the members of Council. The Director of Finance may be removed from office by the Mayor with the concurrence of a majority of the members of Council.
(Amended 11-4-14)

(b) General Duties. The Director of Finance shall be the chief fiscal officer of the Municipality and of the several departments and offices thereof. The Director shall keep an accurate account of all taxes and assessments, of all the assets and liabilities of the Municipality, of all receipts and disbursements of the Municipality, and of all appropriations made by the Council. The Director shall examine and approve, if in proper form, and if an appropriation has been duly made therefor, payrolls, bills, and other claims, and prepare and sign all warrants.
(Amended 11-6-18)

(c) Office of Purchasing. Within the Office of the Director of Finance there is hereby created the Office of Purchasing. The Mayor shall appoint a person to serve as the Purchasing Agent for the Municipality and who shall report directly to the Director of Finance.

On the basis of requisitions submitted and approved by the Mayor or Council, and in compliance with subpart (n) of this Section VI-3, the Purchasing Agent shall contract for, purchase on specification, store and distribute, all supplies required by the Municipality. The Purchasing Agent, along with the appropriate director, division head, or administrator, shall be responsible for the inspection of all supplies and determine their quantity, quality and conformation to specifications. The Purchasing Agent shall transfer supplies and accept bids for the disposal of obsolete or surplus equipment as requested by the responsible department, division, commission, or board.

The Purchasing Agent shall be responsible for the oversight of the final preparation and issuance of all public bid specifications and bid solicitations for the Municipality. The Purchasing Agent shall use best efforts to obtain at least twenty-five (25) percent minority and/or female participation by those persons or entities contracting for goods, services, labor and materials with the Municipality.

(Amended 11-8-22)

(d) Appropriations and Reports. The Director of Finance shall be responsible for the preparation and submission of appropriation measures and shall assist the Mayor and Council in the preparation of estimates, budgets, and other financial matters. The Director shall submit to Council through the Mayor at the second regular Council meeting of each succeeding month, a monthly statement showing:

All receipts had during the preceding month.

All disbursements made during the preceding month.

A cumulative statement for each appropriation showing:

Amount of appropriation;

Amount of expended against the appropriation at the end of the preceding month;

Balance remaining.

The foregoing statement shall be in such further sufficient detail as may be required by Council to show the exact financial condition of the Municipality.

(e) Collections. The Director of Finance shall be the collector and the custodian of all monies of the Municipality, including license fees, fines, court costs and waivers. The Director shall reserve and preserve such monies in such manner and form and in such places as the Council shall direct. The Director shall also receive and disburse all other public monies coming into the Director's hands, pursuant to such requirements as may be requested by the authorities having lawful control over such funds. (Amended 11-6-18)

(f) Certification. No contract, agreement or other obligation involving the expenditure of money shall be entered into by any officer of the Municipality unless the Director of Finance first certifies to Council or to the proper officer, as the case may be, that the money required for such contract, agreement, obligation or expenditure is in the Treasury, to the credit of the fund for which it is to be drawn, or in the process of collection, and not appropriated for any other purpose, which certificates shall be filed and immediately recorded. The sums so certified shall not thereafter be considered unappropriated until the Municipality is discharged from the contract, agreement or obligation.

(g) Funds Subject to Certification. All monies actually in the Treasury to the credit of the fund from which they are to be drawn, and all monies applicable to the payment of the obligation or appropriation involved, that are anticipated to come into the Treasury before the maturity of such contract, agreement or obligation, from taxes or assessments, or from sales, services, products, or from any municipal undertakings, fees, charges, accounts and bills receivable, or other credits in the process of collection; and all monies applicable to the payment of such obligation or appropriation, which are to be paid into the Treasury prior to the maturity thereof, arising from the sale or lease of lands or other property, and the monies to be derived from lawfully authorized bonds or notes sold and in the process of delivery shall, for the purpose of such certificate, be deemed in the Treasury and subject to such certification.

(h) Failure to Comply. All contracts, agreements or other obligations entered into contrary to the provisions of subsections (f) and (g) of this section of this Charter shall be void.

(i) Attendance at Council. The Director of Finance shall attend all regular meetings of the Council and such other meetings as directed by the Mayor and Council. The Director of Finance shall perform all other duties required by this Charter and by ordinance or resolution of Council.

(Amended November 4, 2003)

(j) Annual Appropriation Estimate.

1. Fiscal Year. Unless by ordinance otherwise provided, the fiscal year shall be the same as established for municipalities by the general law of Ohio.

2. Estimates. The Mayor with the assistance of the Director of Finance shall prepare and submit to Council not less than forty-five (45) days before the end of each fiscal year an estimate of revenue and expenditures for the succeeding fiscal year. The head of each department, board, and commission shall submit to the Mayor the necessary information for such estimates. The estimate shall consist of: estimate of revenue from all sources and a comparative statement for the current year and the preceding year; estimate of expenses of each department and activity of the Municipality and a comparative statement for the current year and the preceding year; amount of debt and schedule of maturities of outstanding bonds and notes; value of current inventory or supplies; and amount of unencumbered balance in each bond and improvement fund.

(k) Appropriation Ordinance. Council shall adopt an annual appropriation ordinance within ninety (90) days from the beginning of the fiscal year. Council may make one or more preliminary appropriations for current expenses until the annual appropriation ordinance is in effect.

(Amended November 3, 2009)

(l) Transfers and Balances. The Council may transfer any part of an unencumbered balance of an appropriation of any fund allowed by law to any purpose or object for which the appropriation for the current year has proven insufficient, except that no transfer shall be of monies raised or appropriated for the payment of any bond or note of the Municipality until all indebtedness, interest and other obligations which must lawfully be paid from such monies has been paid.

(m) Payment of Claims. No money shall be drawn from the Treasury nor shall an obligation for expenditure be incurred except in accordance with appropriations made by Council. Claims shall be approved in writing by the head or acting head of the department for which the obligation was incurred. (Amended November 2, 1993)

(n) Public Bidding.

1. Bidding Required. Each net expenditure of more than twenty-five thousand dollars (\$25,000) shall be made to the lowest and best bidder after public advertising in a manner prescribed by the Council. Council shall not be required to accept any bid.
2. Waiver of Requirement. The Council may authorize expenditures exceeding twenty-five thousand dollars (\$25,000) without public advertising in the following specific cases: acquisition of real estate; discharge of noncontractual claims against the Municipality; for personal professional services; for joint use of facilities with other political subdivisions; participation in State of Ohio cooperative purchasing programs and cooperative purchasing programs of political subdivisions where bids or quotations are received for the products or services being purchased; and for the products or services of public utilities; provided, that Council may authorize a purchase or contract involving an expenditure of more than twenty-five thousand dollars (\$25,000) without advertising for bids if it determines and declares by an affirmative vote of not less than five (5) members than an emergency exists and sets forth the nature of the emergency in its resolution or ordinance.

(Amended November 3, 2009)

(o) Public Improvements. Public improvements of all kinds may be made by the appropriate department either by the direct employment of the necessary labor and purchase of supplies and materials in the manner herein provided with a separate account as to each improvement so made, or by contract let as provided in Section 3, subsection (n), of this Article of this Charter either for a closed price or upon a unit basis.

(p) Three-Year Financial Plan. At the direction of the Mayor and with the assistance of the other department heads, the Finance Director shall develop a three (3) year financial plan for the City reflecting current and projected annual revenues and expenditures for the upcoming three (3) years. This plan shall be submitted to Council by December 31 of each year.

(Added November 2, 1993)

SECTION VI-4. DEPARTMENT OF PUBLIC SAFETY.

(a) A Department of Public Safety is hereby established, and the Council shall provide by ordinance for the organization thereof.

(b) The Mayor shall be in charge of the Department of Public Safety and the Mayor shall have the authority to supervise and control the Department. The Mayor shall be the executive head of the Division of Police, Division of Fire and the Division of Building, Zoning and Housing. The Mayor, as head of the Department, shall be charged with the duty of enforcing all police, health, safety, sanitary, zoning and building regulations that may be prescribed by the ordinances of the Municipality or the general laws of the State of Ohio.

The Mayor shall have the power to prescribe rules and regulations not inconsistent with this Charter for the governing of the Department and the several divisions thereof, and for the conduct of the officers and employees of the Department, for the distribution and performance of the business of the Department, and for the custody and preservation of the books, records, papers and property under the control of the Department.

Further, the Mayor shall establish and maintain regulations, subject to the approval by Council, for the coordination of the work of and cooperation in the service of the Department with any and all other departments, divisions, or duly constituted bodies of the Municipality, to the end that efficiency, economy and maximum service to the Municipality and its residents may be secured.

Annually, on such date as may be fixed by Council, the Mayor shall give to the Council a full report of the transactions of the Department of Public Safety for the year, and at any time shall furnish to the Council such information relative to the Department as the Council may require.

The Mayor shall perform such other duties consistent with the Mayor's office as head of the Department of Public Safety as may be required by this Charter or by ordinance of the Council.

(c) The Division of Police shall consist of a Chief of Police and such other officers, patrolmen and patrolwomen, and personnel as the Council shall deem necessary and advisable, all of whom shall be appointed in accordance with the provisions of this Charter and the Rules and Regulations of the Civil Service Commission.

The Chief of Police shall be appointed by the Mayor from a list of the top five (5) candidates who have successfully passed a civil service examination and may be from within the Division of Police and/or from outside of the Division of Police, provided, that in order to be eligible to take a test for the position of Chief of Police, all applicants shall hold or shall have held the position of a police lieutenant or higher in a municipal corporation and shall have served in that capacity beyond any probationary period applicable to that position.

The Chief of Police shall, upon appointment, serve a probationary period of one year. Upon the termination of the Chief's service during a probationary period as Chief of Police, the Chief shall, if appointed from the Division of Police, revert to the civil service status held by the Chief at the time of appointment to the position of Chief of Police. After service of the probationary period, the Chief may only be removed from office for cause under Civil Service Rules and Regulations.

As a condition of employment, from and after the effective date of this section, the Chief of Police shall reside within Cuyahoga County or any county adjacent to Cuyahoga County during the Chief's employment. In cases of new appointments or promotion, the Chief of Police shall have three months to comply with this section. Failure of the Chief of Police to comply with this section shall result in immediate termination without further action by the City.

The Chief of Police shall be the head of the Division of Police and shall have the authority and responsibility for the operation of the Division, for the proper maintenance of the apparatus of the Division, and for the discipline, duties and conduct of the members thereof.

The Chief of Police shall be responsible to and fully accountable to the Mayor for all activities, effectiveness and efficiency of the Division. The Chief shall establish standards and measures of performance to assure maximum service at optimum efficiency to the Municipality and its residents.

(d) The Division of Fire shall consist of a Fire Chief and such other officers, firefighters and personnel as the Council shall deem necessary and advisable, all of whom shall be appointed in accordance with the provisions of this Charter and the Rules and Regulations of the Civil Service Commission.

The Fire Chief shall be appointed by the Mayor from a list of the top five (5) candidates who have successfully passed a civil service examination and may be from the Division of Fire and/or from outside of the Division of Fire provided that in order to be eligible to take a test for the position of Fire Chief, all applicants shall hold or shall have held the position of a fire lieutenant or higher in a municipal corporation and shall have served in that capacity beyond any probationary period applicable to that position.

As a condition of employment, from and after the effective date of this section, the Fire Chief shall reside within Cuyahoga County or any county adjacent to Cuyahoga County during the Chief's employment. In cases of new appointments or promotions, the Fire Chief shall have three months to comply with this section. Failure of the Fire Chief to comply with this section shall result in immediate termination of employment without further action by the City.

The Fire Chief shall, upon appointment, serve a probationary period of one year. Upon the termination of the Chief's service during a probationary period as Fire Chief, the Chief shall, if appointed from the Division of Fire, revert to the civil service status held by the Chief at the time of appointment to the position of Fire Chief. After service of the probationary period, the Chief may only be removed from office for cause under Civil Service Rules and Regulations.

The Fire Chief shall be the head of the Division of Fire and shall have the authority and responsibility for the operation of the Division, for the proper maintenance of the apparatus of the Division, and for the discipline, duties and conduct of the members thereof.

The Fire Chief shall be responsible to and fully accountable to the Mayor for all activities, effectiveness and efficiency of the Division. The Chief shall establish standards and measures of performance to assure maximum service at optimum efficiency to the Municipality and its residents. (Amended 11-8-88; 11-2-93)

(e) The Division of Building, Zoning and Housing shall consist of a Commissioner of Building, Zoning and Housing and such other personnel as the Council shall deem necessary and advisable. The Commissioner of Building, Zoning and Housing shall be appointed by the Mayor, subject to the approval of Council.

The Commissioner of Building, Zoning and Housing shall perform the duties of said Commissioner as set forth in the City's Zoning Code and Building Codes, now in effect or hereafter adopted, and shall be the administrative head of the Division of Building, Zoning and Housing and shall have the authority and responsibility for the operation of the Division. The Commissioner of Building, Zoning and Housing shall be responsible to and fully accountable to the Mayor for all activities, effectiveness and efficiency of the Division.

Wherever the terms Building Inspector or Building Official are used in adopted Codes, such terms shall be construed and deemed to read as Commissioner of Building, Zoning and Housing.

(f) In the event of, and during the absence of, or disability of the Mayor as head of the Department of Public Safety, the Chief of Police shall be the acting head of the Department and the Chief of Police shall perform the duties of such position.

(g) The work of the Department of Public Safety shall be distributed among such divisions thereof as are established by this Charter or by ordinance of the Council.

(Amended 11-5-96; 11-3-09; 11-6-18)

SECTION VI-5. DEPARTMENT OF PUBLIC SERVICE AND PROPERTIES AND DEPARTMENT OF ENGINEERING AND CONSTRUCTION.

A Department of Public Service and Properties and a Department of Engineering and Construction are hereby established, and the Council shall provide by ordinance for the organization thereof.

(a) The Director of Public Service and Properties shall be appointed by the Mayor, who shall be eligible to become such Director, but in all instances the appointment shall require confirmation by a majority vote of Council. The Director of Public Service and Properties may be removed from office by the Mayor with the concurrence of five (5) members of Council; provided, however, that if the Mayor is the Director, the Mayor may be removed as such Director by the vote of five (5) members of Council.

Except as otherwise provided in this Charter, the Director of Public Service and Properties shall have charge of all public buildings, parks, playgrounds, public squares and places, cemeteries, and all other public places belonging to the Municipality of Richmond Heights or dedicated to public use.

The Director of Public Service and Properties shall have charge of the repair and maintenance, resurfacing, sprinkling, cleaning and lighting of streets, alleys, lanes, bridges, sidewalks, and other public highways and public places; of the removal from streets, alleys, lanes, bridges and other public highways of snow, ice, mud, debris and other obstructions or impairments to the safe public use thereof, resulting from wind, water, storm, flood, lightning or other disasters of natural or man-made origin; of the inspection of openings and cuts into pavements and repairing the same, whether made by the Municipality of Richmond Heights or by others; of the maintenance, repair and cleaning of sewers, drains, ditches and culverts; of the collection and disposal of garbage and waste, and supervision of sewage disposal plants, if any.

The Director of Public Service and Properties shall be charged with the repair and maintenance of water mains, pump systems, pipes, purification and filtration plants, if any, and the water distribution system; of all public buildings, parks, playgrounds, cemeteries, and other public places belonging to the Municipality of Richmond Heights or dedicated to public use. The Director shall manage and control or have charge of sewage treatment plants, water works and all public utilities of the Municipality of Richmond Heights, if any, and shall enforce all obligations of privately owned or other publicly operated public utilities enforceable by the Municipality of Richmond Heights. The Director shall have charge of, manage and control public markets and other public buildings, supervise private markets, and preserve all property belonging to the Municipality of Richmond Heights and pertaining to the functions thereof.

(b) The Director of Engineering and Construction shall be appointed by the Mayor, but in all instances the appointment shall require confirmation by a majority vote of Council. The Director of Engineering and Construction may be removed from office by the Mayor with the concurrence of five (5) members of Council.

The Director of Engineering and Construction shall be the Chief Engineer of the Municipality of Richmond Heights. The Director of Engineering shall have charge of and be responsible for the making, preparation and preservation of all surveys, maps, plans, specifications, drawings, and estimates for public works, including the construction and improvement of streets, alleys, lanes, bridges, viaducts, aqueducts, sidewalks, and other public highways; of sewers, sewage systems, drains, ditches, culverts, streams and water courses; of water mains, pump systems, pipes, purification and filtration plants, and the water distribution system and of public buildings, parks, playgrounds, public squares and places, cemeteries and all other public places belonging to the Municipality of Richmond Heights or dedicated to public use. At the direction of the Mayor and Council, the Director shall be assigned other responsibilities as required by the Municipality.

(c) The Director of Public Service and Properties and the Director of Engineering and Construction shall have the supervision and control of each of their respective Departments, under and subject to the direction of the Mayor and shall work closely with each other. The Director of Public Service and Properties and the Director of Engineering and Construction shall have the power to prescribe rules and regulations not inconsistent with this Charter, for the management of each of their respective Departments; for the conduct of the officers and employees of each of their respective Departments; for the distribution and performance of each of their respective Department's business; and for the custody and preservation of the books, records, papers and property under each of their respective Department's control.

The Director of Public Service and Properties and the Director of Engineering and Construction may establish and maintain regulations, subject to the approval of the Mayor, for the coordination of the work of, and cooperation in the service of each of their respective Departments with any and all other departments, divisions, or duly constituted bodies of the Municipality of Richmond Heights, to the end that efficiency, economy and maximum service to the Municipality and its residents may be secured. Further, each Director shall perform such other duties consistent with that Director's office, as may be required by this Charter, by ordinance of the Council, or as directed by the Mayor.

Annually, on such date as may be fixed by the Council, the Director of Public Service and Properties and the Director of Engineering and Construction shall render to the Mayor a full report of the transactions of each Director's respective Departments for the year, and at the same time forward a copy thereof to the Council, and at any time each of the Directors shall furnish to the Council and/or Mayor such information relating to each of their respective Departments as either Department may require. The annual report of such Departments shall be a matter of public record.

(Amended 11-2-93; 11-6-18; 11-8-22)

SECTION VI-6. THE CIVIL SERVICE COMMISSION.

Membership. The Civil Service Commission shall consist of three (3) electors of the Municipality, not holding other employment by the Municipality or other office or appointment with the Municipality, to be appointed by the Mayor, with the concurrence of a majority of the members of Council, for terms of six (6) years each, except that of the three (3) appointed for the term beginning January 1, 1960, one shall be appointed for a term of two (2) years, one for a term of four (4) years, and one for a term of six (6) years. A vacancy occurring during the term of any member of the Civil Service Commission shall be filled for the unexpired term in the manner authorized for an original appointment.

The Commission shall designate one of its members as Chairperson and may appoint a Secretary who need not be a member of the Commission and may hold other municipal office or appointment.

Classification of Service. The Civil Service of the Municipality is hereby divided into the unclassified and the classified service.

The unclassified service shall include the following:

- (a) All officers elected by the people.
- (b) All directors of departments except the Chief of Police and Fire Chief.
- (c) The Clerk of Council and all officers and employees appointed by Council.
- (d) The Municipal Engineer.
- (e) The members of all boards and commissions appointed by the Mayor or Council.
- (f) Any part-time office or position.
- (g) Any temporary appointments not to exceed, however, a period of six months.
- (h) Any emergency appointments not to exceed, however, a period of ninety days.
- (i) Any employees serving probationary periods provided, however, that when an employee is terminated from a probationary position and the employee had held a civil service position with the City at the time of appointment to the probationary position, the employee shall revert back to the civil service position held with the City at the time of appointment.
- (j) Secretaries to the Mayor and each director of a department or head of a division or a department.
- (k) Seasonal employees such as student laborers and summer help.
- (l) Students enrolled in a recognized college or university in a course of training in preparation for an administrative or professional career in the public service and employed upon the recommendation of the official in charge of personnel administration as student aids for training purposes without limitation as to assignment or duties.
- (m) Any office or position determined by the Civil Service Commission to require professional or expert qualifications.
- (n) All fulltime employees of the Department of Public Service and Properties.
- (o) All fulltime employees of the Municipality, other than sworn fulltime officers in the Division of Police and sworn fulltime fire fighters in the Division of Fire.

The classified service shall include:

All other positions not specifically included in the unclassified service.

Duties. The Commission shall provide by rule for ascertainment of merit and fitness as the basis for appointment and promotion in the classified service of the Municipality, in the manner provided by the Constitution of the State of Ohio with respect to municipalities, and for appeals from the action of the Mayor in any case of transfer, reduction or removal except as otherwise provided in this Charter, and the action of the Commission upon any such appeal shall be final. The rules of the Civil Service Commission shall be adopted by Council. The Commission shall keep a record of its proceedings and examinations, which shall be open to public inspection.

In any matter where a rule, regulation, order or decision of the Civil Service Commission conflicts with any provision of the laws, rules or regulations of the State of Ohio, the rule, regulation, order or decision of the Richmond Heights Civil Service Commission shall prevail over and render null and void the State provision with respect to the City of Richmond Heights.

Any person who shall have served the Municipality for at least one year immediately prior to January 1, 1960, may be retained in the same or any similar position without examination.

Removal. The Mayor may at any time suspend any Commissioner for inefficiency, neglect of duty, malfeasance, misfeasance or nonfeasance in office, incapacity or incompetency provided however, that such suspension shall not become final without the concurrence of five (5) of the members of Council.

Funds. A sufficient sum shall be appropriated by the Council each year to carry out the Civil Service provisions of this Charter.

(Amended 11-8-88; 11-4-03; 11-8-22))

SECTION VI-7. PLANNING COMMISSION.

Organization.

(a) The Planning Commission shall consist of five (5) electors of the Municipality of Richmond Heights, who shall be appointed by the Mayor and approved by a majority of Council; none shall hold other employment by the Municipality but may hold other non-elective public office or position on a board, commission, or committee of the Municipality, unless prohibited by the provisions of this Charter. (Amended 11-8-22)

(b) The Commission shall elect its Chairperson from among its appointed members.

(c) The members' term shall be for five (5) years, except that of the five (5) members first appointed, one (1) shall be for five (5) years, two (2) for four (4) years, and two (2) for two (2) years.

(Amended 11-6-18)

(d) Any vacancy occurring during the unexpired term of any appointive member shall be filled, as originally provided, for the remainder of the term.

Commission Duties and Requirements.

(a) Make, amend, extend and add to the master plan for the physical development of the Municipality.

(b) Exercise control over platting or subdividing land within the Municipality.

(c) Draft for the Council an official map of the Municipality and recommend or disapprove proposed changes in such map.

(d) Make or adopt a Zoning Plan and recommend or disapprove proposed changes to such plan.

(e) Submit annually to the Mayor and Council, not less than ninety (90) days prior to the beginning of the budget year, a list of recommended changes or capital improvements which in the opinion of the Commission are necessary or desirable to be constructed during the forthcoming six (6) year period. Such a list shall be arranged in order of preference, with recommendations as to which projects shall be constructed in which year.

(f) Make and adopt plans for the clearing and rebuilding of blighted areas within the Municipality.

(g) Promote public interest in and understanding of the master plan and of planning and zoning. (Effective 1-1-60)

(h) The Planning Commission shall hold at least one regular meeting in each calendar month, unless there are no applications or other matters pending before the Commission. Special meetings shall be held at the call of the Chairperson when deemed necessary, subject to such provisions as provided by the rules of the Commission. Except for the reasons for executive sessions as provided by the laws of the State of Ohio, all meetings of the Commission, regular and special, shall be open to the public and shall be held in the Richmond Heights City Hall.

(Amended 11-3-09)

(i) Keep a public record of its resolutions, findings and determinations.

The Commission Powers.

(a) Request information and require same to be furnished within a reasonable length of time from the other departments of the municipal government in relation to its work.

(b) Within its budget appropriation, contract with appropriate consultants for such services as it may require.

(c) Request assistance from the Mayor, who may at the Mayor's discretion assign to the Commission, members of the staff of any administrative department or direct such department to make special studies requested by the Commission.

(Amended 11-6-18)

(d) In the performance of its functions enter any land and make examinations and surveys and place and maintain necessary monuments and marks thereon.

(e) Make and adopt a plan for the replanning, reconstruction or redevelopment of any area or district within the Municipality which may have been destroyed in whole or part or seriously damaged by fire, earthquake, flood or any other disaster.

Council Obligations.

(a) In the manner hereinafter provided with respect to the amendment, repeal or adoption of the Zoning Ordinance, and with such additional requirements thereto as Council may deem advisable by ordinance to provide, the Council shall by ordinance establish districting or zoning within the Municipality so as to promote the public health, safety, convenience, comfort, morals, prosperity and general welfare, including the promotion of home ownership, the protection of residential sections, the prevention of congestion, the increasing of trade and industrial efficiency, the conservation of property values, the assurance of adequate light and air, and the limitation, control and regulation of buildings in the Municipality in accordance with a well established plan of use, height, size and area for all property and its development in the Municipality of Richmond Heights. Such districting or zoning shall include provisions to regulate, restrict and specify the locations of commercial and industrial buildings, trades, industries, shopping centers, churches, hospitals, medical centers, motels, apartment houses, dwellings and other use of property, including parks, playgrounds and other public recreational facilities; to specify the number of square feet of lot area per family, the size and area of new buildings or parts thereof, the location and size of side, front and rear yards, and the height and pitch on new buildings; to establish the division of the Municipality into use, height, and area districts, including requirements for the alignment or setback of buildings and other structures; and the preparation of maps showing said districts and structure alignment or setback.

(b) Nothing herein shall be construed to limit the Council in the exercise of all the powers to zone or redistrict now or hereafter authorized by the Statutes of the State of Ohio. The plan or plans providing for the control, limitations and regulations of building lines or setback building lines may be incorporated in a separate ordinance as part of the Zoning Plan and subject to all of the Board of Zoning Appeal provisions of this Charter.

Mandatory Referral.

No public building, street, boulevard, parkway, park, playground, bridge, tunnel, publicly or privately owned utility or part thereof shall be constructed or authorized to be constructed in the Municipality, nor shall any street, avenue, parkway, boulevard or alley be opened for any purpose whatsoever, nor shall any street, avenue, parkway, boulevard or alley be widened, narrowed, relocated, vacated or its use changed, or any ordinance referring to zoning or other regulations controlling the use or development of land, be adopted unless and until it shall have been submitted to the Planning Commission for report and recommendation. Any matter so referred to the Planning Commission shall be acted upon by it within sixty (60) days from the date of referral unless a different period of time be provided by Council. If the Planning Commission shall fail to act within the time allotted, it shall be deemed to have approved such matter. Any resolution, ordinance or order disapproved by formal action of the Planning Commission shall require a majority vote of all the members of the Council for adoption or authorization.

Funds.

A sufficient sum shall be appropriated by the Council each year to carry out the planning and zoning provisions of this Charter. Secretarial services shall be paid from this appropriation.

Restrictions on Rezoning.

Notwithstanding any other provisions in the Charter or Ordinances of the Municipality, no legislation, as adopted by Council, shall become finally effective that would allow, permit or effect a change of zoning classification from an existing R-1, R-2 or R-3 Single Family Residential zoning classification or use to any other zoning classification or use until the same has been approved by the electorate of the Municipality in the manner hereinafter set forth.

Any such legislation shall be placed before the electorate at the next regular or primary election occurring not less than 60 nor more than 120 days following the adoption of the legislation by Council or, in the event there is no election scheduled to be held within such time, at a special election to be called by Council at the request of the proponent of the rezoning.

In the event the proponent of any rezoning request desires the question to be put at an election other than a regularly scheduled general election or primary election, the proponent shall indicate such desire in writing and post a sum of money sufficient to cover the cost of such special election with the Finance Director of the City prior to the Council enacting legislation calling for such special election.

Approval of the legislation shall require a majority favorable vote of all votes cast by qualified electors voting upon such issue.

No such legislation shall contain more than one subject clearly expressed in the title and a copy shall be open to public inspection at City Hall during regular business hours.

The public shall be notified of the election by advertisement in a newspaper of general circulation in the Municipality once a week for two consecutive weeks the last of which shall be published not less than thirty days prior to the date of the election.

Upon failure to receive voter approval, the proposed change shall not be again presented for a period of one year from the date of the election.

(Added 11-3-81)

SECTION VI-8. ZONING BOARD OF APPEALS.

Organization.

(a) There shall be a Zoning Board of Appeals which shall consist of five (5) electors of the Municipality of Richmond Heights, who shall be appointed by the Mayor and approved by the majority of Council; none shall hold other employment by the Municipality but may hold other non-elective public office or position on a board, commission, or committee of the Municipality, unless prohibited by the provisions of this Charter. (Amended 11-8-22)

(b) The Board shall elect its Chairperson from among its appointed members.

(c) **Term.** The members' term shall be for five (5) years, except that of five (5) members first appointed, one (1) shall be for five (5) years, two (2) for four (4) years, and two (2) for two (2) years.

(Amended 11-6-18)

(d) **Vacancy.** Any vacancy occurring during the unexpired term of any appointive member shall be filled by the Mayor, as originally provided, for the unexpired term.

(Effective 1-1-60.)

Board Duties and Requirements.

(a) The Zoning Board of Appeals shall hold at least one regular meeting in each calendar month, unless there are no applications pending before the Board. Special meetings shall be held at the call of the Chairperson when deemed necessary, subject to such provisions as provided by the rules of the Board. All meetings of the Board, regular and special, shall be held in the Richmond Heights City Hall.

(b) Except for the reasons for executive sessions as provided by the laws of the State of Ohio, all meetings of the Board of Zoning Appeals shall be public. Public notice shall be given of hearings on any appeals by the posting of a notice in the main entrance of the Municipal Building for a period of at least ten (10) days together with such additional notice, if any, that the Board of Zoning Appeals shall deem necessary. The Board of Zoning Appeals shall keep minutes of its proceedings.

(Amended 11-3-09)

Determination.

The Board of Zoning Appeals shall determine all matters properly presented to it in writing. Where difficulties and unnecessary hardships shall result from the strict compliance or the enforcement of the provisions of the Zoning Ordinance, the Board of Zoning Appeals, subject to the approval of Council, shall have the power to recommend variances in harmony with the general intent of the Ordinance and to secure the general welfare and substantial justice in the promotion of the public health, comfort, convenience, morals, safety and general welfare of the Municipality of Richmond Heights.

The Council may from time to time amend, repeal or adopt any or all of the provisions of the Zoning Ordinance, but no amendment, repeal or adoption shall be passed until the Council shall have held a public hearing thereon and shall have given at least ten (10) days' notice of the time and place thereof in a newspaper of general circulation in the Municipality; during said ten (10) day period the text or a copy of the text of such amendment, repeal or adoption, together with the maps or plans or copies thereof forming part of or referred to in said ordinance, measure or regulation, shall be on file with the Clerk for public examination and a copy of the text of such amendment, repeal or adoption shall be placed or posted in a conspicuous place in the Municipal Building.

The Council shall have the power to confirm by a majority vote any recommendation of the Board of Zoning Appeals to grant a variance and, with a vote of five (5) members of Council, modify or reverse a recommendation of the Board of Zoning Appeals to grant a variance. The Council, with a vote of five (5) members, shall have the power to modify or reverse a recommendation of the Board of Zoning Appeals to deny the grant of a variance and, with a majority vote, the power to confirm a recommendation of the Board of Zoning Appeals to deny the grant of a variance.

(Amended 11-8-88)

Funds.

A sufficient sum shall be appropriated by the Council each year to carry out the Board of Zoning Appeals provision of this Charter. Secretarial services shall be paid from this appropriation.

(Effective 1-1-60)

SECTION VI-9. RECREATION BOARD.

There is hereby established a Recreation Board that shall serve the Municipality as an advisory board. The Council shall by ordinance provide for such organization and duties of the Recreation Board as are not provided for by this Charter to the extent that the provisions of such ordinance are not inconsistent with or in conflict with the provisions of this Charter.

Organization.

(a) The Recreation Board shall consist of six (6) members to be appointed by the Mayor and approved by a majority vote of Council. All six (6) members of the Board shall be electors of the Municipality. No member shall hold other employment by the Municipality but may hold other non-elective public office or position on a board, commission or committee of the Municipality, unless prohibited by the provisions of this Charter.

(Amended 11-8-22)

(b) The six (6) members' terms shall be for two (2) years beginning on January 1, 2005. The previously existing seven (7) member Recreation Board shall be abolished on December 31, 2004, and the terms of the members thereof shall terminate on the same day.

(c) Two of the members to be appointed by the Mayor shall be recommended by the Board of Education of the Richmond Heights Local School District. The two (2) members recommended by the Board of Education shall not be members of such Board of Education but the members must be residents of the Local School District.

(d) The Mayor shall appoint a person to serve as Director of Recreation subject to the approval of a majority of the members of Council. The Director of Recreation shall be the administrative head and chairperson of the Recreation Board. The Director of Recreation shall have all the powers, duties, functions, obligations and rights of any of the six (6) members of the Recreation Board, including the right to vote. The Director of Recreation, however, shall serve at the pleasure of the Mayor.

(e) Any vacancy occurring during the term of any member of the Recreation Board shall be filled for the unexpired term in the manner authorized for an original appointment.

(f) The Recreation Board shall hold at least one regular meeting in each calendar month, unless by the concurrence of a majority of the Board members there is insufficient business for the Board to conduct a regular meeting in any certain month. Special meetings shall be held at the call of the Director when deemed necessary, subject to such provisions as provided in the rules or by-laws adopted by the Board. Except for the reasons for executive sessions as provided by the laws of the State of Ohio, all meetings of the Recreation Board, regular and special, shall be open to the public and shall be held in the Richmond Heights City Hall.

(g) The Mayor, with cause, may remove any of the six (6) members of the Recreation Board only with the concurrence of five (5) members of the Council.

(Amended 11-4-03; 11-3-09; 11-6-18)

Duties.

(a) Public record shall be maintained of the minutes of all meetings. A record of all permits, denials, receipts and expenditures, must be adopted and shall be a matter of public record.

(b) The Board shall recommend to the Director of Recreation clean wholesome recreation for all juvenile and adult residents of Richmond Heights.

(c) The Board may recommend to the Director of Recreation the purchase of recreation equipment and the need for maintenance and repairs to any playground, ball diamond, tennis court, swimming pool or any other recreation facility.

(Amended 11-8-22)

Appropriations.

The Council shall appropriate annually for the Recreation Board a sum sufficient to enable the Recreation Board to efficiently sustain and operate this Board.

(Effective 1-1-60)

ARTICLE VII

GENERAL PROVISIONS

The Council may by ordinance establish additional departments and commissions, or divisions thereof, and provide for such boards, officers and employees as it may deem necessary.

ARTICLE VIII

NOMINATIONS AND ELECTIONS

SECTION VIII-1. MUNICIPAL ELECTIONS.

Regular municipal elections shall be held on the first Tuesday after the first Monday of November in the odd-numbered years.

SECTION VIII-2. NOMINATIONS AND QUALIFICATIONS.

There shall be no primary election for municipal offices. Nominations for municipal elective offices of the Municipality shall be made by petition only. Any such petitions must be signed by not less than one hundred fifty (150) electors (registered voters) for any office to be filled by election by the vote of electors from within the entire Municipality. Candidates for offices to be filled by election from a Ward of the Municipality shall have no less than the signatures of fifty (50) electors (registered voters) from that Ward on each candidate's petition. The petitions shall be on standard forms in the State of Ohio for the nomination of nonpartisan candidates for office and shall be filed with the Board of Elections of Cuyahoga County at least ninety (90) days prior to the date of an election. Such nominating petitions shall not be circulated prior to one hundred and fifty (150) days before said election. Each candidate shall file a separate petition. Group petitions shall not be used. The signature of the candidate indicating the candidate's acceptance of the nomination and willingness to accept the office, if elected, shall appear on each copy of the candidate's nominating petition. The petition may be in a number of parts, but each part shall be verified under oath by the circulator, as required by law.

(Amended 11-4-14; 11-6-18)

SECTION VIII-3. ELECTION PROCEDURES.

The ballots used in municipal elections of offices of the Municipality of Richmond Heights shall be without party mark or designation of any sort. The names of all candidates shall be placed upon the same ballot and shall be rotated in the manner provided by the general laws of the State of Ohio. Any person may vote in any municipal election if such person is registered as a voter with election authorities as prescribed by the laws of the State of Ohio.

ARTICLE IX

INITIATIVE - REFERENDUM - AND RECALL

SECTION IX-1. INITIATIVE.

The electors shall have the power to propose any ordinance or resolution except an ordinance appropriating money or authorizing the levy of taxes and to adopt or reject the same at the polls, such power being known as the initiative. An initiated ordinance or resolution shall be submitted to Council by a petition signed by qualified electors equal in number to at least ten per cent (10%) of the total vote cast at the last regular municipal election. When so submitted, the Clerk shall determine the sufficiency of the petition and if found sufficient the Council shall take final action, either enacting, amending, or rejecting the proposed ordinance or resolution, within forty (40) days after submission. If Council fails to pass such proposed ordinance or resolution or passes it in some form different from that set forth in the petition therefor, the petitioners through the committee named on such petition may at the next regular meeting of Council request in writing that it be submitted to a vote of the electors. Thereupon, Council shall provide for submitting the petitioned ordinance or resolution to the electors at the next general or regular municipal election occurring more than ninety (90) days after the filing of such petition; but if such petition is signed by qualified electors equal in number to at least twenty per cent (20%) of the total votes cast at the last regular municipal election, the date of the election may be fixed therein, which may be a special election to be held at any time more than ninety (90) days after the filing of such petition.

SECTION IX-2. REFERENDUM.

Within thirty (30) days after the enactment by Council, of any ordinance or resolution which is subject to a referendum under the laws of the State of Ohio, a petition signed by qualified electors equal in number to no less than ten percent (10%) of the total votes cast at the last regular municipal election, may be filed with the Council requesting the ordinance or resolution be repealed, or submitted to a vote of the electors. When said petition is filed the Clerk shall first ascertain the sufficiency of the petition, and if found sufficient, the Council shall thereupon, within thirty (30) days of the filing of such petition reconsider such ordinance or resolution. If Council fails to repeal said ordinance or resolution within thirty (30) days the Council shall submit it to a vote of the electors at the next general or municipal election occurring more than ninety (90) days after the filing of such petition; but if, such petition is signed by qualified electors equal in number to at least twenty percent (20%) of the total votes cast at the last regular municipal election, the date of the election may be fixed therein, which may be a special election to be held at any time more than ninety (90) days after the filing of such petition.

SECTION IX-3. PETITION PROCEDURE.

All petition papers circulated for the purposes of an initiative or referendum shall be uniform in size and style. Initiative petition papers shall contain the full text of the proposed ordinance. The signatures to initiative or referendum petitions need not all be appended to one paper, but to each separate petition there shall be attached a statement of the circulator thereof, as provided by general law. Each signer of any such petition paper shall sign the signer's name in ink or indelible pencil and shall indicate after the signer's name, the signer's place of residence by street and number. There shall appear on each petition the names and addresses of the same five electors, who, as a committee of the petitioners, shall be regarded as responsible for the circulation and filing of the petition. All petition papers comprising an initiative or referendum petition shall be assembled and filed with the Clerk as one instrument.

(Amended 11-6-18)

SECTION IX-4. RECALL.

Electors shall have the power to remove from office by recall election, any elected officer of the Municipality. After an elected officer has served six (6) months of the elected officer's term, a petition demanding the elected officer's recall and removal, may be filed with the Clerk. Such petition shall be signed by qualified electors equal in number to at least twenty-five per cent (25%) of the total votes cast at the last preceding regular municipal election. If the Clerk shall find the petition sufficient the Clerk shall promptly so certify to the Council, shall deliver a copy of such certificate to the officer whose removal is sought and make a record of such delivery. If such officer shall not resign within five (5) days after the day on which such delivery shall have been made, the Council shall fix a day for holding a recall election, not less than seventy-five (75) days, nor more than one hundred twenty (120) days from the date of delivery. The form of the ballot used shall be:

Shall _____ be removed from that person's office as _____?

If a majority of the votes cast shall be voted affirmatively, such officer shall be removed from office, the office shall be deemed vacant and such vacancy shall be filled as provided in this Charter. The officer removed by such recall election shall not be eligible for appointment to the vacancy created thereby. If a majority of the votes cast shall be voted negatively, such officer shall be considered as remaining in office. (Amended 11-7-17; 11-6-18; 11-8-22)

ARTICLE X

ORDINANCES, EFFECTIVE DATE AND CODIFICATION

SECTION X-1. ORDINANCES.

All legislative action shall be by ordinance or resolution. The Council shall keep a journal of its proceedings which shall be a public record. At the desire of any member the ayes and nays shall be entered upon the journal

and upon the passage of every ordinance or resolution the vote shall be taken by ayes and nays. Every ordinance or resolution shall be read on three (3) different days unless five (5) of the members of Council dispense with the rule. All ordinances, resolutions, statements, orders, proclamations, notices and reports required by law, by this Charter or by ordinance to be published or posted, shall be posted in not less than five (5) of the most public places in the Municipality as determined by Council, for a period of not less than fifteen (15) days, or published in such other manner as Council may hereinafter determine by ordinance or resolution.

SECTION X-2. EFFECTIVE DATE OF ORDINANCES AND RESOLUTIONS.

Each ordinance or resolution providing for the appropriation of money, or for an annual tax levy, or for improvements petitioned for by the owners of a majority of the foot frontage of the property to be benefitted and specially assessed therefor, and any emergency ordinance or resolution necessary for the immediate preservation of the public peace, health, or safety shall take effect, unless a later time be specified therein, upon its signature by the Mayor, or upon the expiration of the time in which it may be disapproved by the Mayor, or upon its passage after disapproval by the Mayor, as the case may be. No other legislative matter, whether passed by ordinance or resolution shall go into effect earlier than thirty (30) days after its final passage by the Council. Each emergency measure shall contain a statement of the necessity for such emergency action and in addition shall state in precise terms exactly what the emergency is, and shall require the affirmative vote of five (5) members of Council for its enactment. No action of the Council authorizing any change in the boundaries of the Municipality or the surrender or joint exercise of any of its powers, or granting, renewing or extending any franchise or other special privilege, or contracting for the supply to the Municipality or its inhabitants of the products or service of any utility, whether municipality owned or not, or regulating the rate to be charged for its services, shall be enacted as an emergency measure.

(Amended 11-3-09)

SECTION X-3. CODIFICATION OF LEGISLATION.

Prior to January 1, 1960, existing ordinances and resolutions shall be revised, rearranged and codified under appropriate titles, chapters and sections to permit ready incorporation therein of future legislation. Thereafter, Council shall provide for revision, rearrangement and codification of ordinances and resolutions at such time as it deems necessary. Only new matter contained in such revision or codification need be published and publication thereof shall be made in the same manner as publication of other ordinances and resolutions.

ARTICLE XI

FRANCHISES

The Council may by ordinance grant a nonexclusive franchise to any person, firm or corporation to construct or operate a public utility on, across, under, over or above any public street or real estate within the Municipality for a period not in excess of twenty-five (25) years; and it may prescribe in the ordinance the kind or quality of service or product to be furnished, the rate to be charged therefor, and such other terms as Council shall deem conducive to the public interest. Such franchise may be amended or renewed in the manner and subject to the provisions established by this Charter for original grants. No consent of the owner of property abutting on any public street or real estate shall be necessary to the effectiveness of any such grant, amendment or renewal. All such grants, amendments and renewals shall be made subject to the continuing right of the Council to provide reasonable regulations for the operation of such utilities with reference to such streets and public real estate, including the right to require such reconstruction, relocation, alteration or removal of structures and equipment used in such streets or public realty as shall, in the opinion of Council, be necessary in the public interest.

ARTICLE XII

LIMITATION ON THE RATE OF TAXATION

SECTION XII-1. MAXIMUM LEVY.

The aggregate amount of taxes that may be levied by the taxing authority of the Municipality without a vote of the people, on any taxable property assessed and listed for taxation according to value, for all purposes of the Municipality, shall not in any one year exceed eight and four-tenths (8.4) mills for each dollar of assessed valuation. Of said total maximum levy, an amount shall annually be levied sufficient to pay the interest, sinking fund and retirement charges on all notes and bonds of the Municipality heretofore or hereafter authorized to be issued without the authority of an election, which levy shall be placed before and in preference to all other levies and for the full amount thereof. Of the remaining portion of said total maximum levy, an amount shall annually be levied sufficient to provide the amounts required by law for police and firemen's pensions; and the balance thereof, but not to exceed four and five-tenths (4.5) mills, may be levied annually for the purpose of paying the current operating expenses of the Municipality.

SECTION XII-2. TAX CREDIT.

Commencing with the tax year beginning January 1, 2017, when the taxable income of a resident of the City of Richmond Heights is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to 100 percent of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City of Richmond Heights by the taxable income earned in or attributable to the Municipality of employment or business activity, but in no event shall such credit be applied to a rate in excess of one and one quarter percent (1.25%) of the taxable income earned or attributable to the municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

The 100 percent tax credit provided for herein shall not be reduced unless any such proposed reduction receives an affirmative majority vote from the voters at an election called for such purpose.

(Enacted November 8, 1988; Amended 11-8-16)

SECTION XII-3. ADDITIONAL FIRE DEPARTMENT PERSONNEL LEVY.

Commencing with the tax list and duplicate for the year 1990, the Council of the Municipality may levy in each year, without a vote of the people, a tax in an amount not to exceed in each such year two (2) mills per dollar of assessed valuation upon all property in the Municipality assessed and listed for taxation according to value for the purpose of providing funds to pay costs to upgrade the Fire Department by providing additional firefighters and establishing a paramedic program. The amount of taxes in each year so levied pursuant to this Section shall not be subject to the limitations on the rate of taxation provided in this Charter and shall be in addition to any taxes levied by Council pursuant to any provision of this Charter or the general laws of the State of Ohio.

(Added November 6, 1990)

SECTION 4. ADDITIONAL LEVY FOR THE FIRE/PARAMEDIC SERVICE FUND.

Commencing with the tax list in duplicate for the year 2007, the Council may levy in each year, without a vote of the people, a tax in an amount not to exceed in each such year 3.0 mills per dollar of assessed valuation upon all property in the Municipality assessed and listed for taxation according to value for the purpose of providing funds for the Fire/Paramedic Service Fund. The amount of taxes in each year so levied pursuant to this Section shall not be subject to the limitations on the rate of taxation provided in this Charter and shall be in addition to any taxes levied by Council pursuant to any provision of this Charter or the general laws of the State of Ohio. (Enacted November 6, 2007)

ARTICLE XIII

AMENDMENTS TO CHARTER

SECTION XIII-1. INDEXING.

- (a) System Used. The indexing system of this Charter shall be as follows: Articles numbered I, II, III, IV, etc.; sections numbered 1, 2, 3, etc.; subsections lettered (a), (b), (c), etc.
- (b) Severability. Any word, phrase, clause, sentence, subsection, section, or article of this Charter may be amended as, or in, the manner hereinafter provided.

SECTION XIII-2. AMENDMENTS.

Council may, by affirmative vote of five (5) of its members, submit to the electors any proposed amendment to this Charter; or, upon petition signed by not less than ten per cent (10%) of the electors of the Municipality setting forth any proposed amendment to this Charter, Council shall submit such proposed amendment to the electors in each instance, with the provisions of the Constitution of Ohio. If any such amendment is approved by a majority of the electors voting thereon, it shall become a part of this Charter; except if two or more inconsistent proposed amendments on the same subject be submitted at the same election, only the one of such amendments receiving the largest affirmative vote, not less than a majority, shall become a part of this Charter.

ARTICLE XIV

CHARTER REVIEW COMMITTEE

At some time during the month of January, 1963, and at least once every five (5) years thereafter, a committee of nine (9) qualified electors of the Municipality shall be appointed and to be known as a Charter Review Committee. Each member of Council shall appoint one (1) elector to the Charter Review Committee and the Mayor shall appoint two (2) electors to the Charter Review Committee. Such Committee shall first meet to begin performing its duties required by this Article XIV no less than 120 days prior to its deadline to report its recommendations, if any, to the Council. Such Committee shall review and recommend to Council not less than ninety (90) days prior to the next November election, any alterations, revisions, and amendments to this Charter as in its judgment seem advisable. The Council shall submit to the electors any such proposed alterations, revisions, or amendments to the Charter at the next regular November election. Each said Charter Review Committee shall cease to function on the day of the next November election following its appointment. The member shall serve without compensation unless otherwise provided by ordinance.

(Amended 11-4-14; 11-8-22)

ARTICLE XV

MISCELLANEOUS PROVISIONS

SECTION XV-1. EFFECTIVE DATE OF CHARTER.

For the purpose of nominating and electing officers of the Municipality, including the abolition of primary elections, the establishing of wards, and fixing the compensation of those elected in 1959, this Charter shall be in effect from and after the time of its approval by the electors of the Municipality; and for all other purposes it shall be in effect on and after the 1st day of January, 1960, and continue in effect regardless of any change of the classification by law of this Municipality.

SECTION XV-2. EFFECT OF CHARTER UPON EXISTING LAWS AND RIGHTS.

The adoption of this Charter shall not effect any pre-existing rights of the Municipality, nor any right or liability or pending suit or prosecution either on behalf of or against the Municipality, nor any franchise granted by the Municipality nor pending proceedings for the authorization of public improvements or the levy of assessments therefor. Except as a contrary intent appears herein, all acts of the Council of this Municipality shall continue in effect until lawfully amended or repealed.

SECTION XV-3. SAVING CLAUSE.

The determination that any part of this Charter is invalid shall not invalidate or impair the force or effect of any other part hereof, except to the extent that such other part is wholly dependent for its operation upon the part declared invalid.

SECTION XV-4. INTERPRETATION OF CHARTER.

The article and section headings herein have been inserted for convenient reference and are not intended to define or limit the scope of, or otherwise affect, any provision of this Charter.

SECTION XV-5. CONTINUANCE OF PRESENT OFFICERS.

(a) Continuance of Officers. All persons who are appointees, employees or nonelected officials of the Municipality at the time this Charter takes effect shall continue in office and in the performance of the person's duties until provisions shall have been made otherwise in accordance with the provisions of this Charter. When such provisions shall have been made, the term of any such appointee, employee or nonelected official shall expire.

(Amended 11-6-18)

(b) Abolish Duties. The powers which are conferred, and the duties which are imposed upon any appointee, employee or non-elected official, commission, board, department, or division, of the Municipality under the laws of the State of Ohio, shall, if such office, department, or division be abolished by this Charter, be thereafter exercised and discharged by the officer, board, department or division upon whom are imposed corresponding functions, powers and duties hereunder.

SECTION XV-6. OATH OF OFFICE.

Every elected official or officer of the Municipality shall, before entering upon the duties of the office, take an oath, or affirm, that the elected official or officer will in all respects faithfully discharge the duties of the office; that the elected official or officer will profess loyalty to the Constitution of the United States of America, to the Constitution of the State of Ohio, and that the elected official or officer will uphold this Charter and all of the laws of this Municipality.

Said oaths of office for elected officials shall be taken on the first day of January or the next business day after January 1st, following the elected official's election.

(Amended 11-4-14; 11-6-18)

SECTION XV-7. BROADCASTS OF COUNCIL MEETINGS.

All regular meetings of Council shall be accessible and unedited to residents and the public through media outlets and other electronic means, as the technology becomes available. The inability to have a regular meeting accessible and unedited to residents and the public through media outlets and by other electronic means due to technological difficulties at any particular meeting shall not require the meeting to be suspended, continued or to otherwise not go forward and there shall be no effect upon the validity of any action taken at such a meeting. Council is authorized to complete contracts for these services using the normal bidding and budgeting processes. (Enacted 11-4-14; Amended 11-6-18)

SECTION XV-8. GENDER NEUTRALITY.

Whenever and wherever reference is made to the gender of persons in this Charter, the language shall be construed and interpreted to include both male and female genders, and all Legislation; Amendments to the Codified Ordinances or to this Charter shall contain gender neutral language. (Enacted 11-4-14)

CODIFIED ORDINANCES OF RICHMOND HEIGHTS
PART ONE - ADMINISTRATIVE CODE

- TITLE ONE - General Provisions
Chap. 101 . Codified Ordinances.
Chap. 103 . Official Standards.
Chap. 105 . Wards and Boundaries.
- TITLE THREE - Legislative
Chap. 121 . Council.
Chap. 123 . Ordinances and Resolutions.
Chap. 125 . Investigations.
- TITLE FIVE - Administrative
Chap. 131 . Mayor.
Chap. 133 . Clerk.
Chap. 135 . Department of Law.
Chap. 137 . Department of Finance.
Chap. 139 . Department of Public Safety.
Chap. 141 . Division of Police.
Chap. 143 . Division of Fire.
Chap. 145 . Division of Building Engineering and Inspection.
Chap. 147 . Department of Public Service and Properties.
Chap. 149 . Engineer.
Chap. 150 . City Architects.
Chap. 151 . Recreation Board.
Chap. 152 . Advisory Board of Environmental Control.
Chap. 153 . Civil Service Commission.
Chap. 154 . Architectural Board of Review.
Chap. 155 . Planning and Zoning Commission.
Chap. 156 . Advisory Board of Community Growth. (Repealed)
Chap. 157 . Zoning Board of Appeals.
Chap. 158 . Health Services.
Chap. 159 . Employees Generally.
Chap. 161 . Conflict of Interest.
Chap. 162. Diversity, Equity and Inclusion Advisory Committee.
Chap. 163 . Disaster Services Agency.
Chap. 164 . Technology Advisory Committee.
Chap. 165 . Records Commission.
Chap. 166 . Tree Commission.
Chap. 167 . Litter Control Board.
Chap. 168 . Tax Incentive Review Council.
Chap. 169 . Commission on Aging.
Chap. 170 . Claims and Litigation.
- TITLE SEVEN - Judicial
Chap. 171 . Mayor's Court.
- TITLE NINE - Taxation
Chap. 181 . Earned Income Tax.
Chap. 182 . Construction; Tax Registration.
Chap. 183 . Admissions Tax.
Chap. 184. Income Tax Effective January 1, 2016.

CODIFIED ORDINANCES OF RICHMOND HEIGHTS
PART ONE - ADMINISTRATIVE CODE
TITLE ONE - General Provisions

- Chap. 101 . Codified Ordinances.
Chap. 103 . Official Standards.
Chap. 105 . Wards and Boundaries.

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 Determination of legislative intent.
101.08 Severability.
101.99 General penalty.

CROSS REFERENCES

See sectional histories for similar State law
Statute of limitations on prosecutions - see Ohio R.C. 718.06; GEN. OFF. 501.06
Codification in book form - see Ohio R.C. 731.23
Imprisonment until fine and costs are paid - see Ohio R.C. 1905.30, 2947.14
Citation issuance for minor misdemeanors - see Ohio R.C. 2935.26 et seq.
Ordinances and resolutions - see ADM. Ch. 123
Rules of construction for offenses and penalties - see GEN. OFF. 501.04

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 Richmond Heights, Ohio, 1970, 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 ".
(Ord. 30-61. Passed 11-21-61.)

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 Cuyahoga 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 Richmond Heights, 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); ORC 1.02(D); Ord. 30-61. Passed 11-21-61.)

101.03 RULES OF CONSTRUCTION.

(a) Common and Technical Usage. Words and phrases shall be read in context and construed according to the rules of grammar and common usage. Words and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly.

(ORC 1.42)

(b) Singular and Plural; Gender; Tense. As used in the Codified Ordinances, unless the context otherwise requires:

(1) The singular includes the plural, and the plural includes the singular.

(2) Words of one gender include the other genders.

(3) Words in the present tense include the future.

(ORC 1.43)

(c) Calendar; Computation of Time.

(1) Definitions.

A. "Week" means seven consecutive days.

B. "Year" means twelve consecutive months.

(ORC 1.44)

(2) If a number of months is to be computed by counting the months from a particular day, the period ends on the same numerical day in the concluding month as the day of the month from which the computation is begun, unless there are not that many days in the concluding month, in which case the period ends on the last day of that month.

(ORC 1.45)

(3) A. 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 that is not a Sunday or a legal holiday.

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

C. As used in subsections (c)(1) and (c)(2) of this section, legal holiday means the following days:

1. The first day of January, known as New Year's Day;

2. The third Monday in January, known as Martin Luther King, Jr. Day;

3. The third Monday in February, known as Washington-Lincoln Day;

4. The day designated in the "Act of June 28, 1968", 82 Stat. 250, 5 U.S.C. § 6103, as amended, for the commemoration of Memorial Day;

5. The nineteenth day of June, known as Juneteenth day;

6. The fourth day of July, known as Independence Day;

7. The first Monday in September, known as Labor Day;

8. The second Monday in October, known as Columbus Day;

9. The eleventh day of November, known as Veteran's Day;

10. The fourth Thursday in November, known as Thanksgiving Day;

11. The twenty-fifth day of December, known as Christmas Day; and

12. Any day appointed and recommended by the Governor of this state or the President of the United States as a holiday.

D. If any day designated in this section as a legal holiday falls on a Sunday, the next succeeding day is a legal holiday.

(ORC 1.14)

(4) 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)

(5) 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) The repeal of a repealing ordinance does not revive the ordinance originally repealed nor impair the effect of any saving clause therein.

(ORC 1.57)

(b) An ordinance which is re-enacted or amended is intended to be a continuation of the prior ordinance and not a new enactment, so far as it is the same as the prior ordinance.

(ORC 1.54)

(c) The re-enactment, amendment or repeal of an ordinance does not, except as provided in subsection (d) hereof:

(1) Affect the prior operation of the ordinance or any prior action taken thereunder;

(2) Affect any validation, cure, right, privilege, obligation or liability previously acquired, accrued, accorded or incurred thereunder;

(3) Affect any violation thereof or penalty, forfeiture or punishment incurred in respect thereto, prior to the amendment or repeal;

(4) Affect any investigation, proceeding or remedy in respect of any such privilege, obligation, liability, penalty, forfeiture or punishment; and the investigation, proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment imposed, as if the ordinance had not been repealed or amended.

(d) If the penalty, forfeiture or punishment for any offense is reduced by a re-enactment or amendment of an ordinance, the penalty, forfeiture, or punishment, if not already imposed, shall be imposed according to the ordinance as amended.

(ORC 1.58; ORC 1.21; Ord. 30-61. Passed 11-21-61.)

101.05 CONSTRUCTION OF SECTION REFERENCES.

(a) A reference to any portion of the Codified Ordinances applies to all re-enactments or amendments thereof.

(ORC 1.55)

(b) If a section refers to a series of numbers or letters, the first and the last numbers or letters are included.

(ORC 1.56)

(c) Wherever in a penalty section reference is made to a violation of a series of sections or of subsections of a section, such reference shall be construed to mean a violation of any section or subsection 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; Ord. 30-61. Passed 11-21-61.)

101.06 CONFLICTING PROVISIONS.

(a) If there is a conflict between figures and words in expressing a number, the words govern.

(ORC 1.46)

(b) If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision, unless the general provision is the later adoption and the manifest intent is that the general provision prevail.

(ORC 1.51)

(c) (1) If ordinances enacted at different meetings of Council are irreconcilable, the ordinance latest in date of enactment prevails.

(2) If amendments to the same ordinance are enacted at different meetings of Council, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are substantively irreconcilable, the latest in date of enactment prevails. The fact that a later amendment restates language deleted by an earlier amendment, or fails to include language inserted by an earlier amendment, does not of itself make the amendments irreconcilable. Amendments are irreconcilable only when changes made by each cannot reasonably be put into simultaneous operation.

(ORC 1.52)

101.07 DETERMINATION OF LEGISLATIVE INTENT.

(a) In enacting an ordinance, it is presumed that:

(1) Compliance with the constitutions of the State and of the United States is intended;

(2) The entire ordinance is intended to be effective;

(3) A just and reasonable result is intended;

(4) A result feasible of execution is intended.

(ORC 1.47)

(b) An ordinance is presumed to be prospective in its operation unless expressly made retrospective.

(ORC 1.48)

(c) If an ordinance is ambiguous, the court, in determining the intention of Council may consider among other matters:

(1) The object sought to be attained;

- (2) The circumstances under which the ordinance was enacted;
 - (3) The legislative history;
 - (4) The common law or former legislative provisions, including laws upon the same or similar subjects;
 - (5) The consequences of a particular construction;
 - (6) The administrative construction of the ordinance.
- (ORC 1.49)

101.08 SEVERABILITY.

If any provision of a section of the Codified Ordinances or the application thereof to any person or circumstance is held invalid, the invalidity does not affect the other provisions or applications of the section or related sections which can be given effect without the invalid provision or application, and to this end the provisions are severable.

(ORC 1.50; ORC 1.13; Ord. 30-61. Passed 11-21-61.)

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 guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation continues or occurs.

(Ord. 8-2019. Passed 1-22-19.)

CHAPTER 103

Official Standards

EDITOR'S NOTE: The State of Ohio operates on Eastern Daylight Savings Time from 2:00 a.m., of the last Sunday in April until 2:00 a.m., of the last Sunday in October. Congress on March 22, 1966, passed the Uniform Time Act requiring uniform observance throughout the nation of Daylight Savings Time starting in 1967, except that a state legislature could exempt the entire state from Daylight Savings Time or divide a state into not more than two parts, each with a different time standard. The Ohio legislature through inaction has elected to observe Eastern Daylight Savings Time throughout the State of Ohio.

There are no sections in Chapter 103 . This chapter has been established to provide a place for cross references and any future legislation.

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.

CHAPTER 105

Wards and Boundaries

CROSS REFERENCES

Boundaries - see CHTR. Art. II

Wards - see CHTR. Art. IV Sec. 2

Division into wards - see Ohio R.C. 731.06

Voting precincts - see Ohio R.C. 3501.18

105.01 WARD MAP.

The boundaries of the four wards of the City of Richmond Heights shall be adjusted as set forth upon the map attached to Ordinance 40-99 as Exhibit A, which Exhibit is made a part hereof and fully incorporated into this section.

(Ord. 40-99. Passed 6-22-99.)

TITLE THREE - Legislative

Chap. 121 . Council.

Chap. 123 . Ordinances and Resolutions.

Chap. 125 . Investigations.

CHAPTER 121

Council

121.01 Regular meetings.

121.02 Special meetings.

121.03 Agenda.

121.04 The Presiding Officer; duties and vacancy.

121.05 Mayor.

121.06 Call to order.

121.07 Quorum.

121.08 Roll call.

121.09 Absentees.

121.10 Attendance at Council meetings.

121.11 Order of business.

121.12 Reading of minutes.

121.13 Rules of debate.

121.14 Addressing Council.

121.15 Member shall not pass a vote.

121.16 Decorum.

121.17 Enforcement of decorum.

121.18 Persons authorized to be at Council table.

121.19 Special committees.

121.20 Standing committees.

121.21 Claims against City.

121.22 Ordinances, resolutions, motions and contracts.

121.23 Reports of committees.

121.24 Adjournment.

121.25 Procedure not covered herein.

121.26 Copies of procedure and legislation.

121.27 Amendments and suspension of rules.

121.28 Definitions.

121.29 Public meetings and exceptions.

121.30 Posting notice.

121.31 Publication of notice.

121.32 Request for notification; fee.

121.33 Notice to news media of special or emergency meetings.

121.34 Recommendations of the Board of Zoning Appeals.

121.35 Consent agenda.

121.36 Ascertaining notification.

121.37 Minutes.

CROSS REFERENCES

Composition and term - see CHTR. Art. IV, §1

Qualifications - see CHTR. Art. IV, §3

Salaries and bonds - see CHTR. Art. IV, §4

Meetings - see CHTR. Art. IV, §5

Quorum - see CHTR. Art. IV, §6

Clerk - see CHTR. Art. IV, §7

Vacancies - see CHTR. Art. IV, §8

Powers - see CHTR. Art. IV, §9

Validation of actions - see CHTR. Art. IV, §10

President of Council - see CHTR. Art. IV, §11

Removal - see CHTR. Art. IV, § 12

Nominations and elections - see CHTR. Art. VIII

121.01 REGULAR MEETINGS.

(a) **Time.** Council shall hold regular meetings on the second and fourth Tuesdays of each month at 8:15 p.m., unless otherwise ordered by Council. However, when the day fixed for any regular meeting of Council falls upon a day designated by law as a legal holiday, such meeting shall be held at a time designated by Council.

(b) **Place.** All regular meetings of Council shall be held in the Council Chamber of the City Hall.

(Ord. 105-75. Passed 11-11-75.)

121.02 SPECIAL MEETINGS.

The Clerk of Council may call special meetings of Council whenever the public business may require it at the express written request of the Mayor or any three members of Council. Whenever a special meeting is called, a summons or a notice in writing signed by the Clerk of Council shall be served upon each member of Council in person or by notice left at his place of residence, at least twenty-four hours in advance of the time of such meeting. Such notice shall state the date and hour of the meeting and the purpose for which such meeting is called and no business shall be transacted thereat, except such as is stated in the notice. However, notice of the meeting may be waived in writing if all Councilmen are present at such special meeting and each signs such waiver. Other matters not appearing in the call may be placed on the agenda if all Councilmen are present and agree.

(Ord. 105-75. Passed 11-11-75.)

121.03 AGENDA.

All minutes of Boards and Commissions, reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to Council shall, at least thirty business hours prior to each Council meeting, be delivered to the Clerk of Council, whereupon the Clerk shall immediately arrange a list of such matters according to the Order of Business and furnish each member of Council, the Mayor and the Director of Law with a copy of the same as far in advance of the Council meeting as time for preparation will permit. Other matters may be added to the agenda with the approval of a majority of Council.
(Ord. 105-75. Passed 11-11-75.)

121.04 PRESIDING OFFICER; DUTIES AND VACANCY.

(a) Duties. The Presiding Officer of Council shall be the President of Council. He shall preserve strict order and decorum at all regular and special meetings of Council. He shall state every question coming before Council, announce the decision of Council on all subjects and decide all questions of order. The President of Council shall not lose his vote nor cease to be a Councilman by serving as such Presiding Officer.

(b) Vacancy. When a vacancy occurs in the office of the President of Council, the Council shall, no later than the Council meeting following the vacancy, elect one of its own members to be the President of Council. The Clerk shall call Council to order whereupon Council shall elect by majority vote one of their members as President of Council.
(Ord. 105-75. Passed 11-11-75.)

121.05 MAYOR.

In addition to the duties set forth in Section 121.04, the Mayor may introduce ordinances and resolutions, take part in the discussion on all matters coming before Council and make recommendations to Council for the welfare of the City as he deems advisable.

At the second regular meeting in January, he shall report to Council concerning the finances and other affairs of the City.

Every ordinance or resolution passed by Council shall be signed by the President of Council, attested by the Clerk, and promptly presented to the Mayor for consideration. If the Mayor approves such legislation, he shall sign it and file it with the Clerk.

The Mayor may approve or disapprove the whole or any part of any item of an ordinance appropriating money, but otherwise his approval or disapproval shall be addressed to the entire ordinance or resolution. If he disapproves it or any item of it he shall file it with written notice of the disapproval with the Clerk.

Unless an ordinance or resolution is filed with the Clerk with written notice of disapproval within ten days after its passage by Council, it shall take effect as though the Mayor had signed it.

When the Mayor has disapproved an ordinance or resolution, or any item of it as herein provided, Council shall, at its next regular meeting thereafter, reconsider it, and if upon such reconsideration the ordinance, resolution or item is approved by five or more members of Council, it shall take effect notwithstanding the disapproval of the Mayor.
(Ord. 105-75. Passed 11-11-75.)

121.06 CALL TO ORDER.

The President of Council shall take the chair at the hour appointed for the meeting and shall call Council to order. In the absence of the President of Council, the Clerk shall call Council to order, whereupon Council shall elect one of their members as President Pro Tem of Council by a majority vote of those present. Upon the arrival of the President of Council the President Pro Tem shall immediately relinquish the chair upon the conclusion of the business immediately before Council.
(Ord. 105-75. Passed 11-11-75.)

121.07 QUORUM.

A majority of all the members elected to Council shall constitute a quorum at any regular or special meeting of Council. In the absence of a quorum, the Presiding Officer shall, at the instance of any two members present, compel the attendance of absent members.
(Ord. 105-75. Passed 11-11-75.)

121.08 ROLL CALL.

Before proceeding with the business of Council, the Clerk shall call the roll of the members of Council, the Mayor, Clerk, Director of Law, Director of Finance and those hereinafter required to be present, and the names of those present shall be entered in the minutes.

(Ord. 105-75. Passed 11-11-75.)

121.09 ABSENTEES.

If a quorum is present, absent Councilmen may be excused by a motion, for cause, and the cause entered in the minutes.

(Ord. 105-75. Passed 11-11-75.)

121.10 ATTENDANCE AT COUNCIL MEETINGS.

In addition to the Mayor and Council, the following officers or their authorized representatives shall attend all regular Council meetings, unless excused by the Mayor, and such special Council meetings, committee, board and commission meetings as the Mayor or the chairman of the committee, board or commission shall request:

- (a) The Clerk of Council;
- (b) The Director of Law;
- (c) The Engineer;
- (d) The directors of departments.

(Ord. 105-75. Passed 11-11-75.)

121.11 ORDER OF BUSINESS.

All regular meetings of Council shall be open to the public. Promptly at the hour set by law on the day of each regular meeting, the Mayor, the members of Council, the Clerk and the Director of Law shall take their regular stations at the Council table and the business of Council shall be taken up for consideration and disposition in the following order:

- (a) Roll call;
- (b) Motions to excuse absent Council members;
- (c) Mayor's report;
- (d) Consideration of reports of Zoning Board of Appeals, Planning and Zoning Commission and other officers, boards and commissions;
- (e) Introduction of citizens or delegations wishing to appear before Council;
- (f) Consent agenda;
- (g) Consideration of ordinances and resolutions;
- (h) Unfinished business;
- (i) New business;
- (j) Miscellaneous matters;
- (k) Adjournment.

(Ord. 127-88. Passed 1-10-89.)

121.12 READING OF MINUTES.

The minutes of a previous Council meeting may be approved without public reading thereof if the Clerk has previously furnished each member of Council with a copy thereof at least thirty hours before the meeting and a member of Council has not requested a public reading of the same.

(Ord. 105-75. Passed 11-11-75.)

121.13 RULES OF DEBATE.

(a) Presiding Officer May Debate. The Presiding Officer may debate from the chair, subject only to such limitations of debate as are by these rules imposed on all members of Council, and shall not be deprived of any of the rights and privileges of a Councilman by reason of his acting as the Presiding Officer.

(b) Securing the Floor; Improper References. Every member desiring to speak shall address the chair, and upon recognition by the Presiding Officer shall confine himself to the question under debate, avoiding all improper personal references and indecorous language.

(c) Interruptions. A member, once recognized, shall not be interrupted when speaking unless it be to call him to order, or as herein otherwise provided. If a member, while speaking, be called to order he shall cease speaking until the question of order be determined, and, if in order, he shall be permitted to proceed.

(d) Limitations of Speakers. No member shall be permitted to speak more than once upon any subject until every member choosing to speak has had an opportunity to be heard.

(e) Privilege of Closing Debate. The Councilman sponsoring or moving the adoption of an ordinance or resolution shall have the privilege of closing the debate. There shall be no further debate permitted after a roll call has started.

(f) Motions. A motion may be made by any member of Council and it shall require a second to be acted upon.

(g) Motion to Reconsider. A motion to reconsider any action taken by Council may be made only at the same meeting such action was taken. It may be made either immediately during the same session or at a recessed or adjourned session thereof. Such motion must be made by one of the prevailing side, and may be made at any time during the meeting and have precedence over all other motions or while a member has the floor; it shall be debatable.

(h) Remarks of Councilmen; When Entered In Minutes. A Councilman may request, through the Presiding Officer, the privilege of having an abstract of his statement on any subject under consideration by Council entered in the minutes. If the Council consents thereto, such statement shall be entered in the minutes, provided such abstract is presented by the Councilman making such request, in writing.

(i) Synopsis of Debate; When Entered In Minutes. The Clerk may be directed by the Presiding Officer, with consent of Council, to enter in the minutes a synopsis of the discussion on any question regularly before Council.
(Ord. 105-75. Passed 11-11-75.)

121.14 ADDRESSING COUNCIL.

Persons desiring to address Council may do so in the following manner:

(a) Written Communications. Interested parties or their authorized representatives may address Council by written communications on any matter of City business by delivering such communications to the Clerk of Council. Such written communications shall be read by the Clerk of Council as directed by Council.

(b) Oral Communications. Any person or their authorized representative may address Council on any matter of City business at the proper time provided in the agenda by rising and securing permission of the Presiding Officer. Such person shall state his name and address and the name and address of the person or group he may represent, if other than himself, in an audible tone of voice for the records, and unless further time is granted by the Presiding Officer or Council, shall limit his address to three minutes. All remarks shall be addressed to Council as a body and not to any particular member thereof. No person other than Council and the person having the floor shall be permitted to enter into any discussion, either directly or through a member of Council, without the permission of the Presiding Officer. No question shall be asked the Mayor, a Councilman or municipal officer except through the Presiding Officer.
(Ord. 105-75. Passed 11-11-75.)

121.15 MEMBER SHALL NOT PASS A VOTE.

If a Council member refuses to vote on any question when his name is called by the Clerk, the Clerk shall continue the roll call and then again call upon such Councilman for his vote. If he again refuses to vote then the record shall show that he voted with the majority unless there was a tie vote, in which case his vote shall be recorded as an affirmative vote.

(Ord. 105-75. Passed 11-11-75.)

121.16 DECORUM.

(a) By Council Members. While Council is in session, the members must preserve order and decorum, and a member shall neither, by conversation or otherwise, delay or interrupt the proceedings or the peace and dignity of Council, nor disturb any member while speaking or refuse to obey the orders of the Presiding Officer or Council, except as otherwise herein provided.

(b) By Other Persons. Any person, while addressing Council, who makes personal, impertinent or slanderous remarks or who becomes boisterous shall be ordered ejected from the Council Chamber forthwith by the Presiding Officer and barred from further audience before Council unless permission to continue be granted by a majority vote of Council.
(Ord. 105-75. Passed 11-11-75.)

121.17 ENFORCEMENT OF DECORUM.

(a) The Chief of Police, or such member or members of the Division of Police as he may designate, shall be Sergeant-At-Arms of Council meetings. He, or they, shall carry out all orders and instructions given by the Presiding Officer for the purpose of maintaining order and decorum at the Council meeting. Upon instructions of the Presiding Officer, it shall be the duty of the Sergeant-At-Arms to place any person who violates the order and decorum of the meeting under arrest and cause him to be prosecuted for disturbing the peace, the complaint to be signed by the Clerk.

(b) If the offending person is the Presiding Officer or a Councilman, he shall not be removed from the meeting or charged as provided in subsection (a) hereof unless a majority of the other Councilmen present concur that such Councilman shall be prosecuted as provided for in subsection (a) hereof.

(Ord. 105-75. Passed 11-11-75.)

121.18 PERSONS AUTHORIZED TO BE AT COUNCIL TABLE.

No person, except City officials designated, shall be permitted to sit at the Council table without the express consent of a majority of Council.

(Ord. 105-75. Passed 11-11-75.)

121.19 SPECIAL COMMITTEES.

All special committees shall be appointed by the President of Council.

(Ord. 105-75. Passed 11-11-75.)

121.20 STANDING COMMITTEES.

(a) Organization.

There shall be the following Standing Committees:

Committee of the Whole;
Audit Committee;
Finance Committee;
Public Safety Committee;
Public Services and Recreation Committee; and
Planning and Zoning Committee.

Each committee, except the Committee of the Whole, shall be composed of the President of Council and four other Councilpersons. One of such other Councilpersons shall be Chair, the President of Council acting as Co-Chair and voting at committee meetings only in the absence of the Chair, or to break a tie vote, or to take action when only two other members of the committee are present. The President of Council shall be Chair of the Committee of the Whole. The members of Standing Committees and their respective chairs shall be appointed by the President of Council. The Clerk of Council shall be the Clerk-Secretary of all Committees of Council. Except in the case of obvious inconsistency or inapplicability, committee meetings shall be governed by the rules applicable to Council proceedings. A majority of the members of a committee, including the President of Council, shall constitute a quorum for the transaction of business. A simple majority vote of a quorum shall be sufficient for a committee to take any action.

(b) Time. The Council Standing Committees, other than the Committee of the Whole and the Audit Committee, shall hold regular meetings on the first and third Tuesdays of each month unless otherwise ordered by Council. The Committee of the Whole shall hold its regular meetings on the second and fourth Tuesdays of each month unless otherwise ordered by Council. The following schedule shall be observed:

First Tuesday: Planning and Zoning Committee
at 7:30 p.m.
Public Services and Recreation Committee
at 8:30 p.m.

Second Tuesday: Committee of the Whole
at 7:30 p.m.

Third Tuesday: Public Safety Committee
at 7:30 p.m.
Finance Committee
at 8:30 p.m.

Fourth Tuesday: Committee of the Whole
at 7:30 p.m.

As needed: Audit Committee shall meet as scheduled by the chair but shall meet not less than once per calendar quarter.

(c) Place. All committee meetings shall be held at City Hall, except when the committee by majority vote decides it would be more advisable to hold the meeting elsewhere.

(d) Audit Committee.

(1) Purpose. The Audit Committee is established for the purpose of acting in an advisory capacity to the Council regarding the City's financial statement audits, monitoring of the audit process, presentation of the audited financial statements, and responding to audit findings. The Audit Committee, however, shall not pre-empt the responsibilities of the City's executive branch with respect to the City financial statement audits.

(2) Functions. The Audit Committee shall perform the following functions:

- A. Review the annual unaudited financial report submitted to the Auditor of State;
- B. Periodically review the process used to prepare interim financial information submitted to the Council;
- C. Review audit results;
- D. Assure that audit recommendations are appropriately addressed; and
- E. Serve as liaison between City management and independent auditors.

The Committee should also establish procedures for the receipt, retention, and treatment of complaints regarding accounting, internal accounting controls, or auditing matters. Such procedures should specifically provide for the confidential, anonymous submission by employees of the City of concerns regarding questionable accounting or auditing matters.

(3) General. The Audit Committee shall act independently from the City's executive branch but may seek assistance from the Director of Finance or other administrative personnel of the executive branch. To the extent possible under the circumstances, the members of the Audit Committee shall possess some familiarity with governmental accounting, auditing and financial reporting needed to understand and resolve issues raised by the independent audit of the City's financial statements, and the Committee shall have the authority to hire professionals in such fields to assist the Committee.

(Ord. 74-2008. Passed 9-9-08.)

121.21 CLAIMS AGAINST CITY.

No claim or other demand against the City for which it is not legally liable shall be allowed until the same has been considered and reported upon by the Committee of the Whole.

(Ord. 105- 75. Passed 11-11-75.)

121.22 ORDINANCES, RESOLUTIONS, MOTIONS AND CONTRACTS.

(a) Approval. A legal opinion on all ordinances, resolutions and contract documents shall have been rendered as to form and legality by the Director of Law or his authorized representative, before passage by Council.

(b) Introduction and Passage of Ordinances and Resolutions.

(1) Ordinances and resolutions shall be introduced and sponsored by a member of Council or the Mayor; otherwise they shall not be entertained by Council. However, upon the unanimous vote of Council, a resolution may be sponsored by the entire Council and the Mayor.

(Ord. 105-75. Passed 11-11-75.)

(2) No ordinance or resolution requiring more than one reading shall be put on its final passage on the same day on which it was introduced, except emergency legislation. Consistent with the provisions of the Municipal Charter at Article X, Section X-2, an emergency measure is an ordinance or resolution necessary for the immediate preservation of the public peace, health, or safety, or providing for the usual daily operation of a Municipal department, and in in which the emergency is set forth and defined in a preamble and/or section to the ordinance or resolution. Each emergency measure shall contain a statement of the necessity for such emergency action and in addition shall state in precise terms exactly what the emergency is, and shall require the affirmative vote of five (5) members of Council for its enactment as an emergency measure. No action of the Council authorizing any change in the boundaries of the Municipality or the surrender or joint exercise of any of its powers, or granting, renewing or extending any franchise or other special privilege, or contracting for the supply to the Municipality or its inhabitants of the products or service of any utility, whether municipality owned or not, or regulating the rate to be charged for its services, shall be enacted as an emergency measure. A legislative measure, as opposed to an administrative measure, that is not an emergency shall go into effect thirty (30) days after its passage by the Council and signature by the Mayor, or upon its passage after disapproval by the Mayor, as the case may be and as provided by the Municipal Charter.

(3) All ordinances and resolutions, except emergency legislation, shall have three separate readings on three separate days. When the committee to which an ordinance or resolution has been referred reports such ordinance or resolution to Council, the ordinance or resolution shall stand for final action in accordance with the report of the committee, notwithstanding that such committee reports may report an amended or a substituted ordinance or resolution, provided that such amendment or substitution is germane to the ordinance or resolution originally referred to such committee.

(4) No ordinance or resolution shall relate to more than one subject, which shall be clearly expressed in its title, and no ordinance or resolution, or section thereof shall be amended or repealed unless the new ordinance or resolution contains the title of the ordinance or resolution, or section amended or repealed. When practicable, ordinances or resolutions shall be introduced as amendments to existing ordinances or resolutions, or sections thereof.

(5) An ordinance or resolution, after reference to a committee and report thereon received, may be re-referred to the committee at any time previous to its final passage.

(6) The rule requiring that an ordinance or resolution shall be read on three different days, in subsection (b)(3) of this section, may be dispensed with upon the affirmative vote of five of the members of Council and the legislation may be read by title only prior to its passage.

(7) The Presiding Officer may, on his own initiative, refer proposed legislation to a Standing Committee of Council for their report and recommendation, except that Council, upon the affirmative vote of five members, may suspend the rules and call for a vote on the proposed legislation. Once referred to Committee, the legislation shall be discussed, studied and amended, if necessary, and brought back to the floor for final consideration. A majority of Council at any time, by simple motion, may remove the proposed legislation from a Committee and bring it back to the floor for action by the entire Council.

(Ord. 2-2022. Passed 1-25-22.)

121.23 REPORTS OF COMMITTEES.

Committees shall make their reports in writing and shall return the petition, ordinance, resolution, account or other paper submitted for consideration. Minority reports may be submitted either written or orally.

All reports shall be filed with the Clerk of Council and be entered into the minutes in toto by reference.

(Ord. 105-75. Passed 11-11-75.)

121.24 ADJOURNMENT.

A motion to adjourn shall always be in order and decided without debate, except that such motion shall not be made until a roll call vote is completed and shall not be made during the consideration of an emergency matter.

(Ord. 105-75. Passed 11-11-75.)

121.25 PROCEDURE NOT COVERED HEREIN.

Questions of parliamentary procedure not covered by or included in these rules shall be determined by the Presiding Officer in accordance with "Roberts Rules of Order", unless otherwise provided for in the Ohio Revised Code or the ordinances and resolutions of the City.

(Ord. 105-75. Passed 11-11-75.)

121.26 COPIES OF PROCEDURE AND LEGISLATION.

The Clerk shall keep on file the original and one copy of all legislation adopted by Council as permanent records of the City. The Clerk shall make additional copies of all legislation adopted by Council for the use of interested persons upon the payment of the required fee for the reproduction of the same.

(Ord. 7-76. Passed 1-13-76.)

121.27 AMENDMENTS AND SUSPENSION OF RULES.

(a) Any provision of these rules may be suspended at any meeting of Council by a majority vote of all the members elected, except when a greater number is required by law or by the rules. The vote on any such suspensions shall be taken by yeas and nays and entered upon the records.

(b) These rules may be amended or new rules adopted by a majority vote of all the members elected to Council.

(Ord. 105-75. Passed 11-11-75.)

121.28 DEFINITIONS.

As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section, unless the context specifically indicates otherwise:

(a) "Clerk" means the Clerk of Council of the City of Richmond Heights and/or the secretary of the pertinent public body. Any notification or action provided for herein to be given or taken by the Clerk may be given or taken by any person acting in behalf of or under the authority of the Clerk.

(b) "Day" means calendar day.

(c) "Meeting" means any prearranged discussion of the public business of the City by a public body of the City at which a majority of the members of the public body are present.

(d) "Member" means any member of a public body of the City duly elected or appointed as a member pursuant to the Codified Ordinances of the City of Richmond Heights.

(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 shown on the records kept by the Clerk under this rule.

(f) "Post" means to post in an area accessible to the public during the usual business hours at the City Hall of Richmond Heights (457 Richmond Road, Richmond Heights, Ohio 44143).

(g) "Public body" means any board, commission, committee, subcommittee or similar decision-making body of a state agency, institution or authority, and any legislative authority or board, commission, committee, subcommittee, agency, authority or similar decision-making body of any county, township, municipal corporation, school district or other political subdivision or local public institution.

(h) "Published" means published once in a newspaper having a general circulation in the City of Richmond Heights, as defined in Ohio R.C. 7.12, except that no portion of such newspaper need be printed in that City. 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 that City.

(i) "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.

(j) "Written notification" means notification in writing mailed, telegraphed, faxed or delivered to the address of the person for whom such notification is intended as shown on the records kept by the Clerk under this section, 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 fourth day preceding the day of the meeting to which such notification refers. Written notification may be accomplished by giving advance written notification by copies of the agendas of all pertinent meetings.

(Ord. 17-94. Passed 3-22-94.)

121.29 PUBLIC MEETINGS AND EXCEPTIONS.

All meetings of any public body are declared to be public meetings open to the public unless the regular or special meeting is for the sole purpose of the consideration of any of the following matters:

(a) Unless the public employee, official, licensee or regulated individual requests a public hearing, to consider the appointment, employment, discipline, promotion, demotion or compensation of a public employee or official, or the investigation of charges or complaints against a public employee, official, licensee or regulated individual;

(b) To consider the purchase of property for public purposes, or for the sale of property at competitive bidding, if premature disclosure of information would give an unfair competitive or bargaining advantage to a person whose personal private interest is adverse to the general public interest;

(c) Conferences with an attorney for the public body, concerning disputes involving the public body that are the subject of pending or imminent court action;

(d) Preparing for, conducting or reviewing negotiations or bargaining sessions with public employees concerning their compensation or other terms and conditions of their employment;

(e) Matters required to be kept confidential by federal law or rules or State statutes;

(f) Specialized details of security arrangements where disclosure of the matters discussed might reveal information that would be used for the purpose of committing, or avoiding prosecution for, a violation of the law.

(Ord. 105-75. Passed 11-11-75.)

121.30 POSTING NOTICE.

The Clerk shall, no later than forty-eight hours before the time of a regular meeting, post notice of the time and place of such regular meeting on a bulletin board at the City Hall. In the event of a special meeting, the Clerk shall, no later than twenty-four hours before the time of a special meeting, post notice of the time, place and purposes of such special meeting. 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. In case of an emergency requiring immediate official action, the Clerk shall immediately post notice of the time, place and purposes of such special meeting and the general nature of the emergency requiring immediate official action.

(Ord. 17-94. Passed 3-22-94.)

121.31 PUBLICATION OF NOTICE.

In addition to or in lieu of the posting of the notice as provided in Section 121.30 , the Clerk may cause to be published once, no later than twelve hours prior to the time of the meeting referred to, a notice of the time and place of such regular meeting or the time, place and purposes of such special meeting.

(Ord. 17-94. Passed 3-22-94.)

121.32 REQUEST FOR NOTIFICATION; FEE.

(a) Any person may, upon written request to the Clerk, obtain reasonable advance notification of all regular Council meetings, of any meeting of each public body of the City or any special meeting of Council at which any specific type of public business is to be discussed.

(b) Such person may file a written request with the Clerk specifying: the person's name, and the addresses and telephone numbers at 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; 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.

(c) Each such written request shall be accompanied by stamped self-addressed envelopes sufficient in number to cover the number of meetings during the time period covered by the request. 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.

(d) The Clerk shall if possible give such advance notification under this section by written notification. If such written notification cannot be given or has not been given, the Clerk shall give oral notification. There shall be no fee charged for such advance notification.

(Ord. 17-94. Passed 3-22-94.)

121.33 NOTICE TO NEWS MEDIA OF SPECIAL OR EMERGENCY MEETINGS.

(a) Any news medium organization that desires to be given advance notification of special meetings shall file with the Clerk a written request therefor. Except in the event of an emergency requiring immediate official action, 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.

(b) News media requests for advance notification of special meetings shall specify: the name of the medium; the name of and address of the person to whom written notifications to the medium may be mailed, telegraphed or delivered; and 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.

(c) Any such request shall be effective for one year from the date of the 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. The Clerk shall maintain a current list of all news media that have requested such advance notification.

(d) 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 of the time, place and purposes of each special meeting, at least twenty-four hours prior to the time of such special meeting.

(e) 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 Clerk shall immediately give oral notification or written notification, or both, as the Clerk may determine, of the time, place and purposes of such special meeting to such news media that have requested such advance notification. The notification shall state the general nature of the emergency requiring immediate official action.

(f) A reasonable effort at notification shall constitute notification in compliance with this section.

(Ord. 17-94. Passed 3-22-94.)

121.34 RECOMMENDATIONS OF THE BOARD OF ZONING APPEALS.

(a) Whenever the Board of Zoning Appeals of the City, pursuant to Section 1185.05 of the Planning and Zoning Code of these Codified Ordinances, issues any ruling, determination, order or recommendation to Council requiring action thereon by Council for the approval, confirmation or disapproval of the same, the record thereof shall be reviewed by the Planning and Zoning Committee of Council and report made thereon to the Committee of the Whole.

(b) The Planning and Zoning Committee of Council and the Committee of the Whole shall apply the provisions of Sections 1185.05 , Special Approval, and 1185.06 , Variances, upon the basis of the record submitted to Council by the Board of Zoning Appeals pursuant to Section 1185.08 .

(c) If Council finds that the recommendation of the Board of Zoning Appeals is supported by reliable, substantial and probative evidence and conforms to the standards as set forth in Chapter 1185 , it shall confirm the action of the Board of Zoning Appeals.

(d) If Council finds the recommendation of the Board of Zoning Appeals is not supported by reliable, substantial and probative evidence and does not conform to the standards set forth in Chapter 1185 , it shall refuse to confirm the action of the Board of Zoning Appeals and set forth in writing the specific reasons for such refusal to confirm such action.

(e) Council shall notify in writing each applicant or appellant of its action upon the ruling, determination, order or recommendation of the Board of Zoning Appeals.

(Ord. 105-75. Passed 11-11-75.)

121.35 CONSENT AGENDA.

The Clerk of Council is hereby authorized to add to the agenda for regular meetings an item to be designated as "Consent Agenda" in accordance with Section 121.11 , Order of Business.

The Clerk of Council shall place, in an appropriate order with proper letter designations the following types of business:

(a) Minutes of previous meetings not yet approved.

(b) Resolutions of condolence, congratulations, urging State or Federal action for or against issues, legislation or policies.

(c) Awards of contracts previously recommended by the Mayor, Department Heads or Clerk of Council and approved by Council.

(d) Proclamations by the Mayor.

(e) Legislation concerning easements, deeds, leases and agreements previously approved in principal.

(f) First reading of items that require action at more than one regular Council meeting i.e. legislation to amend the Zoning Code.

(g) Referrals of petitions, remonstrances, communications and proposed legislation to appropriate committees, boards or commissions.

(h) Ordinances and resolutions regarding the appropriations of funds, transfer of funds and adoption of budgets.

(i) Ordinances and resolution for approvals of subdivisions previously recommended by the Planning Commission and recommended by the Planning and Zoning Committee of Council.

The Clerk of Council shall also type upon the printed agenda for regular Council meetings the following explanation immediately preceding the listing of matters for the Consent Agenda:

"All matters listed under Item (f), Consent Agenda, are considered to be routine by the Council and will be enacted by one motion in the form listed below. Items of legislation will receive approval by motion to suspend the rules requiring two separate readings of legislation, wherever appropriate. There will be no separate discussion of these items when so adopted.

If discussion is desired by any councilman, the particular item will be removed from the Consent Agenda and will be considered separately by Council with full discussion.”
(Ord. 127-88. Passed 1-10-89.)

121.36 ASCERTAINING NOTIFICATION.

Any person may ascertain the time and place of all then known regular meetings, the time, place and purposes of all then known special meetings and whether the available agenda of any future meeting states that any specific type of public business, identified by such person, is to be discussed at such meeting, by:

(a) Writing to:

Clerk of Council
City of Richmond Heights
457 Richmond Road
Richmond Heights, Ohio 44143

(b) Telephoning the office of Clerk of Council, during its normal business hours, at (216) 486-2474.

(c) Consulting the bulletin board located in the lobby at the Richmond Heights City Hall, 457 Richmond Road, Richmond Heights, Ohio 44143.

(Ord. 17-94. Passed 3-22-94.)

121.37 MINUTES.

The minutes of any regular or special meeting of any public body of the City shall be promptly prepared, filed and maintained and shall be open to public inspection.

(Ord. 17-94. Passed 3-22-94.)

CHAPTER 123

Ordinances and Resolutions

123.01 Publication of ordinances, resolutions and other actions.

123.02 Date of annual Charter required reports.

CROSS REFERENCES

Ordinances - see CHTR. Art. X §1

Effective date of ordinances and resolutions - see CHTR. Art. X §2

Codification of legislation - see CHTR. Art. X §3

Newspaper publication - see Ohio R.C. 7.12, 701.04, 731.21 et seq.

Adoption and style - see Ohio R.C. 715.03, 731.17 et seq.

Posting - see Ohio R.C. 731.25

Initiative and referendum - see Ohio R.C. 731.28 et seq.

Emergency measures - see Ohio R.C. 731.30

123.01 PUBLICATION OF ORDINANCES, RESOLUTIONS AND OTHER ACTIONS.

(a) When publication of City statements, orders, proclamations, notices and reports is required by law to be posted or published, they shall be posted and published in the following manner: copies of such documents shall be posted for a period of not less than fifteen (15) days on paper on a bulletin board in the City Hall and on a bulletin board in the City Police Station that are accessible to the public during regular business hours of the City and also published in digital format on the official website of the City and on any official website of the State of Ohio that is available for that purpose.

(b) Publication and posting of ordinances and resolutions adopted by City Council shall be given by posting and publishing the number, the title thereof, and the date of passage thereof, for a period of not less than fifteen (15) days and by the posting and publication thereof in the same manner as set forth in subsection (a) hereof.

(Ord. 43-2013. Passed 8-13-13.)

123.02 DATE OF ANNUAL CHARTER REQUIRED REPORTS.

Pursuant to the authority and instruction of Sections 4 and 5 of Article VI of the Charter, Council hereby fixes April 1 in each year as the date for the submission to the Mayor of the reports required of the Director of Public Safety and the Director of Service and Properties with copies to be supplied to Council in accordance with such Charter provisions.

(Ord. 133-74. Passed 11-26-74.)

CHAPTER 125

Investigations

125.01 Council President appoints committee.

125.02 Presiding officer; legal counsel.

125.03 Records; use of information.

125.04 Manner, time of hearings.

125.05 Power to issue subpoena.

125.06 Time period of investigation; report to Council.

CROSS REFERENCES

Contempt of Council subpoena - see GEN.OFF. 525.14

125.01 COUNCIL PRESIDENT APPOINTS COMMITTEE.

The President of Council is hereby authorized to appoint such committee or committees as he may determine are necessary to perform any investigation into the conduct or operation of any City official or department of the City government at such times as he may determine the same are necessary. Upon the appointment of any such committee, the Council President shall notify Council, through its Clerk, in writing, of the individual members appointed to such committee, the date that the investigation shall commence and the purpose for which such investigation shall be held.

(Ord. 43-74. Passed 3-26-74.)

125.02 PRESIDING OFFICER; LEGAL COUNSEL.

The President of Council shall be the presiding officer of any committee undertaking any investigation within the City and Council shall appoint and provide the presiding officer with special legal counsel, and counsel so appointed shall advise the presiding officer and the committee on any and all questions of law.

(Ord. 43-74. Passed 3-26-74.)

125.03 RECORDS; USE OF INFORMATION.

All proceedings before any such committee appointed by the Council President shall be recorded and transcribed and the transcripts shall be dealt with in the manner as determined by a majority of the committee with regard to the use or release of the evidence, testimony or information contained in the same.

(Ord. 43-74. Passed 3-26-74.)

125.04 MANNER, TIME OF HEARINGS.

The committee hearings shall be held in such manner and at such times as the presiding officer shall direct and shall be closed door hearings or public hearings as the presiding officer shall direct, based upon the subject matter to be under investigation or discussed by such committee.

(Ord. 43-74. Passed 3-26-74.)

125.05 POWER TO ISSUE SUBPOENA.

For the purposes of securing witnesses, testimony or evidence any such committee shall have the power and authority to issue a subpoena to compel any person to appear and testify and/or produce any documents or evidence deemed necessary by such committee.

(Ord. 43-74. Passed 3-26-74.)

125.06 TIME PERIOD OF INVESTIGATION; REPORT TO COUNCIL.

The committee shall endeavor to conclude any such investigation within sixty days from the date of its appointment and shall advise Council of any conclusions, findings or recommendation in a written report to the entire Council.

(Ord. 43-74. Passed 3-26-74.)

TITLE FIVE - Administrative

Chap. 131 . Mayor.

Chap. 133 . Clerk.

Chap. 135 . Department of Law.

Chap. 137 . Department of Finance.

Chap. 139 . Department of Public Safety.

Chap. 141 . Division of Police.

Chap. 143 . Division of Fire.

Chap. 145 . Division of Building Engineering and Inspection.

Chap. 147 . Department of Public Service and Properties.

Chap. 149 . Engineer.

Chap. 150 . City Architects.

Chap. 151 . Recreation Board.

Chap. 152 . Advisory Board of Environmental Control.

Chap. 153 . Civil Service Commission.

Chap. 154 . Architectural Board of Review.

Chap. 155 . Planning and Zoning Commission.

Chap. 156 . Advisory Board of Community Growth. (Repealed)

Chap. 157 . Zoning Board of Appeals.

Chap. 158 . Health Services.

Chap. 159 . Employees Generally.

Chap. 161 . Conflict of Interest.

Chap. 162. Diversity, Equity and Inclusion Advisory Committee.

Chap. 163 . Disaster Services Agency.

Chap. 164 . Technology Advisory Committee.

Chap. 165 . Records Commission.
Chap. 166 . Tree Commission.
Chap. 167 . Litter Control Board.
Chap. 168. Tax Incentive Review Council.
Chap. 169 . Commission on Aging.
Chap. 170 . Claims and Litigation.

CHAPTER 131

Mayor

- 131.01 Secretary to Mayor. (Repealed)**
131.02 Director of Economic and Community Development.
131.03 ADA Grievance Procedure; requests.
131.04 Contracting authority of the Mayor.

CROSS REFERENCES

Term of office - see CHTR. Art. V §1
Qualifications - see CHTR. Art. V §2
Judicial powers - see CHTR. Art. V §3
Legislative powers - see CHTR. Art. V §4
Executive powers - see CHTR. Art. V §5
Veto - see CHTR. Art. V §6
Vacancy in office - see CHTR. Art. V §7
Removal - see CHTR. Art. V §8
Mayor's Court - see ADM. Ch. 171

131.01 SECRETARY TO MAYOR. (REPEALED)

EDITOR'S NOTE: Former Section 131.01 was repealed by Ordinance 117-2014.

131.02 DIRECTOR OF ECONOMIC AND COMMUNITY DEVELOPMENT.

- (a) There is hereby created the position of Director of Economic and Community Development for the City. The Director of Economic and Community Development shall be appointed by the Mayor, subject to the confirmation of Council and shall serve at the pleasure of the Mayor.
- (b) The Director of Economic and Community Development shall perform the following duties:
- (1) Develop and implement programs and strategies for the retention, expansion, and relocation of existing businesses and industry within the City, and for the attraction of new businesses.
 - (2) Prepare grant applications and proposals for private, county, State and Federal assistance programs in the area of economic development.
 - (3) Assume the duties of Funding Coordinator as the same previously existed and prepare grant proposals for private, county, State and Federal assistance programs in the area of community development including recreation and public improvements.
 - (4) Serve as the City staff official on the Richmond Heights Community Improvement Corporation.
 - (5) Cultivate private industry and foundation gifts for the Richmond Heights Community Improvement Corporation.
 - (6) Develop and market an income generating litter control fund.
 - (7) Coordinate with other officials of the City applications for gifts, grants and other funding for City projects.
 - (8) Oversee the development and funding by non-city revenues of a marketing brochure for the promotion of the City.
- (c) The former position of Funding Coordinator of the City is hereby abolished.
- (d) The Director of Economic and Community Development shall receive such salary as Council shall from time to time determine.
- (Ord. 15-86. Passed 2-11-86.)

131.03 ADA GRIEVANCE PROCEDURE; REQUESTS.

- (a) The following ADA Grievance Procedure is established as to the investigation and mediation of complaints against the City as to its noncompliance or prohibited actions under the Americans with Disabilities Act of 1990 (ADA) for the prompt and equitable resolution of such complaints:
- (1) Any person may file a complaint with the Disabled Coordinator regarding access or discrimination in regard to the ADA. Such complaint shall be in writing and shall clearly state the name and address of the complainant and the particulars of the alleged violation. Individuals with a disability shall be given any special assistance requested in filing a complaint.
 - (2) The Disabled Coordinator shall, after receiving such complaint, promptly inform the Mayor of the filing of the complaint in order that he may set a hearing upon the complaint within fifteen working days of its filing and give prompt written notice of such hearing to the complainant. The Coordinator shall then make a prompt and full investigation and turn over his or her findings and recommendations to the Mayor within ten working days of the filing of the complaint.
 - (3) The Mayor shall conduct an administrative hearing upon such complaint within fifteen working days of its filing. At the hearing, the individual filing the complaint may appear with witnesses to state his or her position regarding the complaint and resolution of it and may be represented by legal counsel. Any required auxiliary aids requested for purposes of the hearing shall be supplied by the City. The Mayor shall render his written decision within five working days of the hearing. Should the complainant choose not to appear for the hearing, the Mayor shall render his decision based upon the complaint and the Coordinator's investigation report and all other resources at his disposal. The Mayor shall determine and include in his decision which, if any, special accommodations or modifications were considered and his findings and determinations with reasons therefor as to whether the same would present an undue burden upon the City.
 - (4) If the complaint cannot be resolved to the complainant's satisfaction by the Mayor, the complainant may make written request to the Clerk of Council within five working days of the Mayor's decision that the complaint be heard and discussed at an open, public meeting. Individuals with a disability shall be given any special assistance requested in filing this appeal. A public hearing with at least fourteen days public notice in a newspaper of general circulation within the City and written notice to the complainant shall be conducted within thirty days of the next meeting of Council. Proceedings shall be recorded and maintained. Council shall render its decision in writing within thirty days of the hearing. The decision of Council shall be final.
 - (5) A record of action taken on all complaints and requests shall be maintained as part of the records or minutes at each level of the grievance process.
 - (6) A complainant's right to a prompt and equitable resolution of his or her complaint or request shall not be impaired by his or her pursuit of other remedies and use of this grievance procedure shall not be considered a prerequisite to the pursuit of other remedies.
 - (7) Council reserves the right to appoint a special committee or board to hold the required public hearing upon an appeal of the Mayor's decision upon any complaint under this section and to make written recommendations to Council before Council's decision upon the complaint.
- (b) Any requests or suggestions regarding access to and participation in public facilities, services and functions of the City by qualified individuals with a disability shall be made through the Disabled Special Assistance Office for review and prompt presentation to the Mayor for consideration.
- (c) The Disabled Special Assistance Office shall keep a record of all requests and complaints filed and action taken thereon.
- (Ord. 09-92. Passed 1-28-92.)

131.04 CONTRACTING AUTHORITY OF THE MAYOR.

- (a) The Mayor is authorized to enter into and to execute on behalf of the Municipality all contracts for services, goods, materials and supplies in an amount not to exceed five thousand dollars (\$5,000.00) for each contract, provided that the necessary appropriation therefor has been made by the Council and the Director of Finance attaches to each contract a fiscal officer's certificate as required by the Municipal Charter and state law.
- (b) A contract with a particular vendor shall not be split into more than one contract for the purpose of avoiding the five thousand dollar (\$5,000.00) limit set forth in this section.
- (c) On a monthly basis, the Mayor or Director of Finance shall report to the Council's Finance Committee all contracts and the amounts thereof that the Mayor has executed pursuant to the powers delegated in division (a) of this section.
- (Ord. 73-2018. Passed 6-26-18.)

CHAPTER 133

Clerk

- 133.01 Bid forms and specifications. (Repealed)**
133.02 Assistant Clerk of Council.

CROSS REFERENCES

Clerk- see CHTR. Art. IV §7
Council duties - see ADM. Ch. 121

133.01 BID FORMS AND SPECIFICATIONS. (REPEALED)

(EDITOR'S NOTE: Former Section 133.01 was repealed by Ordinance 154-2022, passed February 14, 2023. See Section 137.19 for relevant provisions.)

133.02 ASSISTANT CLERK OF COUNCIL.

There is hereby created the position of Assistant Clerk of Council. The Assistant Clerk of Council shall be appointed by the Clerk of Council and shall serve at the pleasure of the Clerk of Council. The Assistant Clerk of Council shall perform such duties as may be specified and assigned by the Clerk of Council or by Council.

(Ord. 2-76. Passed 1-13-76.)

CHAPTER 135

Department of Law

- 135.01 Director; appointment; qualifications.**
135.02 Duties of Director.
135.03 Assistants.
135.04 Residence requirements.
135.05 Police Prosecutor.

CROSS REFERENCES

Director of Law - see CHTR. Art. VI §2
Attendance at Council meetings - see ADM. 121.10

135.01 DIRECTOR; APPOINTMENT; QUALIFICATIONS.

The head of the Department of Law shall be the Director of Law, who shall be appointed by the Mayor subject to the approval of a majority of the members of Council. He shall be an attorney at law, duly admitted to the practice of law before the courts of the State.

(Ord. 2-60. Passed 1-2-60.)

135.02 DUTIES OF DIRECTOR.

The Director of Law shall serve the Mayor, Council and the various administrative departments, boards and officers of the Municipality in all proceedings in court or before any administrative body. He shall perform all

other duties now or hereafter imposed by the Charter or by general law upon solicitors of municipalities unless otherwise provided by ordinance of Council, and shall perform such other duties as Council or the Mayor may require consistent with his office.
(Ord. 2-60. Passed 1-2-60.)

135.03 ASSISTANTS.
When it becomes necessary or advisable, in the opinion of the Mayor or Council, to employ assistants and/or special counsel to assist the Director of Law in the performance of his duties, the Mayor, with the approval of Council, shall be authorized to employ such assistants and/or special counsel, including any law firm with which the Director may be connected or a member, and to agree, on behalf of the Municipality, to pay such assistants and/or special counsel such reasonable compensation as shall be approved by Council.
(Ord. 2-60. Passed 1-2-60.)

135.04 RESIDENCE REQUIREMENTS.
Neither the Director of Law, his assistants, any special counsel, nor any other attorney or firm of attorneys designated or employed by authority hereof shall be required to be residents or electors of the Municipality.
(Ord. 2-60. Passed 1-2-60.)

135.05 POLICE PROSECUTOR.
(a) There is hereby created within the Department of Law the position of Police Prosecutor of the City. The Police Prosecutor shall work under the direction of and report to the Director of Law who shall remain responsible for the prosecution of any criminal matters within the City. The Director of Law may personally conduct any of the duties of the Prosecutor as he may in his discretion determine.
(b) The Police Prosecutor shall be an Attorney at Law designated by the Director of Law, subject to the approval of a majority of the members of Council, and shall perform the services of Prosecutor, including the meetings with persons having complaints with the City, residents or other persons as is customarily handled by Police Prosecutors, and the prosecution of cases in the Mayor's Court of the City and the Municipal Court of Lyndhurst as directed by the Mayor.
(c) The Police Prosecutor shall receive such compensation as is determined by Council.

(Ord. 4-74. Passed 1-8-74.)

CHAPTER 137
Department of Finance

- 137.01 Treasury Investment Fund.**
- 137.02 Petty Cash Revolving Funds.**
- 137.03 Director's bond. (Repealed)**
- 137.04 Assistant Director; appointment and duties.**
- 137.05 Federal General Revenue Sharing Trust Fund.**
- 137.06 Charges for furnishing copies.**
- 137.07 Credit for inheritance taxes.**
- 137.08 Approval of capital improvement fund expenditures.**
- 137.09 Payment of sex offense examinations.**
- 137.10 Transfer of unclaimed deposits to General Fund.**
- 137.11 Payment of certain official expenses authorized.**
- 137.12 Disabled Special Assistance Office.**
- 137.13 Fixed asset and inventory policy, procedures and guidelines.**
- 137.14 Financial and debt policy.**
- 137.15 Procurement card policy.**
- 137.16 Investment authority.**
- 137.17 Credit card policy.**
- 137.18 Blanket purchase orders.**
- 137.19 Competitive bidding; exceptions.**

CROSS REFERENCES

Director of Finance - see CHTR. Art. VI §3
Treasury Investment Fund - see Ohio R.C. 731.56 et seq.

137.01 TREASURY INVESTMENT FUND.
There is hereby established a Treasury Investment Fund for the City of all the funds of the City for investment where the balances shall not be required for a period of at least 180 days.
The balances to be invested shall be invested by the Finance Director in indebtedness obligations of the City and/or in indebtedness obligations of the United States Government, upon the approval of the Mayor and Council.
The investments for the account of each of the funds shall be sold when required on the approval of the Mayor and Council.

(Ord. 336. Passed 10-1-51.)

137.02 PETTY CASH REVOLVING FUNDS.
(a) There is hereby appropriated out of the General Fund sufficient funds to establish the following Petty Cash Funds:

City Hall Petty Cash Fund	\$75.00
Division of Building, Housing, and Zoning Petty Cash Fund	200.00
Police Department Petty Cash Fund	200.00

(b) The Petty Cash Funds shall each be a revolving fund from which change may be made and necessary incidentals may be purchased; provided, that such expenditures shall be documented by receipts and be approved by the various department heads.
(c) The Finance Director shall replenish such Funds as necessary and may make further rules and regulations regarding the use of such Funds.
(Ord. 57-2020. Passed 6-9-20.)

137.03 DIRECTOR'S BOND.
(EDITOR'S NOTE: Section 137.03 was repealed by implication by the enactment of new Section 159.01 .)

137.04 ASSISTANT DIRECTOR; APPOINTMENT AND DUTIES.
(a) The position of Assistant Director of Finance is hereby created. The position shall be filled by appointment by the Mayor, with the approval of a majority of the members of Council. The Assistant Director shall work a forty-hour week.
(b) The duties of the Assistant Director shall be those prescribed by the Director of Finance, and the compensation shall be fixed by Council and set forth in the salary or ordinances of the City.

(Ord. 2-71. Passed 1-12-70.)

(c) The Assistant Director and the Director of Finance are hereby authorized to sign warrants and vouchers of the City.

(Ord. 4-71. Passed 1-26-71.)

137.05 FEDERAL GENERAL REVENUE SHARING TRUST FUND.
(a) There is hereby established a special fund to be known as the Federal General Revenue Sharing Trust Fund under the provisions of Ohio R.C. 5705.12.
(b) All moneys paid to the City under the State and Local Fiscal Assistance Act of 1972 shall be credited to the Fund and expended in accordance with the terms and provisions of the federal act.

(Ord. 93-72. Passed 11-14-72.)

137.06 CHARGES FOR FURNISHING COPIES.
The following charges shall be paid to the Director of Finance for the furnishing of any of the hereinafter enumerated items by the person making such request:

Copies of all documents	\$.05*
8 ½ x 11" and 11" x 17" (per page)	
Copies of large documents greater than 11" x 17" (per page)	Actual cost charged to City by copy service
	\$.05
Copy of Zoning Code (per page)	(plus actual cost of binder, if requested)
	\$3.00
Copy of Zoning Map or copy of Land Use Map	
Photographs	Actual cost charged to City By photographic development service

*The first twenty (20) copies of a request for copies of public records, however, shall be free of charge. The charge for more than twenty (20) copies shall be \$1.00 plus \$.05 per page for every page over twenty (20) pages.
(Ord. 104-2007. Passed 9-25-07.)

137.07 CREDIT OF INHERITANCE TAXES.
Beginning January 1, 1973, the Director of Finance shall credit to the Capital Improvement Fund of the City all receipts received from inheritance taxes until such time as Council repeals this section.
(Ord. 10-73. Passed 2-27-73.)

137.08 APPROVAL OF CAPITAL IMPROVEMENT FUND EXPENDITURES.
(a) At the beginning of the second and fourth quarters, April 1 and October 1, each department head shall submit to the Mayor and to Council his request for capital expenditures for the succeeding quarter as well as for the next twelve months.
(b) Each department's request shall be accompanied with sufficient support data and specifications to establish:
(1) Need;
(2) Relevancy within long-range plans;

- (3) Benefit to the City;
- (4) Approximate cost;
- (5) Cost effectiveness;
- (6) Bid specifications.
- (c) Upon receipt of the departmental requests, the Mayor shall promptly review the request of each department and determine that the requirements of subsection (b) hereof have been met for each item, He shall then arrange the items into a common list numbered 1, 2, 3, etc., in order of priority. One list shall be prepared for the succeeding half year, and one list for the next twelve months. These priorities shall be established and submitted to Council within fifteen days of the request.
- (d) The Council Committee of the Whole shall review the request of each department and the priorities established by the Mayor.
 - (1) It shall be the responsibility of the Council Committee of the Whole to reject all items which are not accompanied by written support of subsection (b)(1) through (6) hereof.
 - (2) The Council Committee of the Whole shall review the priority list in view of funds available and recommend to Council those items to be approved in the succeeding half year. The priorities established by the Mayor should be retained as much as possible but may be adjusted to suit available funding.
- (e) At its first meeting of the month succeeding the request for capital expenditures, Council shall place on its agenda resolutions for the approval of those items recommended by the Council Committee of the Whole.
- (f) The Clerk of Council shall promptly return to the Mayor and each department head a complete priority list of all capital requests, indicating for each item "Approved" or "Rejected".

(Ord. 55-75. Passed 5-27-75.)

137.09 PAYMENT OF SEX OFFENSE EXAMINATIONS.

The Finance Director is hereby authorized and directed to appropriate from time to time sums sufficient to pay the costs incurred by a medical facility conducting an examination of a sex offense committed within the City in accordance with Ohio R.C. 2907.28.

(Ord. 90-76. Passed 9-28-76.)

137.10 TRANSFER OF UNCLAIMED DEPOSITS TO GENERAL FUND.

The Finance Director is hereby authorized and directed to transfer to the General Fund any funds deposited pursuant to the ordinances, rules and regulations, or requirements of the City for excavation deposits, construction deposits, house moving deposits, inspection deposits and any other unrefunded deposit which has not been claimed by its lawful owner within five years from the date of such deposit.

(Ord. 56-78. Passed 5-23-78.)

137.11 PAYMENT OF CERTAIN OFFICIAL EXPENSES AUTHORIZED.

The Finance Director is hereby authorized and directed to appropriate from time to time sums sufficient to pay or reimburse expenses incurred by any officials, employee or any member of a Board or commission of the City for travel, membership in an association or expenses otherwise incurred in the interest of or for the benefit of the City. In the event any question arises whether the payment or reimbursement of any expense is in fact incurred in the interest of or for the benefit of the City, such question shall be resolved by Council at a duly constituted meeting of the Committee of the Whole of Council.

(Ord. 26-80. Passed 3-25-80.)

137.12 DISABLED SPECIAL ASSISTANCE OFFICE.

(a) There is hereby established, in the Finance Department, an office to be known as the Disabled Special Assistance Office which will be staffed by the Director of Finance to assist qualified individuals with a disability in the following areas:

- (1) Coordination of City efforts to comply with and carry out its responsibilities under the Americans with Disabilities Act of 1990 (ADA) including the investigation of complaints as to its noncompliance or prohibited actions under the ADA Grievance Procedure found at Section 131.03 herein and the review of requests and suggestions regarding access to and participation in public facilities, services and functions of the City by qualified individuals with a disability.
- (2) Coordination of requested auxiliary aids for qualified individuals with a disability. (Auxiliary Aids must be requested at least three working days prior to any meeting or activity. "Auxiliary Aids" are defined to include qualified interpreters or other effective methods of making aurally-delivered materials available to individuals with hearing impairments; qualified readers, taped texts or other effective methods of making visually-delivered materials available to individuals with visual impairments; and other similar services and actions.)

(Ord. 09-92. Passed 1-28-92.)

137.13 FIXED ASSET AND INVENTORY POLICY, PROCEDURES AND GUIDELINES.

Consistent with the City Charter, and not in contravention thereof, Council hereby authorizes the "Inventory/Fixed Asset Policy" and the "Fixed Asset and Inventory Procedures and Guidelines" documents in substantially similar form as attached to Resolution 74-2007 and incorporated herein as Exhibits A and B respectively, as prepared by the Director of Finance, which Policy, Procedures and Guidelines shall be effective retroactively to January 1, 2007, and are to be fully implemented by December 31, 2009.

(Res. 74-2007. Passed 7-24-07.)

137.14 FINANCIAL AND DEBT POLICY.

The "Financial and Debt Policy", attached to Resolution 80-2010 as Exhibit A and incorporated by reference herein, is hereby adopted by Council.

(Res. 80-2010. Passed 11-23-10.)

137.15 PROCUREMENT CARD POLICY.

Council adopts a procurement card policy that is set forth in Exhibit A to Ordinance 14- 2012 which is attached hereto and incorporated fully by reference.

(Ord. 14-2012. Passed 2-14-12.)

137.16 INVESTMENT AUTHORITY.

(a) Authority. The Director of Finance is authorized to invest the monies in the treasury of the City through investment programs provided to Ohio municipal corporations by the State of Ohio, including but not limited to State Treasury Asset Reserve Ohio ("STAR Ohio"), State Treasury Asset Reserve Plus ("STAR Plus"), and similar case management programs provided by the State of Ohio, and to manage those City treasury monies in a secure but effective manner.

(b) Reporting. The Director of Finance is charged with the responsibility of providing reports on investment activity and returns on the pooled balance of the funds. The market value of the portfolio shall be calculated at least quarterly and a statement of the market value of the investment portfolio shall be issued at least quarterly by the Director of Finance. The purpose of report is to ensure that review of the investment portfolio, in terms of value and price volatility, has been performed consistent with the Government Finance Officers Association's Recommended Practices. The foregoing reports shall be prepared on a quarterly basis, and submitted to the Finance Committee of City Council.

(c) Continuing Education. The Director of Finance will annually complete the public investing continuing education program provided by the Treasurer of the State of Ohio.

(Ord. 99-2017. Passed 10-24-17.)

137.17 CREDIT CARD POLICY.

Council adopts the "City of Richmond Heights Credit/Purchasing Card Policy" a copy of which is attached to original Ordinance 16-2019 as Exhibit "A" and incorporated herein by reference. (Ord. 16-2019. Passed 2-12-19.)

137.18 BLANKET PURCHASE ORDERS.

(a) Authority. Upon written request of the Mayor or of Council, the Finance Director is authorized to certify funds for a blanket purchase order in an amount that does not exceed the amount that has been lawfully appropriated for the fiscal year for any single line item appropriation account designated for the purchase of supplies and any other specific expenditure that is a recurring and reasonably predicted operating expense for supplies, which may be issued to a specific vendor or multiple vendors. Blanket purchase orders may not be issued for the purchase of services unless approved by resolutions or ordinance of Council in accordance with Ohio Revised Code Section 5705.41(D)(3) and the City Charter, and shall only be issued for services from one particular vendor.

(b) Dollar Limits on Authority. Council hereby establishes that blanket purchase orders issued on the request of the Mayor may not exceed the amount of five thousand dollars (\$5,000) and that blanket purchase orders issued on the request of Council shall not exceed twenty-five thousand dollars (\$25,000) unless higher amounts have been approved by resolution or ordinance of Council in accordance with Ohio Revised Code Section 5705.41(D)(3) and in accordance with City Charter Section VI-3(n) regarding competitive bidding.

(c) Period. A blanket purchase order shall not be issued for a period that extends beyond the end of the fiscal year. Any blanket purchase order may remain open past the end of the fiscal year for the purpose of paying prior year invoices. When all prior year invoices have been paid, the blanket purchase order shall be closed.

(Ord. 129-2020. Passed 12-22-20.)

137.19 COMPETITIVE BIDDING; EXCEPTIONS.

(a) All contracts involving the net expenditure of more than twenty-five thousand dollars (\$25,000) shall be awarded to the lowest and best bidder as defined by Ohio Revised Code 735.05, after public advertising for not less than two nor more than four consecutive weeks in a newspaper of general circulation within the Municipality or as provided in Section 7.16 of the Ohio Revised Code. All public advertisements for competitively bid contracts shall also be published on the Municipality's website during the period of public advertisement. The Purchasing Agent shall use best efforts to obtain at least twenty-five percent (25%) minority and/or female participation by those persons or entities contracting for all goods, services, labor, and materials with the Municipality.

(b) The authority to solicit bids for contracts for public improvements that are required to be competitively bid pursuant to subdivision (a) above and the Municipal Charter shall first be authorized by a majority vote of the Council by motion or resolution.

(c) The Council may authorize expenditures exceeding twenty-five thousand dollars (\$25,000) without public advertising in the following specific cases: acquisition of real estate; discharge of non-contractual claims against the Municipality; for personal professional services; for joint use of facilities with other political subdivisions; participation in State of Ohio cooperative purchasing programs and cooperative purchasing programs of political subdivisions where bids or quotations are received for the products or services being purchased; purchasing used equipment or supplies at an auction open to the public upon written bid to the vendor where more than one bid is submitted; purchasing services, material, equipment, or supplies from other political subdivisions of the State of Ohio; and for the products or services of public utilities; provided, that Council may authorize a purchase or contract involving an expenditure of more than twenty-five thousand dollars (\$25,000) without advertising for bids if it determines and declares by an affirmative vote of not less than five (5) members than an emergency exists and sets forth the nature of the emergency in its resolution or ordinance.

(d) The Purchasing Agent shall be responsible for obtaining sufficient support data and specifications from the requesting Municipal departments, divisions, or offices for all competitive bid solicitations.

(e) Public improvements of all kinds may be made by the appropriate department or division either by the direct employment of the necessary labor and purchase of supplies and materials in the manner herein provided with a separate account as to each improvement so made, or by contract let as herein provided, either for a closed price or upon a unit basis.

(f) Plans and drawings for public improvements shall be made available to prospective bidders upon request to the Purchasing Agent, who shall be authorized to charge and collect the cost of such plans and drawings, if appropriate.

(g) Opening of Bids. Bids shall be opened at the time, date, and Municipal facility or office specified in the notice to bidders or specifications and shall be publicly read by the Purchasing Agent or a person designated by the Purchasing Agent. The time, place, and date of bid openings may be extended to a later date by the Purchasing Agent, provided that written or oral notice of the change shall be given to all persons who have received or requested specifications and no later than seventy-two (72) hours prior to the original time and date fixed for the opening.

Each bid shall contain the full name of each person interested in it and shall be accompanied by a sufficient bond or certified check, cashier's check, or money order on a solvent bank or savings and loan association that if the bid is accepted a contract will be entered into and its performance properly secured unless the bid is for a contract for the construction, demolition, alteration, repair, or reconstruction of a public improvement, in which case it shall meet the requirements of Section 153.54 of the Ohio Revised Code. The Council shall have the discretion to waive said bonding requirements for any bid contract expenditure upon Council's determination that a bond is not necessary. If the work that is the subject of the bid embraces both labor and material, such items shall be separately stated with the price thereof.

The Council shall not be required to accept any bid.

(h) All proposed purchases involving the expenditure of more than five thousand dollars (\$5,000), excluding items or services under pre-existing contracts that are in effect, shall require the submission of documentation demonstrating the efforts made to secure multiple price quotations for the item or service to be procured. In the event the Purchasing Agent approves an expenditure based on fewer than three competing price quotations, justification for that action shall be documented by the Purchasing Agent.

(Ord. 154-2022. Passed 2-14-23.)

CHAPTER 139

Department of Public Safety

139.01 City safety policy; purpose.

- 139.02 Emphasis on prevention.**
- 139.03 Adherence to safety practices; enforcement.**
- 139.04 First verbal warning.**
- 139.05 Second verbal warning.**
- 139.06 Written warning.**
- 139.07 Written reprimand.**
- 139.08 Suspension without pay.**
- 139.09 Employee's appeal.**
- 139.10 Termination.**
- 139.11 Reporting of injuries and accidents.**

CROSS REFERENCES

Department of Public Safety - see CHTR. Art. VI §4
 Contracts - see Ohio R.C. 733.22 et seq., 737.02 et seq.
 Division of Police - see ADM. Ch. 141
 Division of Fire - see ADM. Ch. 143
 Division of Building Engineering and Inspection - see ADM. Ch. 145
 Director's traffic control powers - see TRAF. Ch. 305

139.01 CITY SAFETY POLICY; PURPOSE.

- (a) The City of Richmond Heights has a sincere concern for the welfare and safety of its employees and the public it serves. With the goal of eliminating the suffering and cost of avoidable personal injury and vehicle accidents, the department heads are responsible for implementing a Safety Program of the City of Richmond Heights.
- (b) It is the City's policy to provide safe working conditions for all employees, to provide complete instructions covering safe working methods and to provide special equipment to protect employees against particular hazards. The City will give safety precedence over operational expediency or short cuts.
- (c) Most common accidents are preventable. It is the policy of the City that all employees promote accident prevention by actively supporting the Safety Program, by observing the safety regulations and by working safely.
- (d) The purpose of the Safety Program of the City is to alleviate human suffering and conserve resources as a result of the City employees serving Richmond Heights in a safe manner.
- (e) The City places responsibility for safe worksite practices on department heads, first line supervisors and on-line employees. It is the responsibility of all employees to exercise maximum care and best judgment in preventing accidents. Proper on-the-job behavior requires that each employee follows every precaution and safety rule for self-protection as well as that of fellow employees.
- (f) The Director of Public Safety shall prepare and disseminate a City Safety Program detailing objectives and organization of a City Safety Committee and responsibilities.

(Ord. 28-89. Passed 6-27-89.)

139.02 EMPHASIS ON PREVENTION.

- (a) The Director of Public Safety shall be responsible for the preparation of checklists. Checklists, developed for use by department personnel, seek to determine potential sources of occupational injuries and accidents. Through cooperative discussion, the department heads and the Director of Safety set schedules for regular, required completion of Department Core checklists. Each department head shall designate an employee to complete core checklists. Departments shall include Divisions, such as the Division of Police and Division of Fire with the head or chief of each division having the same responsibility as a department head.
- (b) Upon completion of core check procedures, each department head will review the checklists to determine if any safety-related precautions need improvement or implementation. Each department head will initiate efforts to rectify the current deficiency and record in writing the actions taken to effect compliance with the City's Core Safety checklists. Within one week of the completion date of the core checks, the department head will forward original checklists and written corrective action reports to the Director of Safety.
- (c) The Director of Safety shall maintain files which contain completed core checklists forwarded from department heads according to predetermined schedules. Additionally, the Director of Safety shall require reports on efforts to comply with safety precaution deficiencies exposed by core check procedures until a deficiency has been rectified.
- (d) Each department head shall develop the written means for employees to report potential worksite or work practice hazards. This additional source of input shall be used to revise each Department Core checklist periodically. Revision of core checklists shall be the responsibility of Department Safety Committees and shall be accomplished annually from input resulting from bi-annual safety checks.

(Ord. 28-89. Passed 6-27-89.)

139.03 ADHERENCE TO SAFETY PRACTICES; ENFORCEMENT.

Adherence to safety precautions and rules is ideally a matter of voluntary compliance for all employees. In the absence of adherence to established standards, it is the obligation of an employee who is the initial observer of another employee who is working in an unsafe manner to inform his or her immediate supervisor of the unsafe work behavior.

(Ord. 28-89. Passed 6-27-89.)

139.04 FIRST VERBAL WARNING.

Supervisors, once informed of an unsafe work behavior, shall attempt to observe the behavior first-hand. If the unsafe behavior is observable, then the supervisor shall warn the employee verbally by detailing the behavior and elaborating upon its consequences. In every instance, the supervisor shall make a written notation of the warning. In the case of a verbal warning, the date, employee name and general nature of the infraction shall be noted. If the work behavior is not observable, the supervisor shall make a general statement or caution to the employee regarding the nature of the work behavior and watch for similar behavior in the future without recording the incident. The supervisor may be the initial observer of unsafe work behaviors. In such an instance, the supervisor shall issue the standard verbal warning and place a written notation of such warning in the employee's personnel file.

(Ord. 28-89. Passed 6-27-89.)

139.05 SECOND VERBAL WARNING.

All supervisors may issue a second verbal warning which follows the procedures outlined for First Verbal Warnings above. The supervisor is not required to make a second verbal warning and is reminded that its use is discretionary. If a second verbal warning is given, the supervisor shall detail the date and nature of the infraction in writing and place a written notation of such warning in the employee's personnel file.

(Ord. 28-89. Passed 6-27-89.)

139.06 WRITTEN WARNING.

In the event that a supervisor witnesses or is informed of an unsafe work behavior for the second time, the supervisor shall detail the behavior, elaborate upon the consequences and inform the employee of his or her intent to issue a written warning. The written warning shall include the employee's name, the date, the nature of the unsafe work behavior, the date of previous verbal warnings and any other pertinent information and shall be placed in the employee's personnel file.

(Ord. 28-89. Passed 6-27-89.)

139.07 WRITTEN REPRIMAND.

A written reprimand is issued after the employee receives both a verbal and written warning which relates to the same or similar unsafe work behavior. The conditions which apply to both verbal and written warnings must apply: that the supervisor witness or be informed of the unsafe work behavior; that the supervisor verbally details the unsafe work behavior to the employee; that the supervisor elaborates upon the consequences of such behavior; that the supervisor intends to write a reprimand. The written reprimand shall be forwarded to the Director of Safety for inclusion in the employee's employment record.

(Ord. 28-89. Passed 6-27-89.)

139.08 SUSPENSION WITHOUT PAY.

(a) Although the intent of any safe work behavior compliance policy is not to remove the employee from partial or full employment, the interest in creating a safe work environment and eliciting safe work behavior from employees is paramount.

- (b) The following procedure represents the final attempt of the City to notify an employee that an unsafe work behavior must be changed:
 - (1) Any employee observed committing an unsafe work behavior and who has previously received verbal and written warnings for other unsafe work behavior shall be recommended for suspension without pay for a minimum of one work day.
 - (2) The supervisor who witnessed or was informed of the unsafe work behavior shall document the behavior after notifying the employee of the unsafe behavior, its consequences and the intent to notify a superior of the infraction.
 - (3) Once notified, the department head shall notify the Director of Safety of the infraction in writing.
 - (4) The Director of Safety shall document the dates of and reasons for prior warnings and the preconditional reprimand. The Director of Personnel shall determine if the complaint merits suspension of the employee without pay.
 - (5) If the investigation shows that the employee knowingly committed unsafe work behaviors, the Director of Safety shall notify the Mayor and request that the employee be suspended in accordance with Civil Service Rules and Regulations.
 - (6) Record of such a suspension is detailed in the employee's work record and represents the final stage in the City's safety compliance process.

(Ord. 28- 89. Passed 6-27-89.)

139.09 EMPLOYEE'S APPEAL.

An employee who wishes to appeal a suspension without pay may follow procedures outlined as such by the Civil Service Commission.

(Ord. 28-89. Passed 6-27-89.)

139.10 TERMINATION.

- (a) Any employee who has received verbal warning, written reprimand and suspension without pay and who continues to work unsafely, shall be considered for further disciplinary action up to and including employment termination.
- (b) The steps detailed above relate only to infractions prior to the occurrence of an injury.

(Ord. 28-89. Passed 6-27-89.)

139.11 REPORTING OF INJURIES AND ACCIDENTS.

- (a) Every employee, regardless of level, shall promptly report all work-related injuries and vehicle accidents to an immediate supervisor. That supervisor shall promptly report the injury or accident to his or her superior. It is the responsibility of each department head to submit all injury or accident reports to the Director of Safety.
- (b) Failure to report an occupational injury or vehicular accident to an immediate superior is grounds for issuance of a written reprimand, loss of job time and compensation or termination of employment.
- (c) The City's Accident Investigation Procedure delineates those immediate responsibilities of both employees and superiors when reporting an accident.

(Ord. 28-89. Passed 6-27-89.)

CHAPTER 141

Division of Police

- 141.01 Composition.**
- 141.02 Appointment of policemen. (Repealed)**
- 141.03 Duties of police.**

- 141.04 Duties of Chief.
- 141.05 Rules and regulations of Safety Director.
- 141.06 Requirements of Civil Service Commission.
- 141.07 Telephones in residence.
- 141.08 Uniforms and equipment.
- 141.09 Copies of police reports; fee. (Repealed)
- 141.10 Copies of City Map; fee. (Repealed)
- 141.11 Police clerk/deputy clerk of courts/administrative clerk.
- 141.12 Part-time police officer.
- 141.13 Bonds. (Repealed)
- 141.14 Authority to issue private police commissions.
- 141.15 Private police commission limitations; bond.
- 141.16 Private police commission application.
- 141.17 Private police applicant's photograph; record check.
- 141.18 Identification card.
- 141.19 Private police uniforms.
- 141.20 Police Training Officer.
- 141.21 Absence due to injuries received in course of employment.
- 141.22 Contract authorized by Council.
- 141.23 Secretary to the Chief of Police.
- 141.24 Auxiliary police.
- 141.25 Correction officer.
- 141.26 Part-time correction officer.
- 141.27 City Jail; use by other government entities.
- 141.28 Medical care for prisoners.
- 141.29 Fees for services of Division of Police.

CROSS REFERENCES

Department of Public Safety - see CHTR. Art. VI §4
 Assistance of State Criminal Bureau - see Ohio R.C. 109.51 et seq.
 Promotions - see Ohio R.C. 143.24, 143.34
 Reductions, suspensions and removals - see Ohio R.C. 143.27 et seq., 737.12
 Civil service application - see Ohio R.C. 143.33, 737.051, 737.10, 737.11
 Recovered property and disposition - see Ohio R.C. 737.29 et seq.
 Resisting an officer - see GEN. OFF. 501.05 ; TRAF. 303.01 , 303.02
 Impersonating an officer - see GEN. OFF. 501.06
 False reports - see GEN. OFF. 501.08

141.01 COMPOSITION.

The Division of Police shall be composed of a Chief of Police and such other officers and personnel as Council shall from time to time determine. All appointments shall be made in compliance with Civil Service Commission findings and recommendations.

141.02 APPOINTMENT OF POLICEMEN. (REPEALED)

(EDITOR'S NOTE: Former Section 141.02 was repealed by Ordinance 136-2018, passed December 11, 2018.)

141.03 DUTIES OF POLICE.

It shall be the duty of the officers and patrolmen to perform such duties as are required by law, the Mayor, Councilmanic action and the rules and regulations of the Division of Police.

(Ord. 842-59. Passed 11-16-59.)

141.04 DUTIES OF CHIEF.

It shall be the duty of the Chief of Police to provide the Safety Director with full reports of police activity, the condition of police equipment and such other relevant and pertinent information concerning the Division of Police as the Director shall request.

(Ord. 842-59. Passed 11-16-59.)

141.05 RULES AND REGULATIONS OF SAFETY DIRECTOR.

The Safety Director may adopt such rules and regulations for the government of the Division of Police as shall be consistent with the provisions of the Charter.

(Ord. 842-59. Passed 11-16-59.)

141.06 REQUIREMENTS OF CIVIL SERVICE COMMISSION.

The requirements for officers and members of the Division of Police shall be established by the Civil Service Commission, provided, however, that the Civil Service Commission shall make no rule or regulation restricting in any manner the place of residence of the Chief of Police.

(Ord. 85-75. Passed 7-9-75.)

141.07 TELEPHONES IN RESIDENCE.

The Chief of Police and each member of the Division of Police shall provide and maintain a telephone in his residence at all times during the period of his appointment and continuance in membership in the Division of Police.

(Ord. 842-59. Passed 11-16-59.)

141.08 UNIFORMS AND EQUIPMENT.

(a) Council shall determine proper and necessary uniform and equipment requirements for the Division of Police so as to enable the Division or the members thereof to perform their respective duties.

(b) The City shall provide and furnish the Division of Police with required equipment upon the request of the Chief of Police and approval of the Safety Director.

(1) The Chief of Police shall be responsible for police equipment and upon his receiving a proper receipt for same, may issue items of equipment to the members of the Division of Police for their use while on duty.

(2) All equipment issued may be called in by the Chief of Police at any time and for any reason and shall be called in for his inspection at least once every six months.

(3) Any member of the Division to whom equipment has been issued, shall be responsible for keeping the same in good order and condition at all times while the same is in his possession and he shall be personally liable for any improper use or failure to exercise proper care of the same.

(c) The City shall provide and furnish to all part-time, seasonal and temporary employees of the Division of Police with uniforms as Council shall deem proper or necessary to enable such members of the Division to perform their respective duties, upon the request of the Chief of Police and approval by the Safety Director.

The Chief of Police shall be responsible for police uniforms and, upon the Chief having received a proper receipt for same, may issue uniforms to such members of the Division of Police for their use while on duty. If any part-time police officer voluntarily separates from City employment or the officer's employment is terminated for cause within one (1) year of the officer's date of hire, the officer will be responsible for reimbursement of the cost of any City-issued uniforms, as follows:

(1) If the last date of employment is within one (1) month of his/her date of hire, he/she shall be responsible for reimbursement to the City of the full amount of the cost of such City-issued uniforms.

(2) If the last date of employment is between one (1) month and three (3) months of his/her date of hire, he/she shall be responsible for reimbursement to the City of seventy-five percent (75%) of the cost of such City-issued uniforms.

(3) If the last date of employment is between three (3) months and six (6) months of his/her date of hire, he/she shall be responsible for reimbursement to the City of fifty percent (50%) of the cost of such City-issued uniforms.

(4) If the last date of employment is between six (6) months and nine (9) months of his/her date of hire, he/she shall be responsible for reimbursement to the City of twenty-five percent (25%) of the cost of such City-issued uniforms.

(5) If the last date of employment is between nine months and one (1) year of his/her date of hire, he/she shall be responsible for reimbursement to the City of ten percent (10%) of the cost of such City-issued uniforms.

(d) All uniforms issued may be called in by the Chief of Police at any time and for any reason and shall be called in for his inspection at least once in every six months.

Any member of the Division to whom uniforms have been issued, shall be responsible for keeping the same in good order and condition at all times while the same is in his possession and he shall be personally liable for improper usage or failure to exercise proper care of the same.

(Ord. 112-2019. Passed 11-26-19.)

141.09 COPIES OF POLICE REPORTS; FEE. (REPEALED)

EDITOR'S NOTE: Former Section 141.09 was repealed by Ordinance 104-2007.

141.10 COPIES OF CITY MAP; FEE. (REPEALED)

EDITOR'S NOTE: Former Section 141.10 was repealed by Ordinance 104-2007.

141.11 POLICE CLERK/DEPUTY CLERK OF COURTS/ADMINISTRATIVE CLERK.

There is hereby created the position of police clerk/deputy clerk of courts/ administrative clerk, who shall perform such duties as prescribed by the Mayor. Such clerks shall be appointed by the Mayor upon the recommendation of the Chief of Police. The number of such clerks shall be determined by Council from time to time and such number set forth in the periodic comprehensive pay compensation ordinance adopted by Council.

(Ord. 131-2017. Passed 12-12-17.)

141.12 PART-TIME POLICE OFFICER.

(a) The position of part-time police officer is hereby established.

(b) The Mayor shall appoint all part-time police officers of the Division of Police.

(c) The part-time police officer shall perform such duties and assignments as are specifically assigned or prescribed by the Chief of Police.

(d) Any person appointed as part-time police officer shall have such powers of law enforcement and arrest and authority to bear arms as are accorded to full-time members of the Division of Police provided, however, that the position of part-time police officer shall be in the unclassified service and not subject to the rules and regulations of the Civil Service Commission.

(Ord. 56-96. Passed 7-9-96.)

141.13 BONDS.

(EDITOR'S NOTE: Section 141.13 was repealed by implication by the enactment of new Section 159.01 .)

141.14 AUTHORITY TO ISSUE PRIVATE POLICE COMMISSIONS.

The Director of Public Safety, pursuant to Ohio R.C. 737.05, is authorized to commission private policemen and private policewomen not in the classified services of the City under such rules and regulations as Council shall grant.

(Ord. 74-66. Passed 8-23-66.)

141.15 PRIVATE POLICE COMMISSION LIMITATIONS; BOND.

(a) No commission as such private policemen or private policewomen shall be valid for a greater period of time than one year from the date of issuance and no person shall be commissioned as such private policeman or private policewoman who is not a citizen of the United States.

(b) The issuance of a private police commission shall not of itself constitute authority to carry firearms. Such private police must each secure from the Clerk of the Common Pleas Court of Cuyahoga County a concealed weapons bond in the sum of one thousand dollars (\$1,000) in order to carry arms while on duty as provided herein and in accordance with Ohio R.C. 2923.01.

(c) The Director of Public Safety shall prescribe such uniform, badge and/or other distinguishing uniform marks for such private policeman or private policewoman as he may see fit in order to distinguish such private police officers from regular police officers of the Division of Police.

(Ord. 74-66. Passed 8-23-66.)

141.16 PRIVATE POLICE COMMISSION APPLICATION.

No person shall be commissioned as a private policeman or private policewoman unless he is licensed to do so. An applicant for such commission shall:

- (a) Be at least twenty-one years of age or over, an American citizen, or have declared his intention to become a citizen.
- (b) Be of sound physique, with good eyesight and not subject to vertigo, heart trouble or any other infirmity of body or mind which might render him unfit for the safe carrying out of the duties of such commission. Each applicant shall supply an affidavit to the Director of Public Safety with his application for a commission that he is free from any and all of the infirmities mentioned in this subsection.
- (c) Be able to read, write and speak the English language.
- (d) Be clean in dress and person, of good moral character and not addicted to the use of intoxicating liquors and drugs.
- (e) Produce, on forms to be provided by the Director of Public Safety, affidavits of his good character from two reputable residents of the City or Cuyahoga County, who have known him personally, and a further testimonial, on a form provided for that purpose, from his last employer unless, in the estimation of the Safety Director, sufficient reason is given for its omission.
- (f) Fill out, upon a form to be provided by the Director of Public Safety, a statement giving his full name; residence; places of residence for five years previous to moving to his present address; age; color; height; color of eyes and hair; place of birth; length of time he has resided in Cuyahoga County; whether a citizen of the United States; place of previous employment; whether single or married; whether he has ever been arrested or convicted of a felony or misdemeanor; whether he has been summoned to court; whether his driving license has ever been revoked and, if so, for what cause; which statement shall be signed and sworn to by the applicant, and filed with the Safety Director as a permanent record.

The Safety Director is authorized and empowered to establish additional rules and regulations covering the issuance of such commission of private policeman or private policewoman, not inconsistent herewith, as may be necessary and reasonable.

(Ord. 74-66. Passed 8-23-66.)

141.17 PRIVATE POLICE APPLICANT'S PHOTOGRAPH; RECORD CHECK.

(a) Each applicant for a commission as private policeman or private policewoman must file with his application three unretouched photographs of himself, in such position as the Safety Director may direct, taken within the thirty days preceding the filing of his application. Photographs shall be of a size which may be easily attached to his commission, one of which shall be attached to the commission when issued; the others shall be filed with the application in the office of the Safety Director. The photograph shall be so attached to the commission that it cannot be removed and another photograph substituted without detection. Where the application for a commission is denied, two copies of the photograph shall be returned to the applicant by the Safety Director. Each commissioned private policeman or private policewoman shall, upon demand of an inspector of licenses or a policeman of the Police Department, exhibit his license and photograph for inspection.

(b) All applications for such commission as private policeman or private policewoman shall be notarized. Failure to list arrest and/or any other information desired by the Safety Director shall be considered falsifying the application and the applicant shall be subject to arrest. All applicants for special police work as such private policemen and private policewomen must be fingerprinted, and the Director of Public Safety, through the Division of Police, shall cause a complete record check to be made of the applicant's character or may obtain any other information he may desire.

(Ord. 74-66. Passed 8-23-66.)

141.18 IDENTIFICATION CARD.

An identification card, with photograph attached, as outlined in Section 141.17, shall be carried by such private policeman or private policewoman at all times while on duty in the City, in order to identify him to the Division of Police, showing that he has been qualified to the satisfaction of the Director of Public Safety.

(Ord. 74-66. Passed 8-23-66.)

141.19 PRIVATE POLICE UNIFORMS.

(a) Restrictions; Bond; Fee. The Director of Public Safety is authorized to prescribe rules and regulations and the uniform which shall be worn by such private policemen and private policewomen wherever and whenever their services are conducted. Such private policemen and private policewomen shall each give bond, by a bonding company authorized by law in the State, in the sum of one thousand dollars (\$1,000) to the satisfaction of the Director of Public Safety and the Director of Law, and shall pay an annual fee of ten dollars (\$10.00).

(b) Not To Be Duplicated. No person, not a member of the Division of Police or Division of Fire shall wear a uniform, cap, badge or buttons similar to or in imitation of the official uniform, cap, badge or buttons in use at the time by the members of the Division of Police and Division of Fire.

(c) Approval Required. Any person who desires to provide special police, watchmen or detective services, either for himself or for hire to others, shall not let any distinctive uniform, cap, badge or buttons be worn by himself or any employees engaged for such purpose, until the form, design and color thereof shall have been first submitted to and approved by the Director of Public Safety and a record thereof sufficient to identify the users thereof shall have been made by the Director of Public Safety.

(Ord. 74-66. Passed 8-23-66.)

141.20 POLICE TRAINING OFFICER.

(a) The position of Police Training Officer is hereby established.

(b) The position of Police Training Officer shall be filled from the rank of sergeant or higher by an appointment of the Chief of Police, upon the approval of the Director of Public Safety, from within the Division of Police.

(c) The Police Training Officer shall perform the following duties:

- (1) The preparation of an educational profile of all police personnel.
- (2) Determine the needs of the Detective, Traffic and Basic Patrol units of the Division of Police as it pertains to:
 - A. Present and projected educational levels;
 - B. Deficiencies in technical skills and attitudes;
 - C. Preferences of individual officers.
- (3) Enact a program and establish a schedule for individual and divisional, education and training.

(Ord. 125-74. Passed 11-12-74.)

141.21 ABSENCE DUE TO INJURIES RECEIVED IN COURSE OF EMPLOYMENT.

All regular full-time employees of the Police Department injured and incapacitated in the actual discharge of their duty, who as a result thereof, are compelled to be absent from duty, shall be entitled to leave of absence with pay subject to the following conditions:

(a) Eligibility.

- (1) Each Policeman shall, in addition to the benefit provided by the State through "Workers' Compensation", be entitled to receive an Injury on Duty Benefit provided by the City.
- (2) An Occupational Injury Benefit of up to 480 hours with pay may, with the approval of the Director of Safety, be granted as a result of an Injury on Duty incurred in the line of duty, except that an Injury on Duty Benefit from the City will not be available for injuries incurred during those times when the officer is not actually engaged in the course or scope of his employment or when an officer is on a meal or rest period, or when the officer is engaged in any personal business.

(b) Period of Absence.

- (1) Absence from duty with pay resulting from injuries received in the actual discharge of an employee's duties shall not exceed 480 work hours from the date the employee was first compelled to be absent from duty as a result thereof unless an extension of the period is approved by the Mayor after his review of the investigation and written report.
- (2) Employees requiring further medical treatment, after returning to duty from injured-on-duty leave, for complications resulting from the same injury or the treatment thereof, for which such leave was granted, may apply to the Mayor for the use of any unliquidated portion of the previously granted injured-on-duty leave. Further allowances may be granted only for surgical, therapeutic or rehabilitative procedures and only when such treatment cannot be obtained during nonduty hours.
- (3) The total period of absence from duty with pay for injury received in the actual performance of duty shall not exceed 480 hours unless extension is approved by the Mayor after his review of the investigation and written report.
- (4) No sworn employee of the Police Department may receive injured-on-duty leave for any purpose after three years from the date of the injury for which such leave was originally granted, effective July 1, 1984.

(c) Employee Responsibility.

- (1) The injured employee shall immediately report any injury received on duty to supervision. The report shall be filed during the tour of duty on the date the injury is received.
 - (2) Thereafter within no less than three days of the injury, the injured employee shall report the injury to the Police Chief and shall timely complete all forms designated by the rules and regulations pertaining to injuries received during the actual performance of duty.
 - (3) Failure to report an injury on duty within the prescribed time periods shall render the employee ineligible for injured-on-duty leave.
 - (4) The filing requirements, as above described, may be waived by the Safety Director when the injury received physically prevents the employee from filing or when circumstances surrounding the injury require a waiver in the interest of justice.
 - (5) The employee shall cause a certified physician to file a written report with the Safety Director or submit to a medical examination conducted by a physician selected by the Safety Director authorizing the filing of a written report. Such reports shall contain a description and diagnosis of the injury and a prognosis which shall include the nature and extent of any disability, the type of duty the employee may perform while under such disability and an estimate of the length of time necessary for recovery and return to duty.
 - (6) The failure to authorize the above described physician's report shall be sufficient cause to deny or terminate injured-on-duty leave.
 - (7) The employee will not be entitled to the benefits of this provision if he refuses to submit to a medical examination or the physician examining him reports that the injury does not prevent him from attending work.
 - (8) An officer who falsifies an application for Injured-on-Duty Benefits provided by the City or a physician's report is subject to disciplinary action, including dismissal. The Director of Safety shall, by rule, prescribe forms for the application and physician's report.
 - (9) In order to qualify for Injured-on-Duty Benefits, an officer injured in the line of duty must first make application for State Workers' Compensation Benefits, and be eligible to receive such benefits for any period that the City may subsidize earnings. Applications for City Occupational Injury Benefits approved by the Director of Safety will continue the normal weekly earnings of a qualified applicant until such applicant receives Workers' Compensation Benefits on a regular basis; however, upon receipt of such benefits, the applicant will be compelled to reimburse the City the amount equal to the amount received from Workers' Compensation for any period that the City made whole the applicant's normal earnings.
 - (10) The physician selected by the City shall report to the Director of Safety the results of the examination and whether or not the injury prevents the officer from attending work. The Director of Safety shall, by rule, provide for periodic medical examinations by a physician he selects of any employee who is using Occupational Injury Benefits provided by the City. The physician shall report to the Director of Safety the results of each examination, including a description of the progress made by the employee in recovering from the injury, and whether or not the injury continues to prevent the employee from performing his or her normal duties or whether light duty work can be assigned.
- (d) City Prerogative. The City may require that an employee be examined by a certified physician chosen by the Safety Director.
- (1) The City may, based on the recommendations of either or both physicians, require the employee to report for duty not inconsistent or incompatible with the recommendations of either physician. A refusal of duty as above described will terminate the employee's eligibility for injured-on-duty leave.
 - (2) The provisions herein determining eligibility for injured-on-duty leave in conjunction with the rules and regulations established by the Safety Director shall apply as standards for eligibility for injured-on-duty

leave notwithstanding any rules, regulations, provisions or standards of the Ohio Bureau of Workers' Compensation or other agency to the contrary.

(e) Special Conditions.

- (1) An employee carried on injured-on-duty leave status shall earn sick leave during the tenure of such status.
 - (2) An employee carried on injured-on-duty leave status will be eligible for vacation credits for the period the employee was carried on regular active duty status during the calendar year in which the employee was determined injured on duty and during the calendar year the employee resumed to regular active duty status.
 - (3) Injuries received during duty periods determined to have proximately occurred as a result of pre-existing chronic disease shall not be eligible for injured-on-duty leave.
 - (4) Any compensation received by an employee from any source, including the Ohio Bureau of Workers' Compensation, that is reimbursement for wages for a period the employee was carried on Injured on Duty (IOD) status shall be paid over to the Treasury of the City. Before receiving any IOD pay, an employee shall enter into a written agreement with the City that such IOD pay will be repaid to the City upon the employee's receiving reimbursement for wages from any source for a period the employee was carried on IOD status. Such agreement shall also provide that the employee subrogates whatever rights of recovery accrue to the City against any party for loss to the extent that payment is made to the employee by the City. Compensation received as settlement of a claim exclusive of lost wages shall become the property of claimant.
- (f) Dispute Settlement. All disputes concerning injured-on-duty leave status of an employee shall be referred to the Mayor for resolution. The Mayor shall schedule and convene hearings and shall determine and resolve all questions after the presentation of evidence by each party. Failure or refusal to present the evidence unless the requirement is waived by the Mayor. The decision of the Mayor shall be final. Additional remedies provided by law shall not be abrogated by this provision.

(Ord. 97-84. Passed 7-24-84.)

141.22 CONTRACT AUTHORIZED BY COUNCIL.

Should any of the employees of the Division of Police enter into an agreement authorized by Council concerning economic conditions and benefits, the terms of the agreement shall control the economic conditions and benefits of such employees and any conflicting provisions of this chapter shall be subject to and subordinate to the terms of the agreement for those covered employees.

(Ord. 131-86. Passed 10-28-86.)

141.23 SECRETARY TO THE CHIEF OF POLICE.

(a) There is hereby created the position of Secretary to the Chief of Police, who shall perform the following duties as well as those prescribed by the Mayor and the Chief of Police. The Secretary to the Chief of Police shall be appointed by the Mayor upon the recommendation of the Chief of Police. The Secretary to the Chief of Police shall receive such compensation and benefits as provided in this chapter and the comprehensive wage ordinance of the City. The Secretary to the Chief of Police shall serve a probationary period of one year.

(b) The Secretary to the Chief of Police shall also serve as Deputy Clerk of Courts and Chief Dispatcher. The Secretary to the Chief of Police shall fill in as dispatcher when needed for breaks and on certain holidays.

(c) The Secretary to the Chief of Police shall perform the following duties: answers the telephone of the Chief of Police; types the correspondence for the Chief of Police and the Lieutenants; sorts, distributes and answers incoming Police Department mail; prepares copies of cases for court daily (includes juvenile and municipal court and grand jury); docket all cases, parking and traffic tickets and posts dispositions and fines and forfeitures; handles court expungements; prepares court docket twice weekly and sends to court; prepares bond checks and bank deposits; prepares warrants to be entered into computer and removes executed and expired warrants; records court calendar for court appearances and gives subpoenas to officers; posts jail sentences for prisoners; types, posts and handles invoices; prepares bills for county prisoners, alarm board and mechanical amusement device permits; processes requests for photographs; orders gasoline and all supplies for the Police Department; sends required forms to proper agencies; prepares annual report of the Police Department to Council; posts general ledgers for all moneys received by the Police Department; schedules and fills out overtime sheets for the Dispatchers and School Guards; and updates dispatchers manual and Police Department roster.

(Ord. 87-90. Passed 7-3-90.)

141.24 AUXILIARY POLICE.

(a) Appointment of Members. The Mayor is hereby authorized to commission such number of men and women as in his discretion is necessary to supplement the regular police force, which group shall be known as the "auxiliary police force."

(b) Term of Service. Auxiliary police officers shall serve as long as the Chief of Police may direct, or until a resignation submitted by a member is accepted by the Chief of Police.

(c) Qualification of Members. The members of the auxiliary police unit may not be under the age of twenty-one years at the time of their appointment, and shall meet such other requirements as provided by rules and regulations provided for in subsection (e) hereof.

(d) Control of Unit. The Director of Public Safety shall be the executive officer of the auxiliary police unit. The Chief of Police shall be the commanding officer and shall have control of the assignment, training, stationing and direction of work. The auxiliary police unit shall have only such police powers and shall perform only such police duties assigned by the Chief of Police in writing, such as writing certain parking tickets within the City, and shall act only when in prescribed uniform or portion of uniform. The Director of Public Safety shall prescribe the time and place such uniforms or portions thereof shall be worn. Such auxiliary members shall obey the chain of command of the Division of Police and shall take official police orders from all regular appointed members thereof.

(e) Rules and Regulations. The Director of Public Safety shall prescribe the rules and regulations for the organization, administration, conduct and control of the auxiliary police unit.

(f) Uniform. The Director of Public Safety is authorized to prescribe by rules and regulations the type of uniform or part thereof which shall be worn by members of the auxiliary police unit.

(g) Service on Voluntary Basis; Compensation.

(1) All services performed by auxiliary police officers shall be on a voluntary basis.

(2) Auxiliary police officers shall not be compensated for their services, except as otherwise authorized by Council for services in the municipal parks and for court appearances or as paid by private concerns for such services as traffic control and security.

(3) Auxiliary police officers shall not be entitled to any benefits or any relief or pension funds of the City or the State of Ohio, or any other similar benefit. Notwithstanding the foregoing, any auxiliary police officer shall be entitled to any and all relief under Workers' Compensation.

(ORC 4123.01 et seq.)

(h) Nonliability. This section is declared by Council as an exercise by the City of its police powers for the protection of the public peace, health, property, safety and general welfare. Neither the City, nor any agent or representative of the City, an officer appointed under the provisions of this section, or any individual, firm, partnership, corporation or the receiver, trustee, or any agent thereof, who in good faith executes any executive order, rule or regulation promulgated pursuant to the provisions of this section, shall be liable for injury or damage sustained to persons or property as the direct or proximate result of such action. In addition to any other responsibilities or immunities, the members of the auxiliary police unit shall bear the same responsibilities and the same immunities as any other regularly employed member of the Division of Police, except as herein provided.

(Ord. 89-90. Passed 7-3-90.)

141.25 CORRECTION OFFICER.

(a) The position of Correction Officer is hereby established. The duties of Correction Officer shall be prescribed by the Mayor and, by delegation thereto, by the Chief of Police. A Correction Officer shall be appointed by the Mayor upon the recommendation of the Chief of Police. A Correction Officer shall receive compensation and benefits as provided in this chapter and the comprehensive wage ordinance of the City. A Correction Officer shall serve a probationary period of one year.

(b) The Correction Officer's primary duties shall involve the protection of persons and property and securing and protecting prisoners. These duties include, but are not limited to, the following:

- (1) Booking and processing of arrested persons;
- (2) Delivering meals to inmates;
- (3) Administering to the basic comfort needs of inmates and securing medical attention for inmates, if warranted;
- (4) Ensuring that inmates make all required court appearances, either in person or via video arraignment;
- (5) Inspecting the jail facility and all equipment and properly repairing or reporting problems;
- (6) Maintaining supplies of all necessary items required for the safe and efficient operation of the jail facility;
- (7) Ensuring and maintaining the cleanliness of the jail facility;
- (8) Transporting inmates to and from facilities or assisting with prisoner pick- ups;
- (9) Preparing for and conducting annual jail inspections; and
- (10) Relieving dispatchers for breaks.

(c) When not performing jail-related duties, the Correction Officer shall assist the uniform division and the Detective Bureau at the direction of the Detective Bureau Commander or the officer in charge in the Bureau. These duties shall include, but are not limited to, the following:

- (1) Delivering documents to the court;
- (2) Assisting as a court officer;
- (3) Transporting and delivering evidence to and from the appropriate crime laboratories;
- (4) Taking of in-station/walk-in reports;
- (5) Picking up and/or dropping off City vehicles for service and/or repairs;
- (6) Other duties as directed and consistent with the Division of Police mission statement.

(Ord. 49-2002. Passed 5-28-02.)

141.26 PART-TIME CORRECTION OFFICER.

(a) The position of Part-Time Correction Officer is hereby established.

(b) The Mayor shall appoint all Part-Time Correction Officers upon the recommendation of the Chief of Police.

(c) A Part-Time Correction Officer shall perform such duties and assignments as prescribed by the Mayor and, by delegation thereto, by the Chief of Police. A Part-Time Correction Officer shall also perform such assignments as prescribed by a full-time Correction Officer relative to the duties as set forth in Section 141.25 of the Codified Ordinances.

(Ord. 49-2002. Passed 5-28-02.)

141.27 CITY JAIL; USE BY OTHER GOVERNMENT ENTITIES.

(a) The City's jail facilities shall be made available to other governmental entities on an emergency and/or temporary basis for the housing of their prisoners at the discretion of the Chief of Police, or his designee, based upon the availability of prisoner space and the proper administration of the Division of Police, its jail facilities and its personnel.

(b) The Director of Public Safety shall establish a charge per prisoner, per day, and for the coverage/reimbursement of all related expenses through a schedule of charges for the use of the City jail facilities for the housing and care of prisoners of other government entities. For purposes of this section, the term "per day" means any fraction of a calendar day.

(c) The Chief of Police, or any administrative personnel of the Division of Police assigned by the Chief, shall keep an accurate record of the use made of the City's jail facilities by any other government entity and shall promptly advise the Director of Finance of the amount due therefor pursuant to the schedule of charges established by the Director of Public Safety.

(d) Upon receipt of notice of the use of the City jail and the amount to be charged, the Director of Finance shall promptly issue an invoice to the government entity using the jail facility. The funds received therefrom shall be deposited into the General Fund.

(Ord. 32-2007. Passed 4-10-07.)

141.28 MEDICAL CARE FOR PRISONERS.

(a) As used in this section:

(1) "Medical Provider" means a physician, hospital, laboratory, pharmacy, or other health care provider that is not employed by or under contract to or with the City and provides medical services to a person who is imprisoned in an institution and that person is under the control of, or was imprisoned at the direction of, or in the custody of, the City and/or a law enforcement officer of the City.

(2) "Medically Necessary Care" means medical care from a Medical Provider that is of a nonselective nature and that cannot be postponed until after the person who is imprisoned, as set forth in subsection (a)(1) above, is released, without endangering the life or health of the person.

(b) The City is not liable for medical care that is not medically necessary.

(c) If the City is found to be liable for medically necessary care, the City's obligation to pay or reimburse for medical care that is medically necessary care is limited to an amount not exceeding the amount Medicaid would pay for the care provided if Medicaid covered the same kind of medically necessary care.

(Ord. 61-2009. Passed 9-22-09.)

141.29 FEES FOR SERVICES OF DIVISION OF POLICE.

The Director of Public Safety is authorized to establish a fee schedule to be charged to persons for the following services and functions provided by the Division of Police:

- (a) Fingerprinting requested by an individual;
 - (b) Authorization of release of a vehicle impounded by the Division of Police;
 - (c) The use of marked Division of Police emergency vehicles by off duty Richmond Heights Police Officers or Auxiliary Officers while performing traffic control functions in the City for private companies and/or contractors.
- (Ord. 51-2014. Passed 7-8-14.)

CHAPTER 143

Division of Fire

143.01 Composition.

143.02 Duties of Fire Chief.

143.03 Rules and regulations of Safety Director.

143.04 Acting Fire Chief.

143.05 Uniform requirements; part-time firefighters.

143.06 Volunteer Firemen's Dependents Fund Board.

143.07 Absence due to injuries received in course of employment.

143.08 Contract authorized by Council.

143.09 Appointments subject to Civil Service rules; qualifications.

143.10 Maximum age of original appointees to entry-level firefighter.

CROSS REFERENCES

Department of Public Safety - see CHTR. Art. VI §4
Promotions - see Ohio R.C. 143.24, 143.341 et seq.
Reductions, suspensions and removals - see Ohio R.C. 143.27 et seq., 737.12
Civil Service application - see Ohio R.C. 143.33, 737.10, 737.11
Fire protection contracts - see Ohio R.C. 307.05, 505.44, 717.02
Benefits - see ADM. Ch. 159
Parking near fire - see TRAF. 331.29
Driving over fire hose - see TRAF. 331.30
Resisting a fireman - see GEN. OFF. 501.05
False fire alarm or report - see GEN. OFF. 501.07 , 501.08

143.01 COMPOSITION.

A Division of Fire within the Department of Public Safety of the City is hereby established, and shall be composed of the following full-time fire personnel:

Fire Chief fifteen firefighters, of which three shall be Lieutenants and such part-time firefighters as in the judgment of the Director of Public Safety, with the approval of the Mayor, may be deemed necessary to provide the maximum amount of fire protection necessary for the City.

(Ord. 122-91. Passed 7-23-91.)

143.02 DUTIES OF FIRE CHIEF.

(a) It shall be the duty and responsibility of the Fire Chief to manage and operate the Division of Fire so as to provide the maximum amount of fire protection for the City subject to the approval of their work schedule by the Director of Public Safety and the Mayor of the City. In order to better attain this protection, a minimum work schedule is hereby established:

- (1) The Fire Chief shall work forty hours a week. This schedule of work hours shall be served at the Fire Station of the City, or at any other official related duty station or assignment as prescribed in the rules and regulations established for the Division of Fire.
- (2) The Fire Chief shall attend all official fire meetings and training sessions of the Division of Fire in addition to the normal work schedule.
- (3) The Fire Chief shall be on twenty-four hour call for emergency or other fire duties.
- (4) He shall furnish the Director of Public Safety such reports as will detail the activity of the Division of Fire, the condition of its equipment and any other relevant and pertinent information as the Director of Public Safety may request.
- (5) He shall have all the powers and duties prescribed by the laws of the State and such other powers and duties as shall be prescribed by ordinance from time to time by order of the Director of Public Safety with the approval of the Mayor of the City.

(b) Basic Function. Chief Administrator of Fire Department responsible for day-to-day operations. Insure effective operation of all departmental functions by monitoring work and identifying and correcting problem areas. Maintain all departmental records such as employee time records, activity statistics and material inventory. Insure compliance to all laws. Provide for basic and ongoing training needs for departmental personnel. Prepare and monitor annual operating budget and capital budget. Identify departmental funding priorities for Mayor and Council. Monitor employee performance and mediate all disputes. Determine cause of all fires.

(c) Principal Responsibilities of Fire Chief:

- (1) Function as top ranking Department member by:
 - A. Insuring that policies and procedures are conformed to by the staff.
 - B. Monitoring, prioritizing and directing the efforts of subordinates.
 - C. Conducting employee evaluations and terminations.
 - D. Maintaining records of all departmental activities and personnel.
 - E. Representing department to Council, media and general public.
- (2) Insure permanent fire response and fire fighting capability, and ability to respond to life and property threatening situations by:
 - A. Monitoring staffing and supervisory levels.
 - B. Performing all vehicle and equipment maintenance as required.
 - C. Directing employees to undergo training as required.
 - D. Administering drills and training experiences.
- (3) Maintain conformance with all laws by:
 - A. Monitoring all changes in legal requirements.
 - B. Acting promptly to conform with all changing legal requirements.
- (4) Seek knowledge of improved techniques in fire fighting and departmental management by:
 - A. Attending Ohio Fire Chief Conferences.
 - B. Obtaining and studying information available from professional publications and equipment manufacturers.
 - C. Attending special courses related to employee relations and personnel management or public administration.
- (5) Develop and monitor departmental budgets by:
 - A. Drafting operating budget.
 - B. Drafting capital budget.
 - C. Articulating needs in an effective and professional manner to Mayor and Council.
- (6) Determine cause of all incidents of fire within the City of Richmond Heights.
- (7) Collaborate with neighboring Fire Departments in order to respond to emergencies.
- (8) Cooperate with other City departments and non-City agencies in order to respond to all manner of disasters and emergencies.

(Ord. 75-90. Passed 9-11-90.)

143.03 RULES AND REGULATIONS OF SAFETY DIRECTOR.

The Director of Public Safety may prescribe such rules and regulations as shall be consistent with the provisions of the Charter, subject to the approval of the Mayor.

(Ord. 43-66. Passed 5-10-66.)

143.04 ACTING FIRE CHIEF.

In the event that the office of Fire Chief becomes vacant or he is unable to perform his duties for any reason, an Acting Fire Chief shall be appointed by the Mayor to serve until such time as the Fire Chief resumes his duties or a new appointment is made for such position according to law.

(Ord. 43-66. Passed 5-10-66.)

143.05 UNIFORM REQUIREMENTS; PART-TIME FIREFIGHTERS.

The uniform requirements of part-time firefighters shall be provided by the City upon request of the Fire Chief and approval by the Safety Director.

(Ord. 132-86. Passed 10-28-86.)

143.06 VOLUNTEER FIREMEN'S DEPENDENTS FUND BOARD.

(a) A Volunteer Firemen's Dependents Fund Board is hereby established to make rules and regulations necessary for the handling and processing of claims and shall perform such other duties as are necessary to carry out the provisions of Ohio R.C. 146.01 to 146.19, inclusive.

(b) The Volunteer Firemen's Dependents Fund Board shall consist of two volunteer firemen to be elected by the volunteer firemen of the City, two officers of the City to be elected by Council, and a fifth member, to be elected by the first four, who is not a fireman or a public official.

Vacancies occurring on the Volunteer Firemen's Dependents Fund Board shall be filled in the manner as set forth in Ohio R.C. 741.05.

(c) The term of each board member shall be one year commencing on January 1.

Election of the two volunteer firemen and two City officers shall be held each year on the first Monday in December. Election of the fifth member shall be held each year on or before the second Monday in December.

The procedure for the elections shall be governed by Ohio R.C. 146.04.

(d) The Volunteer Firemen's Dependents Fund Board shall meet promptly after its election to organize. A chairman and a secretary shall be elected.

The secretary of the Board shall immediately certify to the auditor of State the names and addresses of the members elected, by whom elected, and the name of the Board chairman and secretary.

(e) Members of the Volunteer Firemen's Dependents Fund Board shall serve without compensation.

The City shall provide a meeting place, stationery, postage and supplies for the efficient conduct of the business of the Board.

(Ord. 87-76. Passed 9-14-76.)

143.07 ABSENCE DUE TO INJURIES RECEIVED IN COURSE OF EMPLOYMENT.

All regular full-time employees of the Fire Department injured and incapacitated in the actual discharge of their duty, who as a result thereof, are compelled to be absent from duty, shall be entitled to leave of absence with pay subject to the following conditions:

- (a) Eligibility.

- (1) Each Fireman shall, in addition to the benefit provided by the State through "Workers' Compensation", be entitled to receive an Injury on Duty Benefit provided by the City.
 - (2) An Occupational Injury Benefit of up to 480 hours with pay may, with the approval of the Director of Safety, be granted as a result of an Injury on Duty incurred in the line of duty, except that an Injury on Duty Benefit from the City will not be available for injuries incurred during those times when the Fireman is actually engaged in administrative or clerical duties at the Fire Station facility, when a Fireman is on a meal or rest period, or when the Fireman is engaged in any personal business.
- (b) Period of Absence.
- (1) Absence from duty with pay resulting from injuries received in the actual discharge of an employee's duties shall not exceed 480 work hours from the date the employee was first compelled to be absent from duty as a result thereof unless an extension of the period is approved by the Mayor after his review of the investigation and written report.
 - (2) Employees requiring further medical treatment, after returning to duty from injured-on-duty leave, for complications resulting from the same injury or the treatment thereof, for which such leave was granted, may apply to the Mayor for the use of any unliquidated portion of the previously granted injured-on-duty leave. Further allowances may be granted only for surgical, therapeutic or rehabilitative procedures and only when such treatment cannot be obtained during nonduty hours.
 - (3) The total period of absence from duty with pay for injury received in the actual performance of duty shall not exceed 480 hours unless extension is approved by the Mayor after his review of the investigation and written report.
 - (4) No sworn employee of the Fire Department may receive injured-on-duty leave for any purpose after three years from the date of the injury for which such leave was originally granted, effective July 1, 1984.
- (c) Employee Responsibility.
- (1) The injured employee shall immediately report any injury received on duty to supervision. The report shall be filed during the tour of duty on the date the injury is received.
 - (2) Hereafter within no less than three days of the injury, the injured employee shall report the injury to the Fire Chief and shall timely complete all forms designated by the rules and regulations pertaining to injuries received during the actual performance of duty.
 - (3) Failure to report an injury on duty within the prescribed time periods shall render the employee ineligible for injured-on-duty leave.
 - (4) The filing requirements, as above described, may be waived by the Safety Director when the injury received physically prevents the employee from filing or when circumstances surrounding the injury require a waiver in the interest of justice.
 - (5) The employee shall cause a certified physician to file a written report with the Safety Director or submit to a medical examination conducted by a physician selected by the Safety Director authorizing the filing of a written report. Such report shall contain a description and diagnosis of the injury and a prognosis which shall include the nature and extent of any disability, the type of duty the employee may perform while under such disability and an estimate of the length of time necessary for recovery and return to duty.
 - (6) The failure to authorize the above described physician's report shall be sufficient cause to deny or terminate injured-on-duty leave.
 - (7) The employee will not be entitled to the benefits of this provision if he refuses to submit to a medical examination or the physician examining him reports that the injury does not prevent him from attending work.
 - (8) A Fireman who falsifies an application for Injured-on-Duty Benefits provided by the City or a physician's report is subject to disciplinary action, including dismissal. The Director of Safety shall, by rule, prescribe forms for the application and physician's report.
 - (9) In order to qualify for Injured-on-Duty Benefits, a Fireman injured in the line of duty must first make application for State Workers' Compensation Benefits, and be eligible to receive such benefits for any period that the City may subsidize earnings. Applications for City Occupational Injury Benefits approved by the Director of Safety will continue the normal weekly earnings of a qualified applicant until such applicant receives Workers' Compensation Benefits on a regular basis; however, upon receipt of such benefits, the applicant will be compelled to reimburse the City the amount equal to the amount received from Workers' Compensation for any period that the City made whole the applicant's normal earnings.
 - (10) The physician selected by the City shall report to the Director of Safety the results of the examination and whether or not the injury prevents the Fireman from attending work. The Director of Safety shall, by rule, provide for periodic medical examinations by a physician he selects of any employee who is using Occupational Injury Benefits provided by the City. The physician shall report to the Director of Safety the results of each examination, including a description of the progress made by the employee in recovering from the injury, and whether or not the injury continues to prevent the employee from performing his or her normal duties or whether light duty work can be assigned.
- (d) City Prerogative. The City may require that an employee be examined by a certified physician chosen by the Safety Director.
- (1) The City may, based on the recommendations of either or both physicians, require the employee to report for duty not inconsistent or incompatible with the recommendations of either physician. A refusal of duty as above described will terminate the employee's eligibility for injured-on-duty leave.
 - (2) The provisions herein determining eligibility for injured-on-duty leave in conjunction with the rules and regulations established by the Safety Director shall apply as standards for eligibility for injured-on-duty leave notwithstanding any rules, regulations, provisions or standards of the Ohio Bureau of Workers' Compensation or other agency to the contrary.
- (e) Special Conditions.
- (1) An employee carried on injured-on-duty leave status shall earn sick leave during the tenure of such status.
 - (2) An employee carried on injured-on-duty leave status will be eligible for vacation credits for the period the employee was carried on regular active duty status during the calendar year in which the employee was determined injured on duty and during the calendar year the employee returned to regular active duty status.
 - (3) Injuries received during duty periods determined to have proximately occurred as a result of pre-existing chronic disease shall not be eligible for injured-on-duty leave.
 - (4) Any compensation received by an employee from any source, including the Ohio Bureau of Workers' Compensation, that is reimbursement for wages for a period the employee was carried on Injured on Duty (IOD) status shall be paid over to the Treasury of the City. Before receiving any IOD pay, an employee shall enter into a written agreement with the City that such IOD pay will be repaid to the City upon the employee's receiving reimbursement for wages from any source for a period the employee was carried on IOD status. Such agreement shall also provide that the employee subrogates whatever rights of recovery accrue to the City against any party for loss to the extent that payment is made to the employee by the City. Compensation received as settlement of a claim exclusive of lost wages shall become the property of claimant.
- (f) Dispute Settlement. All disputes concerning injured-on-duty leave status of an employee shall be referred to the Mayor for resolution. The Mayor shall schedule and convene hearings and shall determine and resolve all questions after the presentation of evidence by each party. Failure or refusal to present evidence by either party, shall foreclose their right to present the evidence unless the requirement is waived by the Mayor. The decision of the Mayor shall be final. Additional remedies provided by law shall not be abrogated by this provision.

(Ord. 75-84. Passed 7-10-84.)

143.08 CONTRACT AUTHORIZED BY COUNCIL.

Should any of the employees of the Division of Fire enter into an agreement authorized by Council concerning economic conditions and benefits, the terms of the agreement shall control the economic conditions and benefits of such employees and any conflicting provisions of this chapter shall be subject to and subordinate to the terms of the agreement for those covered employees .

(Ord. 133-86. Passed 10- 28- 86.)

143.09 APPOINTMENTS SUBJECT TO CIVIL SERVICE RULES; QUALIFICATIONS.

- (a) All appointments to the Division of Fire, whether permanent or temporary, shall be subject to the Rules and Regulations of the Civil Service Commission.
- (Ord. 123-90. Passed 10-23-90.)
- (b) It shall be a condition and qualification for examination and appointment to the Division of Fire that any individual to be so appointed after November 1, 1990, shall have fulfilled the requirements for certification as an emergency medical technician paramedic by the State of Ohio, with the exception of a Fire Prevention Officer who shall be required to have and maintain emergency medical technician ambulance certification.
- (Ord. 21-92. Passed 2-25-92.)
- (c) Unless a member of the Fire Department who is required to maintain such status is specifically exempted by the Safety Director due to physical inability to perform paramedic services as verified by documentation by a licensed physician selected by the City, the loss of qualification of certification as a paramedic shall be grounds for disciplinary action up to and including discharge.
- (d) The loss of qualification or certification as a paramedic prior to appointment to the Fire Department shall be valid grounds for the non-appointment of new personnel to the Fire Department.
- (Ord. 123-90. Passed 10-23-90.)

143.10 MAXIMUM AGE OF ORIGINAL APPOINTEES TO ENTRY-LEVEL FIREFIGHTER.

The maximum age for original appointment to the positions of entry-level firefighter in the Municipality shall be age forty (40).

(Ord. 27-2015. Passed 4-14-15.)

CHAPTER 145

Division of Building, Engineering and Inspection

145.01 Establishment.

145.02 Commissioner of Building, Engineering and Inspection.

145.03 Petty Cash Fund.

145.04 Plumbing and/or electrical inspector authorized; payment.

CROSS REFERENCES

Department of Public Safety - see CHTR. Art. VI §4
 Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.28, 737.37
 Inspector's bond - see ADM. 159.01
 Local building provisions - see Title Three - Building Code

145.01 ESTABLISHMENT.

Under provisions of Section 4 of Article VI of the Charter, a Division of Building, Engineering and Inspection is hereby established.

(Ord. 30-61. Passed 11-21-61.)

145.02 COMMISSIONER OF BUILDING, ENGINEERING AND INSPECTION.

(a) The position of Commissioner of Building, Engineering and Inspection is hereby established. The Commissioner of Building, Engineering and Inspection shall be appointed by the Mayor, subject to the approval of Council, and shall receive such compensation as Council shall from time to time determine.

(Ord. 1-86. Passed 1-14-86.)

(b) The Commissioner of Building, Engineering and Inspection shall perform all of the duties as set forth in the City's Zoning Code, Building Code and Regional Dwelling House Code, now in effect or hereinafter adopted, and shall be the administrative head of the Division of Building, Engineering and Inspection. Wherever the term Building Inspector is used in the Zoning Code, the Building Code, the Regional Dwelling House Code or any other section of the Codified Ordinances, such term "Building Inspector", shall be construed and deemed to read as Commissioner of Building, Engineering and Inspection.

(Ord. 135-83. Passed 12-13-83.)

145.03 PETTY CASH FUND.

A petty cash fund is hereby established for the Division of Building, Engineering and Inspection in the amount of fifty dollars (\$50.00) and the Director of Finance is authorized to advance to the Building Inspector, out of the proper fund, an amount of fifty dollars (\$50.00) for use as a petty cash fund for the purpose of having available moneys as change for building permit fees.

(Ord. 44-66. Passed 5-10-66.)

145.04 PLUMBING AND/OR ELECTRICAL INSPECTOR AUTHORIZED; PAYMENT.

(a) The Mayor is hereby authorized and directed to retain the services of a qualified plumbing and/or electrical building inspector for review of plans and installation of plumbing and electrical devices within the City to assist the Commissioner of Building, Engineering and Inspection.

(b) The Finance Director is hereby authorized and directed to pay such plumbing and electrical inspector, on a per job basis, such sums as are authorized by the Mayor.

(Ord. 121-90. Passed 9-25-90.)

CHAPTER 147

Department of Public Service and Properties

- 147.01 Established.**
- 147.02 Supervision and control.**
- 147.03 Duties and responsibilities of Director of Public Service.**
- 147.04 Absence due to injuries received in course of employment.**
- 147.05 Contract authorized by Council.**

CROSS REFERENCES

Department of Public Service and Properties - see CHTR. Art. VI §5
Contracts - see Ohio R.C. 733.22 et seq., 735.05 et seq.
General duties and records - see Ohio R.C. 735.02
Public building supervision - see Ohio R.C. 735.10 et seq.

147.01 ESTABLISHED.

(a) A Department of Public Service and Properties is hereby established, having all of the duties and responsibilities as set forth in Article VI, Section 5, of the Charter, and any ordinances pertaining thereto. The Department of Public Service and Properties shall be composed of the Director of Public Service and the following personnel:

(1)	Equipment Operator/Laborer	7
(2)	Custodial Worker	1
(3)	Inspector - Public Works (part-time)	1
(4)	Summer labor (part-time)	12
(5)	Part-time mechanic	1
- (b) Employees in the service, with the exception of those covered by a labor agreement, shall receive such compensation as Council shall from time to time determine.
- (c) The part-time mechanic shall work no less than thirty hours and no more than thirty-nine hours per week and shall receive such compensation as Council shall from time to time determine.

(Ord. 21-94. Passed 3-8-94.)

147.02 SUPERVISION AND CONTROL.

The Director of Public Service and Properties shall have the supervision and control of such Department under and subject to the direction of the Mayor, and shall be responsible for the performance of the duties and responsibilities therefor.

(Ord. 26-62. Passed 11-20-62.)

147.03 DUTIES AND RESPONSIBILITIES OF DIRECTOR OF PUBLIC SERVICE.

The duties and responsibilities of the Director of Public Service shall be as follows:

- (a) Be directly responsible to the Mayor.
- (b) Maintain efficient operation of Service Department.
- (c) Submit and operate within an approved budget for the Service Department.
- (d) Be responsible for scheduling and work of all personnel in the Service Department.
- (e) Be responsible for both sanitary and storm sewer maintenance within the City.
- (f) Coordinate all administrative responsibilities for the Service Department.
- (g) Approve all purchase requests for the Service Department, submit to Mayor and Finance Director.
- (h) Be responsible for the preparation of specifications for all biddable commodities and/or services for the Service Department.
- (i) Be responsible for all public buildings.
- (j) Be responsible for all public lighting of streets.
- (k) Be responsible for all collection and disposal of City rubbish, garbage and other refuse in coordination with private trash collectors and work cooperatively on all recycling efforts undertaken by the City.
- (l) Be responsible for maintenance and repair of public streets, sidewalks, ditches and bridges.
- (m) Be responsible for cleaning all public streets and curbs.
- (n) Evaluate and maintain personnel files of all Service Department personnel.
- (o) Be responsible for snow removal of all public streets.
- (p) Be responsible for all public utilities within the City.
- (q) Be responsible for reports and all contact with both the Federal and State environmental protection agencies.

(Ord. 124-90. Passed 9-25-90.)

147.04 ABSENCE DUE TO INJURES RECEIVED IN COURSE OF EMPLOYMENT.

All regular full-time employees of the Service Department injured and incapacitated in the actual discharge of their duty, who as a result thereof, are compelled to be absent from duty, shall be entitled to leave of absence with pay subject to the following conditions:

- (a) Eligibility.
 - (1) Each employee shall, in addition to the benefit provided by the State through "Workers' Compensation", be entitled to receive an Injury on Duty Benefit provided by the City.
 - (2) An Occupational Injury Benefit of up to 480 hours with pay may, with the approval of the Director of Service, be granted as a result of an Injury on Duty incurred in the line of duty, except that an Injury on Duty Benefit from the City will not be available for injuries incurred during those times when the employee is actually engaged in clerical duties at the Service Garage facility, when an employee is on a meal or rest period, or when the employee is engaged in any personal business.
- (b) Period of Absence.
 - (1) Absence from duty with pay resulting from injuries received in the actual discharge of an employee's duties shall not exceed 480 work hours from the date the employee was first compelled to be absent from duty as a result thereof unless an extension of the period is approved by the Mayor after his review of the investigation and written report.
 - (2) Employees requiring further medical treatment, after returning to duty from injured-on-duty leave, for complications resulting from the same injury or the treatment thereof, for which such leave was granted, may apply to the Mayor for the use of any unliquidated portion of the previously granted injured-on-duty leave. Further allowances may be granted only for surgical, therapeutic or rehabilitative procedures and only when such treatment cannot be obtained during nonduty hours.
 - (3) The total period of absence from duty with pay for injury received in the actual performance of duty shall not exceed 480 hours unless extension is approved by the Mayor after his review of the investigation and written report.
 - (4) No employee of the Service Department may receive injured-on-duty leave for any purpose after three years from the date of the injury for which such leave was originally granted, effective July 1, 1984.
- (c) Employee Responsibility.
 - (1) The injured employee shall immediately report any injury received on duty to supervision. The report shall be filed during the tour of duty on the date the injury is received.
 - (2) Thereafter within no less than three days of the injury, the injured employee shall report the injury to the Service Director and shall timely complete all forms designated by the rules and regulations pertaining to injuries received during the actual performance of duty.
 - (3) Failure to report an injury on duty within the prescribed time periods shall render the employee ineligible for injured-on-duty leave.
 - (4) The filing requirements, as above described, may be waived by the Service Director when the injury received physically prevents the employee from filing or when circumstances surrounding the injury require a waiver in the interest of justice.
 - (5) The employee shall cause a certified physician to file a written report with the Service Director or submit to a medical examination conducted by a physician selected by the Service Director authorizing the filing of a written report. Such reports shall contain a description and diagnosis of the injury and a prognosis which shall include the nature and extent of any disability, the type of duty the employee may perform while under such disability and an estimate of the length of time necessary for recovery and return to duty.
 - (6) The failure to authorize the above described physician's report shall be sufficient cause to deny or terminate injured-on-duty leave.
 - (7) The employee will not be entitled to the benefits of this provision if he refuses to submit to a medical examination or the physician examining him reports that the injury does not prevent him from attending work.
 - (8) An employee who falsifies an application for Injured-on-Duty Benefits provided by the City or a physician's report is subject to disciplinary action, including dismissal. The Director of Service shall, by rule, prescribe forms for the application and physician's report.
 - (9) In order to qualify for Injured-on-Duty Benefits, an employee injured in the line of duty must first make application for State Workers' Compensation Benefits, and be eligible to receive such benefits for any period that the City may subsidize earnings. Application for City Occupational Injury Benefits approved by the Director of Service will continue the normal weekly earnings of a qualified applicant until such applicant receives Workers' Compensation Benefits on a regular basis; however, upon receipt of such benefits, the applicant will be compelled to reimburse the City the amount equal to the amount received from Workers' Compensation for any period that the City made whole the applicant's normal earnings.
 - (10) The physician selected by the City shall report to the Director of Service the results of the examination and whether or not the injury prevents the employee from attending work. The Director of Service shall, by rule, provide for periodic medical examination by a physician he selects of any employee who is using Occupational Injury Benefits provided by the City. The physician shall report to the Director of Service the results of each examination, including a description of the progress made by the employee in recovering from the injury, and whether or not the injury continues to prevent the employee from performing his or her normal duties or whether light duty work can be assigned.
- (d) City Prerogative. The City may require that an employee be examined by a certified physician chosen by the Service Director.
 - (1) The City may, based on the recommendations of either or both physicians, require the employee to report for duty not inconsistent or incompatible with the recommendations of either physician. A refusal of duty as above described will terminate the employee's eligibility for injured-on-duty leave.
 - (2) The provisions herein determining eligibility for injured-on-duty leave in conjunction with the rules and regulations established by the Service Director shall apply as standards for eligibility for injured-on-duty leave notwithstanding any rules, regulations, provisions or standards of the Ohio Bureau of Workers' Compensation or other agency to the contrary.
- (e) Special Conditions.
 - (1) An employee carried on injured-on-duty leave status shall earn sick leave during the tenure of such status.
 - (2) An employee carried on injured-on-duty leave status will be eligible for vacation credits for the period the employee was carried on regular active duty status during the calendar year in which the employee was determined injured on duty and during the calendar year the employee returned to regular active duty status.
 - (3) Injuries received during duty periods determined to have proximately occurred as a result of pre-existing chronic disease shall not be eligible for injured-on-duty leave.
 - (4) Any compensation received by an employee from any source, including the Ohio Bureau of Workers' Compensation, that is reimbursement for wages for a period the employee was carried on Injured on Duty (IOD) status shall be paid over to the Treasury of the City. Before receiving any IOD pay will be shall enter into a written agreement with the City that such IOD pay will be repaid to the City upon the employee's receiving reimbursement for wages from any source for a period the employee was carried on IOD status. Such agreement shall also provide that the employee subrogates whatever rights of recovery accrue to the City against any party for loss to the extent that payment is made to the employee by the City. Compensation received as settlement of a claim exclusive of lost wages shall become the property of claimant.
- (f) Dispute Settlement. All disputes concerning injured-on-duty leave status of any employee shall be referred to the Mayor for resolution. The Mayor shall schedule and convene hearings and shall determine and resolve all questions after the presentation of evidence by each party. Failure or refusal to present evidence by either party, shall foreclose their right to present the evidence unless the requirement is waived by the Mayor. The decision of the Mayor shall be final. Additional remedies provided by law shall not be abrogated by this provision.

(Ord. 85-84. Passed 8-27-84.)

147.05 CONTRACT AUTHORIZED BY COUNCIL.

Should any of the employees of the Department of Public Service and Properties enter into an agreement authorized by Council concerning economic conditions and benefits, the terms of the agreement shall control the economic conditions and benefits of such employees and any conflicting provisions of this chapter shall be subject to and subordinate to the terms of the agreement for those covered employees.

(Ord. 134-86. Passed 11-11-86.)

CHAPTER 149

Engineer

EDITOR'S NOTE: The City contracts by ordinance for the services of an Engineer. Interested parties may obtain copies of the latest such ordinance from the Clerk.

149.01 Land Use Map.

CROSS REFERENCES

Commissioner of Engineering and Construction - see CHTR. Art. VI §5

General duties - see Ohio R.C. 735.32

Assistants - see Ohio R.C. 735.33

Attendance at Council meetings - see ADM. 121.10

149.01 LAND USE MAP.

The City Engineer is authorized and directed to upgrade and update the Land Use Map of the City on a continuing basis in order to properly reflect any changes in the Zone Map of the City and so as to accurately portray the then present land use of properties within the City.

(Ord. 44- 76. Passed 4-13-76.)

CHAPTER 150

City Architects

150.01 Creation.

150.02 Qualifications; alternate City Architects.

150.03 Present at plan reviewing.

150.04 Conflict of interest.

150.05 Application review procedure.

150.06 Standards to be applied.

150.07 City Landscape Architect. (Repealed)

CROSS REFERENCES

Ohio State building standards - see Ohio R.C. Ch. 3781

Ohio Building Code - see Ohio R.C. 3781.10

Required submission of plans of public buildings - see Ohio R.C. 3791.04

150.01 CREATION.

The position of City Architect is hereby created, whose duties it shall be to advise and assist the Building Inspector by reviewing and making recommendations on such building permit applications that come under the jurisdiction of the Ohio Building Code.

(Ord. 30-64. Passed 9-8-64.)

150.02 QUALIFICATIONS; ALTERNATE CITY ARCHITECTS.

The City Architect shall be an architect registered in the State and shall be appointed by the Mayor, or until his successor shall be appointed and shall qualify. The Mayor shall also appoint alternate City Architects, not to exceed three in number, each of whom shall likewise be a registered architect, and shall, during the term of the City Architect and when and as requested by the Building Inspector, carry out the duties of such office with respect to any matter in which the City Architect has a personal interest or whenever the City Architect is absent or unavailable. Such appointments shall be subject to confirmation by Council within thirty days. However, if Council fails to act within such time, such appointments shall thereupon become effective.

The term "Architect", as hereinafter used, includes the City Architect and all alternate City Architects acting under the provisions thereof.

(Ord. 30-64. Passed 9-8-64.)

150.03 PRESENT AT PLAN REVIEWING.

At such times as the Building Inspector shall deem it proper, reviewing of plans shall be arranged when the City Architect shall be present.

(Ord. 30-64. Passed 9-8-64.)

150.04 CONFLICT OF INTEREST.

No person appointed to the position of Architect shall participate in the review of, or give advice upon, any work in which he, his partner or professional associate or associates, have any direct or indirect interest.

(Ord. 30-64. Passed 9-8-64.)

150.05 APPLICATION REVIEW PROCEDURE.

(a) All applications hereunder for building permits shall be submitted to the Building Inspector and he shall transmit them to the Architect, who shall receive, review and advise upon all drawings, data, plans and blue prints in the order filed under such published rules and regulations adopted by the Building Inspector and the Architect.

(b) No application for a building permit shall be accepted by the Building Inspector or submitted to the Architect unless the lot or plot of land upon which the proposed building or structure is intended to be situated is a complete and entire lot or sublot in a duly recorded subdivision of land, unless and until a plat or map of the proposed building lot, showing the relationship to surrounding lots and structures and streets shall have first been approved by the Planning and Zoning Commission.

(c) Comprehensive drawings showing floor plans, elevations and location of the building on the lot, driveways and walks together with the location of adjoining buildings on the same or adjacent lot, and the proposed grades, must be submitted to the Building Inspector who shall transmit them to the Architect with the application for a permit. Such documents must be accompanied by a fee as provided by Council.

(d) The Architect shall provide for a detailed report of all his proceedings, and shall submit a copy of his recommendations to the Building Inspector.

(e) In cases where the Architect does not recommend approval of the applications, the Architect shall suggest changes in plans as may be necessary to accomplish the purposes of this chapter. In such instances, conferences with applicants may be held.

(f) If, however, the Architect fails to act within thirty days after he has received the application for a building permit, the Building Inspector may then consider the application as having been recommended for approval by the Architect.

(Ord. 30-64. Passed 9-8-64.)

150.06 STANDARDS TO BE APPLIED.

In reviewing plans and specifications, recommendations by the Architect shall be based on the following general standards:

(a) The Ohio State Building Code, in terms of its structural, mechanical, electrical, fire prevention and other regulations.

(b) Architectural control, which states that the primary function of the Architect shall not be to review exterior design and to select materials and colors. However, insofar as his function is to maintain property values in the neighborhood and to produce sound tax values for the Municipality, he shall see to it that the general appearance of all buildings and grounds are in keeping with good architectural and landscape practices.

(Ord. 30-64. Passed 9-8-64.)

150.07 CITY LANDSCAPE ARCHITECT. (REPEALED)

(EDITOR'S NOTE: Former Section 150.07 was repealed by Ordinance 3-2020, passed January 14, 2020.)

CHAPTER 151

Recreation Board

151.01 Personnel.

151.02 Purchases.

151.03 Fees for use of recreational facilities.

151.04 Director of Recreation; appointment, duties.

151.05 Park regulations; penalty.

CROSS REFERENCES

Recreation Board - see CHTR. Art. VI §9

Land appropriation for parks - see Ohio R.C. 715.21, 719.01

Parks and playgrounds - see Ohio R.C. Ch. 755

151.01 PERSONNEL.

(a) The positions of handicraft instructors, playground instructors, youth instructors, pool personnel, adult education course instructors and bus drivers are hereby established and all appointments thereto shall be made by the Mayor.

(b) There is hereby established in the Recreation Department the position of Assistant to the Recreation Director, who shall be appointed by the Mayor and shall perform such duties as the Director requires. The Assistant shall receive such compensation as Council may designate from time to time.

(Ord. 36-87. Passed 5-12-87.)

(c) It is hereby established in the Recreation Department the position of Recreation Coordinator, who shall be appointed by the Mayor and under the direct supervision of the Director of Recreation. The Recreation Coordinator shall receive such compensation as the Mayor shall determine within the pay scale as established by City Council from time to time. The principal responsibilities of the Recreation Coordinator are:

(1) Working under the supervision of the Director of Recreation to develop, promote, and maintain the City's recreation programs for all ages;

(2) Planning and coordinating of current programs;

(3) Implementing new programs and events;

(4) Overseeing maintenance and development of parks and sports fields;

(5) Routine administrative office duties;

(6) Promotion and advertisement of recreation programs;

(7) Processing of registration and participation fees for all recreation programs;

(8) Purchasing items from vendors;

(9) Scheduling and coordinating use of the City's Kiwanis Lodge;

(10) Scheduling and coordinating gym and room rentals at Richmond Heights Schools;

- (11) Communicating with other departments of the City with respect to the Department of Recreation programs, facilities and the maintenance thereof;
- (12) Producing the City's news letter; and
- (13) Any other duties as prescribed by the Mayor, Council or the Director of Recreation.

(Ord. 24-00. Passed 5-9-00.)

151.02 PURCHASES.

The Recreation Board shall, within its budget limitations, be authorized to purchase equipment and provide maintenance and supervision for any playground, ball diamond, tennis court, swimming pool or any other area of recreation, whether it be in or out of the Municipality. All such purchases shall be made through the Director of Finance as purchasing agent on the basis of requisitions submitted and approved by the Recreation Board. All such approvals for expenditure of funds shall be reflected in the minutes of the meetings of the Recreation Board.

(Ord. 36-87. Passed 5-12-87.)

151.03 FEES FOR USE OF RECREATIONAL FACILITIES.

(a) The Recreation Board is hereby authorized and directed to provide for membership and fees and other rates for the use of recreational facilities, including such areas as the swimming pool and tennis courts within the City.

(b) The Recreation Board is hereby directed to account for such moneys received and to issue their proper voucher to the Director of Finance.

(Ord. 30-81. Passed 5-12-81.)

151.04 DIRECTOR OF RECREATION; APPOINTMENT, DUTIES.

(a) The Director of Recreation shall be appointed by the Mayor for a fixed two year term with the approval of Council. The Director may be removed from office by the Mayor with concurrence of five members of Council.

(b) The Director of Recreation shall manage and direct all recreation programs to insure the highest level of service to children and adults at the lowest possible cost, and in the greatest safety.

(c) The Director of Recreation shall possess qualifications of proven supervisory ability and experience in coordinating the efforts of volunteers and seasonal assistants of all ages; ability to assess community needs and adjust existing programs, or develop new initiatives to meet those needs; understanding of pool maintenance; educational background in areas of recreation and physical education preferred; and ability to work on an almost seven-day a week basis during summer months.

(d) The principal responsibilities of the Director of Recreation are:

- (1) Function as top-ranking department member by:
 - A. Identifying qualified applicants to staff departmental activities for appointment by the Mayor.
 - B. Orienting, training and monitoring employee performance.
 - C. Establish staff work schedules.
 - D. Operate all programs within approved budget.
- (2) Monitor all facilities and equipment by:
 - A. Examining park facilities regularly in order to identify and correct problems.
 - B. Order all supplies and equipment.
 - C. Inspect the maintenance efforts of the staff.
- (3) Serve as department spokesperson by:
 - A. Responding to employee and resident complaint.
 - B. Providing regular reports to the Board and Mayor.
 - C. Gaining public awareness of department events and programs.
 - D. Coordinating joint efforts with Service Department and others as needed.
- (e) In addition to such other duties as may be established by the Mayor or Council, the Director shall have the following duties:
 - (1) To attend all Recreation Board regular and special meetings.
 - (2) To attend regular Council meetings and make a report of his or her activities when necessary.
 - (3) To coordinate joint City and school recreation activities.
 - (4) To follow through on Board recommendations.
 - (5) To initiate and supervise all recreation programs of the City.
 - (6) To act as general supervisor of all employees of the Recreation Department of the City.
 - (7) To act as liaison between Department employees and the Board.
 - (8) Be responsible for the maintenance, rental and administration of the Kiwanis Lodge.

(Ord. 173-90. Passed 12-11-90.)

151.05 PARK REGULATIONS; PENALTY.

(a) The following rules, regulations and penalties shall apply to any of the park or recreation facilities owned by the City:

- (1) No person shall park or store any motor car, motor vehicle, bicycle, wagon or other vehicle within any traveled roadway in the parks or at any location where posted signs prohibit parking except in emergencies; or upon any sod, gravel or other surface not specifically designated as "A PARKING AREA". No parking shall be permitted in seasonable soft or other areas, as designated by a "NO PARKING" sign.
- (2) No person shall drive, operate or ride a motor vehicle of any kind, including a motor scooter or motor bike within the grounds of any park except through the duly designated entranceways into the lots set aside for parking.
- (3) No person shall operate within the parks a go-kart, swamp buggy, snowmobile or any other type of motor vehicle which is not customarily registered with the Registrar of Motor Vehicles of the State.
- (4) No person shall be permitted to remain, stop or park within the confines of any park between sunset and sunrise except for activities or programs authorized by and/or under the supervision of the Recreation Department.
- (5) No person shall release an arrow from a bow, crossbow or longbow within any park.
- (6) No person shall establish or maintain any camp or temporary lodging or sleeping place within any park.
- (7) No person shall start a fire in any park except small fires for culinary purposes in park grills or privately owned grills or fires in designated areas only. All fires shall be put out by the person or persons starting or using the same before leaving the immediate vicinity of the fire. The dumping of hot ashes or fire from portable picnic grills onto the grass or plants is prohibited.

(Ord. 76-92. Passed 10-27-92.)

(8) Pets may be walked by persons through City parks, but such pets must be leashed at all times and shall not be permitted in any other recreation facilities other than open park areas. Otherwise, pets are prohibited within any City park or recreation facility. No person, however, shall walk a pet in a City park without first having registered the pet and its owner with the Division of Police on forms provided therefor. All other City ordinances with respect to vicious animals and the removal of animal excrement must be obeyed.

(Ord. 52-2004. Passed 7-13-04.)

(9) The possession and/or the consumption of alcoholic beverages or drugs are hereby prohibited within any park or recreation facility of the City except as authorized or permitted at the Kiwanis Lodge.

(Ord. 76-92. Passed 10-27-92.)

(b) Any person found violating any of the above rules or regulations shall be subject to ejection from such park or recreation facility by City park or pool personnel and repeated violations shall be just cause for the revoking of any pass or permit previously issued to such person and shall constitute just cause for barring such individual from any City park or recreation facility; and in addition thereto, any person violating any of the above rules or regulations shall be deemed guilty of a minor misdemeanor.

(Ord. 42-2009. Passed 7-14-09.)

CHAPTER 152

Advisory Board of Environmental Control

152.01 Establishment; members; duties.

Littering - see GEN. OFF. 517.08
Detergents - see BUS. REG. Ch. 705

152.01 ESTABLISHMENT; MEMBERS; DUTIES.

An Advisory Board of Environmental Control is hereby established. Such Board shall consist of nine persons who shall be appointed by the Mayor and confirmed by Council, each member serving a term of two years. The Board shall elect from its membership, a chairman and secretary and shall adopt its own rules and regulations.

The Board shall have the duty of investigating, promulgating and recommending to Council practical programs for the betterment of the ecology and environment of the City.

(Ord. 24-74. Passed 1-22-74.)

CHAPTER 153

Civil Service Commission

EDITOR'S NOTE: There are no sections in Chapter 153. This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

The Civil Service Commission - see CHTR. Art. VI §6
Civil Service Law - see Ohio R.C. Ch. 143
Civil Service Commission - see Ohio R.C. 143.30

CHAPTER 154

Architectural Board of Review

154.01 Establishment.

154.02 Qualifications of members.

154.03 Conflict of interest.

154.04 Organization.

154.05 Quorum.

154.06 Purpose.

154.07 Powers and duties.

154.08 Plans required.

154.09 Processing of applications.

154.10 Look-alike homes and/or housing groups.

- 154.11 Standards and criteria.**
- 154.12 Additional matters to be considered.**
- 154.13 Meetings; rules.**
- 154.14 Findings.**

CROSS REFERENCES

Enforcement of Building Code - see BLDG. 1301.04
Residential Code of Ohio - see BLDG. Ch. 1303

154.01 ESTABLISHMENT.

(a) There is hereby established in the City an Architectural Board of Review, which shall consist of three members appointment by the Mayor and confirmed by Council, for the following terms: one for a term expiring December 31, 1970; one for a term expiring December 31, 1971 and one for a term expiring December 31, 1972. Subsequent appointments to the Board shall be for terms of three years each.

(b) Vacancies shall be filled for the remainder of unexpired terms in the same manner as the original appointments were made. Any member of the Board shall be subject to removal by the Mayor, with the consent of Council. In the event of the temporary absence or disability of any member, a temporary member may be appointed and confirmed in the manner provided above. Such temporary member must possess all the qualifications of a regular member, shall have the same powers and perform the same duties and shall receive the same compensation as a regular member during the length of his appointment.
(Ord. 91-71. Passed 9-8-70.)

(c) Each member of the Board shall receive a fee of seventy-five dollars (\$75.00) per month.

(Ord. 19-87. Passed 2-24-87.)

154.02 QUALIFICATIONS OF MEMBERS.

Each member of the Architectural Board of Review shall be a registered design professional as defined in Section 202 of the Ohio Building Code, an architect holding a certificate issued under Sections 4703.10 and 4703.36 of the Revised Code, or any engineer holding a certificate issued under Section 4733.14 of the Revised Code, and shall have been actively engaged in the general practice of building design in Ohio for a period of not less than three years prior to the member's appointment to the Board. (Ord. 3-2014. Passed 1-14-14.)

154.03 CONFLICT OF INTEREST.

No member of the Architectural Board of Review shall participate in the review of any work of which he or any partner or professional associate is the author, or in which he or they have any direct or indirect financial interest.
(Ord. 91-70. Passed 9-8-70.)

154.04 ORGANIZATION.

One member of the Architectural Board of Review shall be elected Chairman and shall be responsible for the proper administration of the Board's duties. One member of the Board shall act as Secretary and shall keep or cause to be kept in the City Hall, a complete record of all meetings of the Board and of all transactions handled by the Board.
(Ord. 91-70. Passed 9-8-70.)

154.05 QUORUM.

Two members of the Architectural Board of Review shall constitute a quorum. Official action of the Board shall require the affirmative vote of two or more members. The Board shall exercise the powers and duties herein provided, in accordance with the ordinances of the City and the laws of the State and the Board may from time to time adopt such rules and regulations for its procedure as Council approves.
(Ord. 91-70. Passed 9-8-70.)

154.06 PURPOSE.

The purposes of the Architectural Board of Review are to preserve and protect the public health, safety and welfare by maintaining a high character of community development and protecting real estate within the City from impairment or destruction of value by regulating, according to proper architectural principles, the design, use of materials, finished grade lines and orientation of all new buildings hereafter erected, and the moving, alteration, improvement, repair, adding to or razing in full or in part of any existing building. The Board shall exercise its powers and perform its duties for the accomplishment of such purposes only.

(Ord. 91-70. Passed 9-8-70.)

154.07 POWERS AND DUTIES.

(a) The Architectural Board of Review shall receive and promptly review and pass upon all drawings, plans and complaints filed in connection with applications for building permits in accordance with public rulings and regulations adopted by the Board. The Board shall immediately notify the Inspector of Buildings, in writing, of action taken in regard to each application. Failure by the Board to act on any set of plans or within sixty days from the time application for a building permit is filed may be considered an approval of such plans by the Board. No building permit shall be issued unless plans therefor have been approved in writing by the Board, or unless no action by the Board in regard to such plans has been taken within sixty days of the filing of the application for such permit.

(b) The Architectural Board of Review shall, in addition to the powers and duties granted in subsection (a) hereof, possess and perform those powers and duties of the Board of Building Code Appeals set forth in the Regional Building Code and the Regional Dwelling House Code.

(Ord. 91-70. Passed 9-8-70.)

154.08 PLANS REQUIRED.

Good, clear, workable construction documents in the form of drawings, specifications, sketches, photographs, manufacturer's information, color boards, and/or other data related to the location, appearance, illumination, landscaping of the project and/or other factors relating to the criteria set forth in Sections 154.10 and 154.11 shall be presented in quadruplicate with each application. Minor changes on plans may be accepted, but no person shall erase, alter or modify any lines, figures, words or coloring contained in or upon any plans, drawings or specifications filed with the Building Commissioner after they have been approved, or deviate therefrom in the execution of the work proposed without the written consent and authorization of the Architectural Board of Review. (Ord. 3-2014. Passed 1-14-14.)

154.09 PROCESSING OF APPLICATIONS.

After receipt of a complete submission of an application for construction of multi-family, institutional, business, commercial or industrial buildings, the Planning and Zoning Commission shall refer such proposed site-development and building plan which is filed, to the Architectural Review Board for purposes of review and report. The Commission shall, in addition to the above, refer all plans and drawings of public structures and areas such as fire stations, municipal buildings, parks and playgrounds to the Architectural Review Board for its review and report.

Two copies of the report of the Architectural Review Board shall be prepared. One shall be filed with the Planning and Zoning Commission for its use and one shall be filed with the Clerk of Council and shall be open to public inspection. The Architectural Review Board shall complete its report and recommendation within twenty-eight days, from the date of the application by the Commission.

All such reports to the Planning and Zoning Commission shall state whether, in the opinion of the Architectural Review Board, the proposed application shall be granted, denied or modified, and shall give the reasons therefor.

(Ord. 91-70. Passed 9-8-70.)

154.10 LOOK-ALIKE HOMES AND/OR HOUSING GROUPS.

(a) The Architectural Board of Review shall not approve any application for a permit to construct, alter or enlarge any building or structure in a single-family residential district which shall be like or substantially like any neighboring structure, as hereinafter defined, then in existence or for which a building permit has been issued, or which is included in the same building permit application, in more than three of the following seven respects:

- (1) Type or style of main roof; gable, hip, gambrel, shed or combination thereof; except irregular shaped plans can be turned 90 degrees on lot, or reversed. (180 degrees)
 - (2) Configuration of floor plan, except irregular shaped plans can be turned 90 degrees on lot or reversed. (180 degrees)
 - (3) Number of stories above grade.
 - (4) Size and relative location of windows and doors or other openings in the front and both side elevations with respect to each other and to any door, chimney, porch or attached garage in the same elevation.
 - (5) Relative location of any attached garage, porch or gable, in the front elevation with respect to each other and to the building.
 - (6) Building materials to be used on the exterior surfaces, front and sides.
 - (7) Permanent color of materials on the exterior surfaces front and sides.
- (b) In no case, shall a neighboring structure on an immediately adjacent lot be approved with the same roof configuration as defined in (a)(1) above.
- (c) In relation to the premises with respect to which a building or structure is sought to be erected, constructed, placed, altered or enlarged; a building or structure shall be deemed to be a neighboring building or structure if the lot upon which it or any part of it has been or will be located is any one of five lots on either side of the subject premise or five opposing lots centered on the opposite side of the street, regardless of intervening streets except that an intervening street may be counted as one lot.
- (d) For new streets, the developer is encouraged to submit to the Board a preliminary drawing of each type of house proposed and a street plan showing proposed locations of each type. If such drawings and street plan are not submitted in advance of applications for permits, the responsibility for rejection of look-alikes remains entirely with the developer.

(Ord. 56-87. Passed 8-11-87.)

154.11 STANDARDS AND CRITERIA.

The following standards and criteria are established to guide the Architectural Board of Review in its review of development proposals:

- (a) Materials shall be appropriate for the use of the building, for weathering and for relationship to other materials, including those used on adjacent buildings.
- (b) Colors and textures shall be appropriate for the size and scale of the building, for weathering and for relationship to the site and to adjacent buildings.
- (c) Architectural details and ornaments shall be meaningful to the overall design, appropriate for the size and scale of the building and shall be consistent in theme on all sides.
- (d) Mechanical equipment shall be considered as it affects rooftop appearance, sidewall openings, sound levels, smoke and other nuisance aspects. Also, mechanical equipment shall be considered as it relates to overhead wires, gas and electric meter stations and any other visible appurtenances.
- (e) Approaches, drives and parking areas shall be considered as they affect the appearance from the street and from the site as well. The relationship of paving to the building shall be appropriate, considering factors such as safety, drainage and landscaping.
- (f) Landscaping shall be appropriate for the size and use of the area, and for its relationship to building, street, parking area, walks and adjacent buildings.
- (g) Lighting shall be considered for the appropriateness of nighttime illumination of the grounds, drives, walks, parking areas, the building and its affect upon surrounding areas.
- (h) Signs shall be considered for appropriateness of size, shape, color and illumination in relation to building and site.
(Ord. 56-87. Passed 8-11-87.)

154.12 ADDITIONAL MATTERS TO BE CONSIDERED.

The Architectural Board of Review shall take into account in its review of the application such additional matters as it deems necessary and relevant, including such matters as the drainage of the property to be improved, the provisions made in the plan for adequate fire protection and the handling of traffic in and out of the property. For the purpose of reviewing such additional items, the Board may seek the advice and counsel of the City Engineer, the Police Chief, the Fire Chief or such other officials as it may deem necessary. (Ord. 56-87. Passed 8-11-87.)

154.13 MEETINGS; RULES.

(a) All meetings of the Board shall be open to the public and shall be held at City Hall at a pre-determined hour and day as required. The Building Commissioner shall notify all applicants as to the date and time of the meeting.

(b) An applicant need not be present at the time his application is being reviewed; however, the Board may request the applicant to be present and his failure to appear when requested may result in rejection or tabling of the plans until the applicant does appear after request of his presence.

(c) In order to better carry out the provisions of this chapter, the Board, by formal motion, shall adopt rules for the conduct of its business.
(Ord. 56-87. Passed 8-11-87.)

154.14 FINDINGS.

The Board may show approval or disapproval as submitted, or approval with recommendation and conditions, or ask for re-study or resubmission.

- (a) Approval constitutes final approval or disapproval of such drawings as submitted and therefore does not include the right to make subsequent changes in such drawings without new consideration by the Board.
- (b) If it is necessary to make changes in a project following final approval, applicant shall immediately notify the Building Commissioner who will require applicant to submit revised drawings for consideration by the Board.
- (c) Failure by applicant to comply with this requirement will result in revocation of its approval of the original plans, and a request to the Building Commissioner that he revoke the building permit for the project until revised plans have been submitted and approved.
- (d) Applicant shall keep one set of approved drawings on the site during working hours and shall produce same when so requested by the Building Commissioner or other City official.
(Ord. 56-87. Passed 8-11-87.)

CHAPTER 155

Planning and Zoning Commission

155.01 Revised Master Plan.

CROSS REFERENCES

Organization, duties, powers - see CHTR. Art. VI §7

Zoning Code administration - see P. & Z. 1121.06

155.01 REVISED MASTER PLAN.

The revised Master Plan for the land use of the City, the text of which has been revised by the Regional Planning Commission of Cuyahoga County, dated June, 1972, and the Land Use Map, as revised by the City Engineer, dated June, 1972 are hereby approved and adopted. The Master Plan and Land Use Map are further revised on the recommendation of the Planning and Zoning Commission and the Planning and Zoning Committee of Council to reflect the land use of properties north of the Richmond Mall, east of Richmond Road, south of Highland Road, and west of Meadowlane as an R-1 Residential Use District as currently zoned.
(Ord. 12-79. Passed 2-13-79.)

CHAPTER 156

Advisory Board of Community Growth (Repealed)

EDITOR'S NOTE: Former Chapter 156 was repealed by Ordinance 41-85 passed May 14, 1985. The Richmond Heights Community Improvement Corporation has replaced the Board's duties and functions.

CHAPTER 157

Zoning Board of Appeals

EDITOR'S NOTE: Provisions relating to the Zoning Board of Appeals are codified in Chapter 1185 of the Planning and Zoning Code.

CROSS REFERENCES

Organization; duties - see CHTR. Art. VI. § 8

Enforcement powers - see P. & Z. 1131.02

CHAPTER 158

Health Services

EDITOR'S NOTE: The City contracts annually with the General Health District of Cuyahoga County for health services. Interested parties may obtain copies of the latest relevant legislation from the Clerk. There are no sections in Chapter 158 . This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Power to provide for public health - see Ohio R.C. 7150.37

Composition, term, vacancies and quorum - see Ohio R.C. 3709.02 et seq.

Contracts with cities to furnish services - see Ohio R.C. 3709.08

Organization and appointment with Health Commissioner; duties - see Ohio R.C. 3709.11

Orders, regulations and emergency measures - see Ohio R.C. 3709.21

CHAPTER 159

Employees Generally

- 159.01** Vacation.
- 159.02** Holidays.
- 159.03** Personal day.
- 159.04** Longevity pay.
- 159.05** Sick leave.
- 159.06** Emergency paid leave.
- 159.07** Medical benefits.
- 159.08** Additional work time policy.
- 159.09** Bonds.
- 159.095** Certificate of competence.

159.10 Assignment of compensation ranges; new positions.

159.11 Travel allowances and regulations.

159.12 Legal defense of and indemnification of City officers and employees.

159.13 Deferred Compensation Program.

159.14 Contract authorized by Council.

159.15 Life insurance.

159.16 Maternity leave policy.

159.17 Sexual harassment.

159.18 Family and medical leave. (Repealed)

159.19 Jury duty leave policy.

159.20 Communications device usage policy.

159.21 Vehicle use policy.

159.22 Military leave.

CROSS REFERENCES

Welfare - see Ohio Const., Art. II §34

Workers' compensation - see Ohio Const., Art. II §35; Ohio R.C. Ch. 4123

Civil Service Commission - see CHTR. Art. VI §6

Deductions for municipal income tax - see Ohio R.C. 9.42

159.01 VACATION.

(a) Each full-time employee of the City of Richmond Heights, including full-time hourly rate employees, shall be entitled to the following vacation, excluding legal holidays, with full pay for continuous service as follows:

Time of Continuous Service for Full-Time Employees

90 days up to 1 year	1 Calendar Week*
1-5 years	2 Calendar Weeks
6 years	2 Calendar Weeks 1 Day
7 years	2 Calendar Weeks 2 Days
8 years	2 Calendar Weeks 3 Days
9 years	2 Calendar Weeks 4 Days
10 years	3 Calendar Weeks
11 years	3 Calendar Weeks + 1 Day
12 years	3 Calendar Weeks + 2 Days
13 years	3 Calendar Weeks + 3 Days
14 years	3 Calendar Weeks + 4 Days
15 years	4 Calendar Weeks
16 years	4 Calendar Weeks 1 Day
17 years	4 Calendar Weeks 2 Days
18 years	4 Calendar Weeks 3 Days
19 years	4 Calendar Weeks 4 Days
20 or more years	5 Calendar Weeks

*Note: During the first year of a full-time employee's employment with the City, and after successfully completing a ninety (90) day probationary period, the employee may have one (1) day of vacation time, two (2) additional days of vacation after 180 days of continuous service, and two (2) more days of vacation after 270 days of continuous service, the scheduling of which shall be approved by the employee's supervisor.

(b) Each full-time employee of the City of Richmond Heights in the position of Director of Finance; Economic and Community Development Director; Chief of Police; Chief of Fire; Commissioner of Building, Zoning and Housing; Human Resources Director; and Director of Public Service and Properties shall, at a minimum, be entitled to the vacation benefits in paragraph one (1) above; however, the Mayor, at his/her sole discretion, may grant additional vacation days up to five (5) calendar weeks in total, to any employees in any of the five (5) positions set forth in this paragraph. Those employees who were receiving more than five (5) but no more than six (6) calendar weeks of vacation per year on April 22, 2014 shall continue to receive that amount of vacation time after April 22, 2014.

(Ord. 76-2022. Passed 6-14-22.)

(c) For the purpose of recruitment of new employees and the retention of employees for key positions that are difficult to fill and to retain productive employees due to widespread job market and economic conditions causing a shortage of candidates for such positions and causing current employees to seek higher compensated positions elsewhere, and where the positions require exceptional qualifications or professional certifications required by State law, the Mayor, at his/her sole discretion, may authorize a hiring or retention incentive for persons for such key positions which consists of vacation time in lieu of compensation, for up to two (2) calendar weeks in addition to the vacation benefits in subsection (a) of this Section, provided that the total value of such additional vacation days at the rate of pay for such position shall not cause the employee's total compensation to exceed the maximum compensation authorized herein in the pay range for that position. The Mayor is also authorized for the purpose of recruitment of said key positions to permit an employee to use vacation time in such amount as may be authorized by the Mayor before the completion of the one-year anniversary date of his/her hire date, but not before completion of the ninety (90)-day probationary period for a new hire.

(d) Vacation time shall accrue to the employee upon each successive annual recurrence of the anniversary date of his/her appointment. Vacations shall be taken by the employee during the year after which it has accrued and prior to the next recurrence of the anniversary date of his/her appointment, provided, that an employee may carry over or cash in a maximum of one-third of his/her earned annual vacation time which must be used within ninety (90) days immediately following the employee's anniversary date for the year in which he/she was entitled to such vacation time.

(e) All earned vacations shall be taken at such time as shall be approved by the Department Head or Mayor. During vacations, employees shall receive their current salary or the proportionate amount thereof, if the Mayor or Department head schedules such vacations into shorter periods for the convenience of the conduct of City business.

(f) The anniversary date of employment for the purpose of computing the amount of vacation any employee is entitled to shall be the date on which the employee began employment with the City of Richmond Heights. Credit for prior service with the City of Richmond Heights shall not be given for purposes of computing the amount of vacation time any employee is entitled to receive, except in the situation where a former employee returns to the employment of the City within one year of having left City employment and the termination of the former employment with the City was not for disciplinary reasons. Vacation credit shall not accrue from prior service with the State or any other political subdivision of the State, Section 9.44 of the Ohio Revised Code being specifically deferred by this section.

(Ord. 31-2022. Passed 4-26-22.)

159.02 HOLIDAYS.

All full-time employees of the City shall receive the following thirteen (13) paid holidays. Appointed and elected officials will observe holidays with arrangements for continuity of critical services.

New Year's Day
Martin Luther King Jr. Day
Good Friday
Memorial Day
Juneteenth
Independence Day
Labor Day
Indigenous Peoples Day (2nd Monday of October)
Thanksgiving Day
Christmas Eve Day
Christmas Day
New Year's Eve
Employee's Birthday.

(Ord. 24-2023. Passed 2-14-23.)

159.03 PERSONAL DAY.

Effective January 1, 2017, after one year of continuous employment with the City, each full-time employee of the City shall receive two (2) personal days per calendar year, which shall be a day off with pay. Such personal day shall not be considered a "holiday" or a "vacation" day and shall not be subject to any rules or regulations now established, or to be established, for regular holidays or vacation days. Personal days may be taken on an as-needed basis by December 15th of the year in which they are received with prior approval of the head of the Department or Division or the Mayor. Personal days cannot be cashed out.

(Ord. 24-2023. Passed 2-14-23.)

159.04 LONGEVITY PAY.

(a) Each full-time employee who began such service with the City prior to April 22, 2014 and who remains in continuous service with the City in a full-time capacity shall receive an annual longevity pay in accordance with the following schedule:

Less than 5 years full-time service	None
After 5 years full-time service	2% of Base Pay
After 10 years full-time service	3% of Base Pay
After 15 years full-time service	4% of Base Pay
After 20 years full-time service	5% of Base Pay

(Ord. 24-2023. Passed 2-14-23.)

159.05 SICK LEAVE.

(a) Each full-time employee of this municipality shall be entitled to sick leave of four and six-tenths (4.6) hours for each completed eighty (80) hours of regular straight time service.

Overtime hours worked by any employee shall not be included in the calculation of sick leave credit.

(b) Each full-time employee may use sick leave, upon approval of the responsible administrative officer, for absence due to illness, injury and exposure to contagious diseases which could be communicated to other employees. In the event of serious illness or death in the immediate family, sick leave may be used as emergency paid leave in the manner set forth in Section 159.06. Immediate family is defined as and limited to: Parents, Spouse, Children, Brothers, Sisters, Grandparents, Mother-in-Law and Father-in-Law.

(c) Employees may also be eligible for Family Medical Leave pursuant to the Richmond Heights Family and Medical Leave Policy, as adopted by the Mayor from time to time, and 29 U.S.C. §2601, et seq. (the "FMLA"). Eligible employees may be entitled to Family Medical Leave because of the birth of a son or daughter and in order to care for such son or daughter; because of the placement of a son or daughter with the employee for adoption or foster care; in order to care for the employee's spouse, or a son, daughter, or parent, if such spouse, son, daughter or parent has a serious health condition; and/or because of a serious health condition that makes the employee unable to perform the functions of the employee's position.

(d) When sick leave is used, it shall be deducted from the employee's credit on the basis of one hour for every one hour of absence from previously scheduled work.

(e) Unused sick leave shall be cumulative without limit. The previously accumulated sick leave of an employee who has been separately from the public service of this municipality may be placed to his credit upon the employee's re-employment by the City.

(f) Each full-time employee covered by this section upon retirement from the City will receive payment for one-third (1/3) of the employee's accrued unused sick leave, but not to exceed nine hundred sixty (960) hours. The payment authorized hereby shall be at the annual salary rate of the employee at the time of retirement divided by 2,080 hours for all full time City employees covered by this Ordinance. An employee may have the option of taking this payment as a lump sum or to replace regular hours up to the maximum hours allowed for the lump sum payment.

(g) The Mayor or the responsible administrative officer may require the employee to furnish a satisfactory affidavit that the employee's absence was caused by illness due to any of the causes mentioned in this section.

(h) Any full-time employee that has not used any sick leave during a calendar quarter (January 1st through March 31st; April 1st through June 30th; July 1st through September 30th; October 1st through December 31st) shall be given the equivalent of one day (8 hours) pay for that quarter.

(Ord. 24-2023. Passed 2-14-23.)

159.06 EMERGENCY PAID LEAVE.

(a) All City employees are eligible for consideration for the following emergency paid leave.

(b) The Mayor may allow an employee paid time off work, not to exceed three (3) eight-hour days, because of death in his or her family of a mother, father, sister, brother, spouse, child, grandparent, mother-in-law, and father-in-law. In the event of the death of other relatives in the employee's immediate family, the Mayor may, within the above limitation, allow such time off as he deems necessary depending on the circumstances of each situation. The use of emergency leave is a privilege which must be specifically requested by the employee or his or her head of the Department or Division and granted by the Mayor and does not automatically consist of the maximum time allowed but is up to the discretion of the Mayor. In cases where more time off is desired than granted, the employee shall request, in advance, the use of his accrued vacation leave credits for each additional time.

(Ord. 24-2023. Passed 2-14-23.)

159.07 MEDICAL BENEFITS.

(a) The City of Richmond Heights will institute a comprehensive insurance plan for health care benefits for all full-time non-bargaining unit employees, the terms of which may change from time to time at the City's sole discretion.

(b) Each full-time, non-bargaining unit employee shall contribute fifteen percent (15%) of the actual cost of her or his particular health insurance plan, including fifteen percent (15%) of the actual cost of the dental and eye care plan, through a pre-tax payroll deduction.

(c) Any employee who is eligible to receive health care benefits from the City and who agrees in writing not to receive any health care, dental care and vision care benefits from the City, shall receive a payment of three hundred dollars (\$300.00) per month in lieu of receiving such benefits.

(d) The City shall be responsible on behalf of employees, depending on their insurance plan status (family or single), for up to either five thousand dollars (\$5,000) of the family deductible or up to two thousand five hundred dollars (\$2,500) of the single deductible through a Health Reimbursement Account (HRA). The City will establish a Health Reimbursement Account (HRA) which will be administered by a qualified third-party administrator selected and paid for by the City.

(e) All part-time non-bargaining unit employees and elected officials may participate in the City's comprehensive insurance plan for health care benefits, but each such employee and elected official shall be solely responsible for the cost of all premiums for that employee's or official's or the employee's/official's family, participation in the plan and such employees and elected officials shall not be eligible to participate in any health reimbursement arrangement plan. (Ord. 24-2023. Passed 2-14-23.)

159.08 ADDITIONAL WORK TIME POLICY.

(a) Except as provided otherwise by this chapter, the additional work time policy for all non-exempt (NEx) employees shall be as follows: Time worked over forty (40) hours in one work week during any calendar year shall be taken as paid compensation or as approved in writing by the head of the department or division, may be taken as time off no later than October 1 of the following year. Additional time taken as paid compensation or as time off shall be calculated at the rate of time and one half. The rate of any paid compensation shall be the rate in effect as of the dates when the additional work time accrued and will be paid to the employee for the pay period in which the additional work time accrued. Any additional work time must be approved in advance by the head of the applicable department or division.

(b) Beginning January 1, 2009, Salaried Exempt (SEx) employees may only accumulate time off for any time required to be worked over a normal forty-hour work week as is approved in writing by the Mayor. Accumulated time shall not be taken as paid compensation. This time will be accumulated at a one-to-one ratio of time worked to accumulated time-off. Time accumulated during any calendar year shall be taken as time off no later than October 1 of the following year. It may only be used to replace regular work hours and will not be paid out to the employee upon the employee leaving City employment for any reason.

(c) All additional work time shall be submitted to and tracked by the Department of Finance.

(Ord. 24-2023. Passed 2-14-23.)

159.09 BONDS.

All employees of the City shall be covered by a five hundred thousand dollar (\$500,000) blanket bond. The Director of Finance shall be covered by an additional, separate forty thousand dollar (\$40,000) bond, each year.

(Ord. 24-2023. Passed 2-14-23.)

159.095 CERTIFICATE OF COMPETENCE.

The accumulated time policy for all employees, excluding full-time nonprobationary members of the Police Department except the Chief of Police and full-time nonprobationary members of the Service Department except for the Service Director, shall be as follows. Any full-time employee of the City who attains the age of sixty-five years shall be required to present a certification prior to the thirtieth day of June of each year by a physician licensed to practice in Ohio, which physician is mutually acceptable to the City and the employee, that such employee is physically and mentally competent to perform the duties of the particular position which he occupies. (Ord. 110-91. Passed 6-11-91.)

159.10 ASSIGNMENT OF COMPENSATION RANGES; NEW POSITIONS.

(a) Compensation ranges are to recognize the value of job experience and performance. Specific compensation rates within the range will be recommended by the department head after appraisal reviews and approval of the Mayor.

(b) The assignment of compensation levels for each position shall be established by the comprehensive pay ordinance. Any new position to be proposed for change in existing levels due to changes in job classifications, work content or responsibility shall be:

- (1) Requested by the department head with an evaluation of work content, responsibilities and proposed level;
- (2) Reviewed, approved and recommended by the Mayor; and
- (3) Approved by Council ordinance creating or changing a position.

(Ord. 135-86. Passed 10-28-86.)

159.11 TRAVEL ALLOWANCES AND REGULATIONS.

When an employee, elected official or appointed official of the City is authorized to travel on official City business (for purposes of this section, such persons are hereinafter referred to as an "Authorized Person"), the City provides for reimbursement for mileage and other travel-related expenses, as follows:

- (a) Mileage Allowance.
 - (1) All Authorized Persons shall be compensated for their mileage for use of their private vehicles for travel for official City business in an amount equal to the current amount permitted to be deducted by the United States Internal Revenue Service for such use. Such compensation will not be afforded an Authorized Person when he or she has available to him or her a City-owned vehicle.
 - (2) An Authorized Person will be reimbursed for actual miles driven in his/her private vehicle. However, in the circumstance where the Authorized Person's place of work is located between the Person's place of residence and the destination of travel, and vice versa, his/her mileage to commute to and from his/her place of residence to and from his/her place of work shall be subtracted from the total mileage for the trip.
 - (3) City-owned vehicles shall be used in place of private vehicles whenever practical.
 - (4) Gasoline, damage to private vehicles and needed service or repairs to private vehicles as a result of their use for official City business are the responsibility of the Authorized Person, since these costs are included in the per mile cost reimbursement.
- (b) Daily Travel Allowance. An Authorized Person will be reimbursed with a valid itemized receipt or may have the City pay expenses directly for the following expenses:
 - (1) Lodging.
 - A. Lodging will be reimbursed at an amount not to exceed the per diem allowance rates in effect per the United States Internal Revenue Service Code or publications (currently Publication #1542). The only exceptions to this limit on reimbursement are: (i) when the Authorized Person is staying at the same hotel or lodging facility where an authorized convention, conference, seminar or meeting, etc. (the "Event") is being held; or (ii) when lodging cannot be found within a one mile radius of the Event at the IRS per diem rate; however, in both circumstances, the limit should not exceed any special Event rate or a government rate, when available.
 - B. Reimbursement for lodging shall only be at the single person rate and at the government rate or other lowest available rate. A receipt must show the itemized cost to be eligible for reimbursement.
 - C. Overnight lodging is only reimbursable at greater than 100 miles from Richmond Heights City Hall or the Authorized Person's personal residence, whichever is the place of departure for the trip, unless prior written authorization is obtained from the Mayor or the Mayor's designee for special circumstances.
 - (2) Meals.
 - A. Meals will be reimbursed at an amount not to exceed the per diem allowance rate in effect per the United States Internal Revenue Service Code or publications (currently Publication #1542) and shall include tips of no more than fifteen percent and sales tax. The costs for breakfast, lunch, and dinner combined shall not exceed the total per diem rate regardless of the cost of any one meal during that particular day.
 - B. No meal reimbursement will be provided for travel completed within one business day. For Authorized Persons whose travel involves an overnight stay, the City provides reimbursement for meal expenses on a per diem basis only with the submission of actual itemized receipts.
 - C. If meals are included in registration fees for conventions, conferences, seminars, or meetings, etc., duplicate meals shall not be reimbursed.
 - D. Alcohol expenditures shall not be reimbursed.
 - (3) Incidentals. Incidentals expenses incurred that are directly related to a convention, conference, seminar or meeting may be reimbursed. Incidentals expenses include cab fares and tips not to exceed fifteen percent to cab drivers for transportation between an airport, bus or train station, a hotel and the convention, conference, seminar, or meeting, etc. and the books or supplies necessary for use at the convention, conference, seminar or meeting, etc.
- (c) Personal Benefits.
 - (1) No personal benefits such as frequent flyer miles, rewards, prizes, etc. shall be procured by an Authorized Person when traveling at the City's expense.
 - (2) No Authorized Person shall accept, solicit, or use his/her position to secure for personal travel, discounted, bonus, or free air travel tickets, hotel stays, or other benefits based upon travel services accrued while in his/her official capacity.
- (d) Miscellaneous.
 - (1) Pre-Approval of Travel. City employees shall have all travel for official City business purposes approved by the head of the department prior to departure.
 - (2) Receipts. All travel expenses require detailed receipts sufficient to enable the Department of Finance to reimburse employees.
 - (3) Entertainment. No reimbursement shall be made for any form of entertainment, including in-room movies.
 - (4) Rental cars. Reimbursement for the cost of the authorized rental of mid-size or smaller passenger vehicles will be made, but not for any specialty vehicles. Larger vehicles may only be rented and reimbursement therefor made when the number of business travelers warrants a rental. Reimbursements for rental cars are authorized only if their use is more economical than any other type of transportation.
 - (5) Parking and Tolls. Reimbursement for parking fees and tolls will be made upon submission of proper receipts.
 - (6) Air Travel Only. Coach airfare, including applicable fees and taxes will be reimbursed. A receipt must show the travel itinerary and cost breakdown to be eligible for reimbursement.
 - (7) Baggage. Additional fees for baggage affiliated with air travel (if applicable) will be reimbursed with an appropriate receipt.
 - (8) Travel Insurance. Travel insurance shall not be reimbursed.
- (e) Procedures for Reimbursement. The Director of Finance is authorized to establish procedures for reimbursement relating to this section.
(Ord. 61-2012. Passed 9-25-12.)

159.12 LEGAL DEFENSE AND INDEMNIFICATION OF CITY OFFICERS AND EMPLOYEES.

- (a) The Law Director shall represent as counsel, without charge to the person involved, any City officer or employee in connection with any claim, suit for damages, or other action against such person arising in connection with the performance by such officer or employee of his public duties in the employment of the City, provided that such officer or employee may have his own counsel to assist in the defense at the expense of the employee or officer.
- (b) For the purposes of this section, "officer" includes any elected or appointed official of the City and "employee" includes all employees of the City, whether under civil service or not.
- (c) Any officer or employee who is found liable for the payment of any claim or damages, by way of judgment or settlement, shall be entitled to indemnification by the City, where the acts resulting in such liability were done in good faith, without malice, within the scope of authority of the employee or officer and such employee or officer has not acted in a willful or wanton disregard of the rights of individuals. Such indemnification shall be only in the amount in excess of any insurance coverage provided to the officer or employee.
- (d) Nothing in this section shall be construed as waiving the City's defense of governmental immunity to it or its employees or officers in any action brought against the City or such officer or employee.
- (e) The provisions of this section shall apply only where the City has been given prompt notice of any actions brought against any City employee or officer, based upon any action of such employee or officer within the scope of his authority as such.
(Ord. 135-86. Passed 10-28-86.)

159.13 DEFERRED COMPENSATION PROGRAM.

The Ohio Public Employees Deferred Compensation Program is hereby adopted by the City and the opportunity to join such Program is hereby extended to all eligible employees. The Mayor is hereby authorized and directed to enter into and execute a proper agreement with the Ohio Public Employees Deferred Compensation Board on terms and conditions which the Mayor determines are in the best interests of the City, which agreement shall authorize the Board to offer the Program to all eligible employees of the City and thereafter to administer such Program on behalf of such employees.
(Ord. 135-86. Passed 10-28-86.)

159.14 CONTRACT AUTHORIZED BY COUNCIL.

Should any of the employees of the City enter into an agreement authorized by the Council of the City concerning economic conditions and benefits, the terms of the agreement shall control the economic conditions and benefits of such employees and any conflicting provisions of this chapter shall be subject to and subordinate to the terms of the agreement for those covered employees.
(Ord. 135-86. Passed 10-28-86.)

159.15 LIFE INSURANCE.

All full-time, non-bargaining unit employees will be covered by a twenty-five thousand dollar (\$25,000) life insurance policy.
(Ord. 24-2023. Passed 2-14-23.)

159.16 MATERNITY LEAVE POLICY.

- (a) Any employment practice, policy or procedure which excludes from employment opportunities any employee due to pregnancy, childbirth or related medical conditions is hereby determined to be in violation of Title VII of the Civil Rights Act of 1964. No department head shall engage in any such practice within the City employment.
- (b) Definitions. For the purposes of this section, the following definitions shall apply:
 - (1) "Sick leave" means that permitted absence from work with pay as defined in Section 159.04.
 - (2) "Leave of absence" means a permitted leave of absence from work during which time benefits shall continue to accrue but salary and monetary compensation shall not be earned or paid.
 - (3) Calculation of days off - for the purpose of the policy, any leave of absence shall be calculated on the basis of calendar days and sick leave shall be calculated on the basis of five sick days equaling one calendar week.
- (c) Each female employee of the City shall be notified that it is the policy of the City to treat maternity related matters of pregnancy, childbirth and related medical conditions as follows:
 - (1) Any disability caused or contributed to by maternity related matters of pregnancy, childbirth or related medical conditions, shall be treated the same as disabilities caused or contributed to by other medical conditions. It is determined that a reasonable recuperation period, in the absence of extenuating medical problems, should not exceed sixty calendar days. (Sixty calendar days equals eight and one-half weeks or forty three days.)
 - (2) Any employee required to be absent from work due to pregnancy, childbirth or related medical conditions shall be entitled to use any existing sick leave for medical treatment for the employee or her child and for a period of time for recuperation of the employee not necessitating medical treatment not exceeding a total of forty-three sick days.
 - (3) In the event that an employee desires to not use sick leave credits for pregnancy related matters, she may request and receive a leave of absence without pay for a period of sixty calendar days, provided that such leave of absence is granted the employee shall not thereafter be entitled to use sick leave for pregnancy related matters.
 - (4) The employee shall apply for any necessary sick leave or shall apply for a leave of absence in lieu of sick leave upon the basis of pregnancy, childbirth or related medical condition as soon as she becomes aware of such condition.
 - (5) In the event the employee chooses the option of sick leave, after the exhaustion of forty-three days of sick leave credits, an employee may use, but shall not be required to use, vacation time for periods of disability caused or related to pregnancy, childbirth or related medical conditions.
 - (6) In the further event that an employee requires more time than she has entitlement to based upon sick leave, such employee may be granted up to a combination of sixty calendar days of sick leave and a leave of absence, without pay, during which her re-employment shall be guaranteed. For example, in the event an employee has sick leave entitlement to cover only thirty calendar days, she will be granted a leave of absence, without pay, for an additional thirty calendar days in order to have a minimum of sixty calendar days.
 - (7) In order to use sick leave for maternity matters beyond the forty-three sick days, the employee shall be required to submit a doctor's report setting forth that the employee is not physically capable to perform her duties and the specific medical problems of herself or her child which are causing such disability. Failure to supply such evidence of disability before the end of the sixty-calendar-day period will be considered an abuse of sick leave privileges.
 - (8) Due to unusual or prolonged medical problems, additional sick leave or leave of absence may be granted upon recommendation of the department head and approval of the Mayor for good cause shown.
 - (9) During any leave of absence for such purposes, the employees' benefits other than pay or compensation shall continue to accrue.
(Ord. 89-89. Passed 9-26-89.)

159.17 SEXUAL HARASSMENT.

(a) Policy. In accordance with Title VII of the Civil Rights Act of 1964 (Sec. 703), it is the policy of the City of Richmond Heights that all employees be allowed to work in an environment free from sexual harassment.

"Sexual harassment" is defined as any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Such conduct is a violation of an employee's rights and is expressly forbidden here in the City of Richmond Heights.

(b) Grievance Procedure. The following grievance procedure is established to investigate, hear and resolve the complaints of City employees in regard to sexual harassment.

- (1) Complaints of sexual harassment should be made in writing by the affected employee within fifteen working days of the incident which gave rise to the complaint. The complaint shall be made to the employee's Department Head and shall include the date, time and a description of the alleged harassment.
- (2) If it shall be inappropriate for the complainant to address the complaint to his or her Department Head where the accused and the Department Head are the same, then the complaint shall be addressed directly to the Mayor.
- (3) The Department head shall be responsible for forwarding the complaint to the Mayor immediately upon receipt. Within five working days of receipt of the written complaint and upon notice to all parties, an administrative hearing will be held. The complainant, accused, Department Head and Mayor shall attend the hearing. Any and all parties may be represented by legal counsel.
- (4) Violation of this policy may result in an oral reprimand, written reprimand, suspension from duty without pay for a special period of time or dismissal.
- (5) In determining whether the alleged conduct constitutes sexual harassment, the Mayor will look at the record as a whole and the totality of the circumstances, such as the nature of the sexual advances and the context in which the alleged incidents occurred. The determinations of the legality of a particular action will be made from the specific facts on a case-by-case basis.
- (6) Each Department head will advise of and review with each employee in the particular department the adoption of this policy and complaint procedure.
- (7) The Mayor shall render a decision within five working days of the hearing based upon the complaint and all other resources available.

(Ord. 71-92. Passed 8-25-92.)

159.18 FAMILY AND MEDICAL LEAVE POLICY. (REPEALED)

(EDITOR'S NOTE: Former Section 159.18 was repealed by Ordinance 54-2009, passed August 25, 2009.)

159.19 JURY DUTY LEAVE POLICY.

- (a) Employees required to serve on jury duty in a court of competent jurisdiction shall continue to receive their regular rate of pay from the City during said jury duty.
- (b) Employees serving on jury duty shall return to the City any and all compensation received as a result of the required jury duty service.
- (c) Employees who are required to appear in courts of competent jurisdiction for reasons outside of the scope of their employment with the City, other than jury duty, may be granted vacation leave or an excused absence without pay, provided that:
 - (1) Documentation of the requirements to appear in the Court in the form of a subpoena is provided to the employee's supervisor; and
 - (2) The request for said leave is made in writing to the employee's immediate supervisor at least forty-eight hours in advance of the required court appearance.

(Ord. 10-2003. Passed 3-11-03.)

159.20 COMMUNICATIONS DEVICE USAGE POLICY.

- (a) City-issued cellular telephones, pagers, radios, desk telephones and similar communications devices are intended for official business use. For purposes of this section, City-issued cellular telephones, pagers, radios, desk telephones and similar communications devices are collectively termed "Communications Device or Devices".
- (b) Communication Devices shall be issued only to those employees with a demonstrated City business for these types of communication. When an employee no longer has a demonstrated need for the Communications Device, or when the employee terminates employment with any particular City department or office, that employee shall return any Communications Device equipment to that department or office.
- (c) Employees who use a City-issued Communications Device shall agree to the following rules of use:
 - (1) Employees shall limit all use of Communications Devices to what is reasonably necessary to conduct City business.
 - (2) Personal use of a Communication Device is permitted. Such personal use, however, must be clearly incidental to City business use. Such personal use shall be infrequent and of short duration. Supervisors are responsible for monitoring an employee's usage.
 - (3) Employees must reimburse the City for any costs associated with personal use of Communications Devices. In the event an employee refuses to reimburse the City for costs associated with the employee's personal use of a Communication Device, the cost will be deducted from the employee's compensation from the City.
 - (4) If an employee uses the employee's personally-owned communications device to make or receive personal calls while on duty, such communications shall be infrequent.
 - (5) Employees must safeguard any Communications Devices in their possession from theft or use by unauthorized persons.
 - (6) The loss, or damage, of any Communications Device shall be reported to the employee's supervisor immediately. If theft is suspected, the City's Division of Police shall also be notified immediately and a police report shall be completed.
 - (7) Employees shall exercise extreme caution when driving and using Communications Devices. Employees shall not text or perform any other type of messaging while driving. Unless utilizing a hands-free speakerphone option, employees shall stop their vehicles as soon as safely possible, to use a Communications Device.
- (d) All employees shall be given a written copy of this section to read and shall sign a form provided by the City which acknowledges they have read and understand this section.

(Ord. 70-2011. Passed 10-23-11.)

159.21 VEHICLE USE POLICY.

(a) Purpose. The purpose of this policy is to establish standard requirements and procedures in accordance with applicable provisions of the Internal Revenue Code for the City of Richmond Heights employees who are assigned a City-owned or leased vehicle (hereinafter in this section such vehicles are collectively referred to as "City Vehicle(s)") in the course of providing City services and conducting City business. This policy is intended to ensure the safety and well-being of City employees, to facilitate the efficient and effective use of City resources, to minimize the City's exposure to liability, to monitor the use of City Vehicles, and to comply with Internal Revenue Service regulations relating to City Vehicle usage.

(b) General Provisions.

- (1) City Vehicles are to be utilized exclusively for City business and matters relating to the operation of the services provided by the City to the community. This policy covers all vehicles owned and leased by the City.
- (2) Any violations of this section may result in disciplinary action including, but not limited to, verbal warning, written reprimand, time off without pay (suspension), loss of use of City Vehicle(s), and/or termination.
- (3) All employees assigned a City Vehicle are required to sign a statement indicating that they have read and will comply with this section.

(c) Assignment of City Vehicles.

- (1) No City Vehicle shall be used or operated for the daily purpose of transporting any City employee to and from work unless one or both of the following conditions apply:
 - A. The operator of the City Vehicle is on a 24-hour call to meet valid emergency situations. These operators are as follows: the Mayor, Police Chief, Fire Chief, Service Director, Canine Unit Police Officer, and the Service Department foreman. (These operators will be required to maintain reports that will segregate commuting mileage from City business-related mileage); and/or
 - B. The head of the department to which the City Vehicle is assigned provides justification to the Mayor that such take home use is in the best financial interest of the City.
- (2) The Director of Finance shall report the use of City Vehicles in accordance with the guidelines of the Internal Revenue Service Code. The City Vehicles are not an inducement for employment nor should they be considered as compensation.

(d) Use Regulations.

- (1) All operators of City Vehicles shall possess a valid Ohio driver's license and shall be properly licensed in accordance with Ohio law to operate the class of City Vehicle so operated. All operators of City Vehicles shall provide to the head of their department proof of being so licensed upon request and in any event each time his or her license is renewed. Each employee who operates a City Vehicle must provide a copy of his or her license to the head of the department who shall be responsible for maintaining a current list of all employees' licenses who may operate a City Vehicle.
- (2) In the event an employee's driver's license expires or is revoked, suspended, forfeited or restricted in any manner, the employee shall be required to report that information within 72 hours of its occurrence to the head of the employee's department, or within 24 hours of returning from vacation or other authorized leave if the expiration, revocation, suspension, forfeiture or restriction occurred during such leave.
- (3) No employee shall operate a City Vehicle or heavy equipment or machinery if any of the following apply:
 - A. The person is under the influence of alcohol or any drug of abuse, or the combined influence of alcohol and any drug of abuse;
 - B. The person has a concentration of four-hundredths (.04) of one percent or more by weight of alcohol in his blood;
 - C. The person has a concentration of four-hundredths (.04) of one gram or more by weight of alcohol per 210 liters of his breath; or
 - D. The person has a concentration of six-hundredths (.06) of one gram or more by weight of alcohol per 100 milliliters of his urine.
- (4) Persons who are not City employees are not permitted to ride in a City Vehicle except for business related reasons (e.g., carpooling to a permitted City-authorized function).
- (5) Only authorized City employees are permitted to operate City Vehicles. Persons who are not City employees shall not operate City Vehicles.
- (6) Seatbelts are to be used at all times when driving or being a passenger in a City Vehicle.
- (7) Any employee who sustains or causes injury or damage to any person or property while in possession of or being assigned a City Vehicle shall report such damage or injury immediately to any governmental authority as is required by law and thereafter promptly report in writing the details of such occurrence to the head of his/her department. Failure to promptly report the details of any occurrence to the employee's department head may result in disciplinary action, up to and including termination.
- (8) De minimis personal use of City Vehicles by authorized employees is only permitted where such personal use is de minimis and incidental to his or her use of the City Vehicle for the City's business, and does not result in:
 - (1) A significant deviation from the course of travel on City business;
 - (2) Exposure of the City Vehicle to substantial additional risk of loss or damage;
 - (3) Exposure of the City to substantial additional risk of liability.
- (9) Only City-owned gasoline and other Vehicle fluids and parts shall be placed into City Vehicles, unless the City Vehicle is used for a City-authorized trip where the mileage necessary for the trip requires use of gasoline not owned by the City. No employee is permitted to place City-owned gasoline or other fuel in his or her personal or other private vehicle under any circumstances.
- (10) The Mayor, with the advice of the head of the department, may grant temporary use of City Vehicles for purposes of commuting to and from an employee's home when deemed appropriate or necessary. Temporary permission is limited to three days and for exigent circumstances.
- (11) Employees may use City Vehicles for official City business upon the approval of the employee's immediate supervisor.
- (12) All City Vehicles shall display the City emblem and vehicle number, except for certain unmarked vehicles and covert license plates (tags) used by the City in undercover investigatory operations.
- (13) It is the responsibility of the head of each City department to provide for the keeping and maintaining of mileage logs regarding use of City Vehicles, except for those City Vehicles used by the Service Department for the provision of City services within the City's corporate limits and except for City Vehicles used by the City's Divisions of Police and Fire to provide direct safety services.
- (14) Regular safety checks of City Vehicles must be done by all drivers. Any faults in City Vehicles shall be reported immediately to the head of the driver's department for the issuance of a work order for repair.
- (15) City Vehicles must be kept neat and clean inside and outside. Windows and doors shall be closed and locked when not in use.
- (16) The City reserves the right to review the continuing need for any City Vehicle assignment.

(Ord. 27-2012. Passed 5-18-12.)

159.22 MILITARY LEAVE.

- (a) An employee who is a member of the Ohio National Guard, the Ohio Air Guard, the Ohio Naval Militia, or other reserve components of the armed forces of the United States shall be entitled to leaves of absence from his or her respective duties for such time as he or she is in required military service on field training or active duty for up to a maximum of one hundred seventy-six (176) scheduled working hours per calendar year pursuant to Section 5923 of the Ohio Revised Code. Such leave shall be granted without loss of such pay or benefits as would normally be provided. This restriction does not apply to initial active duty training or deployments to active duty at a time of military crisis or because of an executive order by the President of the United States.
- (b) If a full-time employee remains in the uniformed service beyond any period entitling him or her to full pay provided by the Ohio Revised Code, which is currently twenty-two (22), eight (8) hour work days or 176 hours in any one calendar year, the Director of Finance is then authorized to continue to compensate the employee the difference between his or her gross base military pay while the employee remains in military service.
 - (1) No such differential pay shall be issued in the event that an employee's military pay or compensation exceeds his or her base City pay.
 - (2) Before the employee commences military leave, he or she must provide the Director of Finance with accurate military pay information for the period he or she will be in such military service, whether on field training, weekend training or on active duty.

(c) Before an employee takes military leave, he or she must give advance notice to his or her supervisor in writing as soon as the employee is made aware of the military orders, unless such notice is precluded by military necessity or is otherwise impossible or impracticable.

(d) Military leave from scheduled duties shall not affect the employee's rights to vacation leave, sick leave, bonuses, seniority rights or other normal benefits of his or her employment that would have been attained if the employee had not taken military leave. An employee with group health coverage provided by the City shall be entitled to continue such coverage for up to twenty-four (24) months beginning with commencement of military leave pursuant to subsection 159.23(b), subject to payment of the full cost of such group health coverage plus an administrative fee of two percent (2%), as permitted by federal law.

(e) If an employee goes on military service while within a bona fide probationary period of training and/or observation in his or her City employment position, the remaining probationary period shall apply following reemployment. As otherwise provided herein and under state and federal law, when an employee completes such probationary period, the employee's pay and seniority should reflect both the pre- and post-serice time in the probationary period plus the time served in the military.

(Ord. 109-2017. Passed 11-14-17.)

CHAPTER 161

Conflict of Interest

161.01 Prohibitions during employment.

161.02 Prohibitions after termination of employment.

161.03 Council; disclosure of interests.

161.04 Board of Ethics established.

161.99 Penalty.

161.01 PROHIBITIONS DURING EMPLOYMENT.

No officer, member of Council or member of any board or commission, employee, or appointee of the City shall:

- Be financially interested in any contract, job, work or service with or for the City, nor in any contract, job, work or service for which approval thereof will be required by elected officials or any officer, employee or appointee to any board or commission, nor in the profit or emoluments thereof, nor in the expenditure of any money on the part of the City other than in his fixed compensation and expenses. Any contract with the City in which any officer or employee is or becomes financially interested may be declared void by the Mayor or Council. Such interest shall disqualify any such officer or employee from holding office, in addition to the other penalties provided by law;
- Act, directly or indirectly, as attorney, agent, broker, finder, engineer, architect or employee or in any other capacity, in behalf of any private person, firm or corporation interested, directly or indirectly, in any manner whatsoever, in any contract, work or business, or the sale or acquisition of any property, the cost of which is payable from City funds;
- Engage in the practice of law or represent or appear in behalf of an individual or individuals in any court in any matter or controversy in which the City is or may become a party, except on behalf of the City as an officer or employee, or voluntarily give opinion evidence against the interests of the City in any litigation in which the City is a party; or
- Appear before any board of commission of the City as counsel, attorney or agent, except that the Mayor or a member of Council may appear in behalf of a constituent or constituents without compensation therefor, or in the performance of a public obligations or official duties.

(Ord. 107-77. Passed 11-8-77.)

- In addition to any other provisions related to a conflict of interest, each elected official of the City shall, prior to a matter being brought before Council for consideration, make a full public disclosure of any business or financial relationship, including campaign contributions made prior to their election, which such member has, or has had within the twelve-month period prior to such matter coming before Council, with:
 - The applicant for a variance or the applicant in a zoning case; or
 - The title owner, contract purchaser or lessee of the land that is subject of the application; or
 - Any trust beneficiary having an interest in such land, if any of the foregoing is a trustee (other than a trustee under a corporate mortgage or deed of trust securing one or more issues of corporate mortgage bonds); or
 - The agent, attorney or real estate broker of any of the foregoing.
- For the purpose of this subsection, "business or financial relationship" means any relationship (other than any ordinary customer or depositor relationship with a retail establishment, public utility or bank) which an elected official has with any of the persons specified above.
- For the purpose of this subsection, "business or financial relationship" also means the receipt by the elected official from any person specified above, during the twelve-month period prior to the matter coming before Council, or any gift, campaign contribution or donation having a value of one hundred dollars (\$100.00) or more.
- If, at the time of the matter coming before Council, an elected official has a business or financial interest, as above defined, with the persons specified above, that official shall, prior to any hearing on the matter or at such hearing, make a full public disclosure of such relationship and that official shall be ineligible to vote or participate in deliberations, or attempt to influence the vote of any other elected official in any way in such matter or in any hearing thereon.

(Ord. 90-89. Passed 10-10-89.)

- Subsections (a) and (b) do not apply to a public contract in which a City officer, member of Council or member of any board or commission, employee, or appointee has an interest, when all of the following apply:
 - The subject of the public contract is necessary supplies or services for the City;
 - The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the City as part of a continuing course of dealing established prior to the public official's becoming associated with the City;
 - The treatment accorded the City is either preferential to or the same as that accorded other customers or clients in similar transactions; and
 - The entire transaction is conducted at arm's length, with full knowledge by the City, through its Mayor and the Council, of the interest of the public official, and the public official takes no part in the deliberations or decisions of the City with respect to the public contract.
- For purposes of this section, "public official" means any officer, the Mayor, member of Council or member of any board or commission, employee or appointee of the City of Richmond Heights.
- For purposes of this section, "contract" means any agreement, job, work, services or furnishing of materials or supplies from which there is derived any profit, emoluments or compensation of any kind, whether monetary or in kind.

(Ord. 52-2001. Passed 6-26-01.)

161.02 PROHIBITIONS AFTER TERMINATION OF SERVICE.

(a) No person shall, for a period of one year after the termination of services as an officer or an employee of the City, appear before any board or commission of the City as attorney, engineer, architect, broker, finder, agent, employee or representative for or in behalf of any person, firm or corporation, whether receiving compensation for any services rendered thereto or not, in relation to any matter which was under his charge, or which was within the jurisdiction of the position he held, the department he was employed in, or the board or commission on which he served, during the period of his services as such officer or employee. Nor shall any such officer or employee, during such period of time, appear before any board or commission before which he appeared on behalf of the City as a part of his duties while an officer or an employee of the City, regardless of the subject matter and regardless of the fact that the subject matter was not under his charge or within the jurisdiction of his former position, department, board or commission.

Any contract with the City in which any officer or employee is or becomes financially interested may be declared void by the Mayor, Council or appropriate department head. Such interest shall disqualify any such officer or employee from holding any public office in the Municipality for a period of five years from the discovery of the same in addition to the other penalties provided by law.

(b) No person named in Section 161.01, after termination of his services, shall accept employment as an attorney-at-law in any particular matter which he has investigated or passed upon while in such office or employ, or engage in the practice of law before any court in any litigation in which the City is a party and which involves any such matter.

(Ord. 107-77. Passed 11-8-77.)

161.03 COUNCIL; DISCLOSURE OF INTERESTS.

A member of Council shall publicly disclose on the official records of Council any direct or financial interest or other personal or private right that he may have in any legislation pending before Council prior to its passage, however, such disclosure shall not deprive the member of Council of his right to vote on such legislation nor shall the failure of any member of Council to make such disclosure affect the validity of the legislation.

(Ord. 33-70. Passed 7-14-70.)

161.04 BOARD OF ETHICS ESTABLISHED.

(a) There is hereby established a Board of Ethics, consisting of three members who shall be residents of the City and appointed by the Mayor, with the approval of Council. Such members shall serve without compensation for three-year terms except that of the original appointment, one member shall be appointed for a three-year term, one shall be appointed for a two-year term, and one shall be appointed for a one-year term. The Board shall select its own chairman and set its own rules.

(b) It shall be the duty of the Board to render advisory opinions with respect to the provisions of Sections 161.01 and 161.02, and it shall perform such other related duties as may be provided by ordinance. Such advisory opinions shall be rendered pursuant to the written request of a member of Council or any officer or employee of the City. All such advisory opinions shall be made public by the Board.

(Ord. 33-70. Passed 7-14-70.)

161.99 PENALTY.

Whoever violates any of the provisions of this chapter shall, in addition to other penalties specified in this chapter or provided by law, be fined in an amount not to exceed five hundred dollars (\$500.00) or imprisoned for not more than six months, or both.

(Ord. 107-77. Passed 11-8-77.)

CHAPTER 162

Diversity, Equity and Inclusion Advisory Committee

162.01 Establishment and charge.

162.02 Definitions.

162.03 Organization.

162.04 Purpose and intent.

162.05 Meetings.

162.01 ESTABLISHMENT AND CHARGE.

- There is hereby established a Diversity, Equity and Inclusion Advisory Committee for the City of Richmond Heights.
- The Diversity, Equity and Inclusion Advisory Committee shall make recommendations to the Mayor and Council on matters pertaining to methods, policy, opportunities and avenues for the promotion of diversity, equity and inclusion which may be implemented by the Council and the City administration for the betterment of the citizens of the City. (Ord. 99-2022. Passed 9-13-22.)

162.02 DEFINITIONS.

- "Committee" means the Diversity, Equity and Inclusion Advisory Committee of the City of Richmond Heights, as established by this Chapter.
- "Diversity, Equity and Inclusion" means policies and programs that promote the representation and participation of different groups of individuals, including people of different ages, races and ethnicities, national origin, abilities, genders, gender identities, religions, cultures, sexual orientations and socio-economic statuses.

(Ord. 99-2022. Passed 9-13-22.)

162.03 ORGANIZATION.

- The Committee shall consist of five (5) members who shall be residents of the City of Richmond Heights, and who shall be appointed by the Mayor with the confirmation by a majority vote of Council members; all of whom shall serve terms of two (2)-years each; and all of whom shall be eligible to continue to serve on such Committee by continued appointment thereto by the Mayor, with the confirmation by a majority vote of Council members, with no limit on the number of terms.
- Vacancies occurring in the Committee, other than expiration of the term of office, shall be only for the unexpired portion of the term of the member replaced.
- Vacancies shall be filled by the Mayor according to the original selection as aforesaid.

- (d) The Committee shall appoint a Chair and Vice Chair from its members.
- (e) Members shall serve without compensation.
- (f) A simple majority of voting members of the Committee shall constitute a quorum for the transaction of business.
- (g) The Committee shall designate a member to serve as the Secretary. The Secretary shall be responsible for maintaining written minutes of the Committee's meetings. The Mayor may appoint a person to take minutes of the Committee's meetings.
- (f) All meetings of the Committee shall comply with State of Ohio open meetings laws. (Ord. 99-2022. Passed 9-13-22.)

162.04 PURPOSE AND INTENT.

The purpose and intent of the Committee shall be to:

- (a) Develop ideas and strategies to enhance diversity, equity and inclusion and create a culture of acceptance and mutual respect that acknowledges differences and strives for equity.
- (b) Provide advice and recommend to the Mayor and Council regarding processes, policies and actions to enhance diversity, equity and inclusion.
- (c) Establish goals for the enhancement of diversity, equity and inclusion and report to the Mayor and Council on the progress of achieving those goals.
- (d) Develop action steps to address the public health crisis of racism.
- (e) Make an annual report to the Mayor and Council in December of each year.

(Ord. 99-2022. Passed 9-13-22.)

162.05 MEETINGS.

The Committee shall meet at least monthly or more frequently if necessary. The time and location of the meeting shall be determined by the Committee. Meetings shall be open to the public and in compliance with State of Ohio open meetings laws.

(Ord. 99-2022. Passed 9-13-22.)

CHAPTER 163

Disaster Services Agency

163.01 Establishment; members.

163.02 Appointment of Director; duties.

163.03 Functions.

163.04 Compensation.

CROSS REFERENCES

Civil defense - see Ohio R.C. Ch. 5915

Traffic direction in emergencies - see TRAF. 303.02

Disorderly conduct and peace disturbance - see GEN. OFF. Ch. 509

Weapons and explosives - see GEN.OFF. Ch. 549

163.01 ESTABLISHMENT; MEMBERS.

There is hereby established a Disaster Services Agency in and for the City as an agency of the government, to prevent, minimize, repair and alleviate injury or damage resulting from natural disaster or enemy attack. The Agency shall consist of a Director and additional members to be appointed by the Director. All officers and employees of the City are hereby declared to be members of the organization, together with those volunteer forces appointed to aid them during a disaster.

(Ord. 96-77. Passed 9-27-77.)

163.02 APPOINTMENT OF DIRECTOR; DUTIES.

The Director of the Disaster Services Agency shall be appointed by the Mayor, subject to the confirmation of Council, and shall serve at the pleasure of the Mayor. The Director shall coordinate the organization, administration, planning and operations of all local agencies for civil defense and disaster services, subject to the direction and control of the Mayor as provided by statute. (Ord. 96-77. Passed 9-27-77.)

163.03 FUNCTIONS.

The Disaster Services Agency shall perform such functions within the Municipality as are prescribed in and authorized by Ohio R.C. Chapter 5915 and the Governor's regulations promulgated thereunder, and in addition shall perform such duties outside the corporate limits as are required pursuant to mutual aid arrangements with any other political subdivision or with the County wide civil defense or disaster services organizations. In performing duties pursuant to this chapter, the Disaster Services Director shall cooperate with other political subdivisions, with County wide civil defense or disaster service organizations, with the State and with the Federal government, through appropriate channels, and with private agencies in all matters pertaining to the civil defense or disaster service activities of the City.

(Ord. 96-77. Passed 9-27-77.)

163.04 COMPENSATION.

The Director of Disaster Services and other disaster service personnel appointed or assigned as provided in this chapter may receive such compensation as may be provided for by Council from time to time.

(Ord. 96-77. Passed 9-27-77.)

CHAPTER 165

Records Commission

165.01 Commission established.

165.02 Members.

165.03 Duties.

CROSS REFERENCES

Photostat or microfilm recording - see Ohio R.C. 9.01

165.01 COMMISSION ESTABLISHED.

There is hereby created, in accordance with Ohio R.C. 149.39, the City Records Commission which shall consist of the Mayor, who shall be the chairman and three additional members.

(Ord. 24-82. Passed 3-9-82.)

165.02 MEMBERS.

The members of the Records Commission shall be the chief fiscal officer, the chief legal officer and a resident appointed by the chief executive. A secretary, who may or may not be a member of the Records Commission, shall be appointed by the Commission, and shall serve at its pleasure. The Commission members and secretary shall serve without compensation. The Commission may employ an archivist.

(Ord. 24-82. Passed 3-9-82.)

165.03 DUTIES.

The Records Commission shall meet every six months and upon call of the chairman, and shall perform the duties set forth in Ohio R.C. 149.39, and in addition thereto shall, when it is deemed advisable by the membership, initiate and promulgate plans for reproduction of City records, by lawful means, for the purposes of more economical storage and improved safety thereof, and may conduct investigations of the necessity for and the practicability of such plans. (Ord. 24-82. Passed 3-9-82.)

CHAPTER 164

Technology Advisory Committee

164.01 Establishment and charge.

164.02 Definitions.

164.03 Organization.

164.04 Purpose and intent.

164.05 Powers of committee.

164.06 Meetings.

164.07 Funding.

164.01 ESTABLISHMENT AND CHARGE.

- (a) There is hereby established a Technology Advisory Committee for the City of Richmond Heights.
 - (b) The Technology Advisory Committee shall make recommendations to the Council on matters pertaining to analyzing various technology avenues and processes which may be implemented by the Council and the City administration for the betterment of the citizens of the City, and further such Committee shall advise the Council and the City administration on recommended purchases of technology equipment and services.
- (Ord. 108-2020. Passed 12-22-20.)

164.02 DEFINITIONS.

- (a) "Committee" means the Technology Advisory Committee of the City of Richmond Heights, as established by this chapter.
 - (b) "Technology" means any topic of an advanced or emerging scientific nature. This includes such fields as computer science, renewable energy, artificial intelligence, automation, etc.
- (Ord. 108-2020. Passed 12-22-20.)

164.03 ORGANIZATION.

- (a) The Committee shall consist of five members, three of whom shall be appointed by the Council and two of whom shall be appointed by the Mayor; all of whom shall serve terms of one year each; and all of whom shall be eligible to continue to serve on such committee by continued appointment thereto by the Council or Mayor, as the case maybe, with no limit on the number of terms.
 - (b) Vacancies occurring in the committee, other than expiration of the term of office, shall be only for the unexpired portion of the term of the member replaced.
 - (c) Vacancies shall be filled by the Council or the Mayor, as the case may be, according to the original selection as aforesaid.
 - (d) The Council President may appoint a member of the Council as a non-voting ex-officio member to the Committee.
 - (e) The Committee shall appoint a Chair and Vice Chair from its members.
 - (f) Members shall serve without compensation.
 - (g) A simple majority of voting members of the Committee shall constitute a quorum for the transaction of business.
 - (h) The Committee shall designate a member to serve as the Secretary. The Secretary shall be responsible for maintaining written records of the Committee's proceedings.
- (Ord. 108-2020. Passed 12-22-20.)

164.04 PURPOSE AND INTENT.

The purpose of the Committee shall be to:

- (a) Upon request, advise the Council, the Mayor, and City staff on designated matters concerning the purchase, sale, or implementation of items of a highly technological or scientific nature.
 - (b) Present new technology which will improve the efficiency of government, the well-being of citizens, or reduce the cost of doing Municipal business.
 - (c) Give opinions covering a wide-range of technological and scientific topics on a case-by-case basis as requested by the Council, the Mayor or City staff.
 - (d) When the subject under review is outside the technological or scientific knowledge and/or experience of Committee members, the Council may authorize experts in the specific field to be sought out and consulted.
 - (e) Develop ideas and strategies to enhance the technological advancement of the City and its citizens.
 - (f) Make an annual report to the Council in December of each year.
- (Ord. 108-2020. Passed 12-22-20.)

164.05 POWERS OF COMMITTEE.

- (a) Collect Organization Metrics. The Committee shall work with City staff to determine appropriate metrics to support successes and develop data to determine future goals.
 - (b) Assess and Prioritize. The Committee shall assess and prioritize short and long term vision and goals and develop and make recommendations to the Council for capital improvement projects in its annual report.
 - (c) Create Partnerships. The Committee shall invite and seek advice from other community, county and regional organizations.
 - (d) Grant Awards. The Committee shall cooperate with the federal and state governments and any other entities in the pursuit of grants for the purchase and improvement of City property and capital.
 - (e) Other Powers. In addition to those duties and powers specified above, the Committee may, with Council approval and supervision:
 - (1) Solicit, recommend and assist in the receipt by the City of gifts and donations of real and personal property, including money for the purpose of facilitating its goals and visions.
 - (2) Recommend and assist in the acquisition for the City by purchase, bequest, or donation, properties of a scientific and/or technological nature.
 - (3) Promote, educate, and provide advocacy for responsible use of technology.
- (Ord. 108-2020. Passed 12-22-20.)

164.06 MEETINGS.

The Committee shall meet at least monthly or more frequently if necessary. The time and location of the meeting shall be determined by the Committee. Meetings shall be open to the public and in compliance with State of Ohio open meetings laws.

(Ord. 108-2020. Passed 12-22-20.)

164.07 FUNDING.

With Council approval, the Committee may apply for grants and raise funds to complete desired projects.

(Ord. 108-2020. Passed 12-22-20.)

CHAPTER 166

Tree Commission

166.01 Established.

166.02 Members.

166.03 Meetings.

CROSS REFERENCES

Trees, shrubs and bushes - see S.U. & P.S. Ch. 911

166.01 ESTABLISHED.

The Tree Commission established pursuant to Resolution No. 138-98 of the City Council is hereby re-established for the purpose of acting in an advisory capacity only to the Mayor, City Council, City department heads and citizens of the City with respect to matters involving trees on public grounds and public rights-of-way within the City of Richmond Heights.

(Ord. 18-2003. Passed 4-22-03.)

166.02 MEMBERS.

The Mayor is authorized to appoint, at his sole discretion, up to seven resident electors of the City to serve at the Mayor's pleasure without compensation, and for no specified terms, as members of the City's Tree Commission. The Mayor may, at his sole discretion, remove any member of the Commission at any time and for any reason. The Mayor shall designate one of the seven members of the Commission to be a chairperson, who shall serve as chairperson at the Mayor's pleasure.

(Ord. 18-2003. Passed 4-22-03.)

166.03 MEETINGS.

The Tree Commission shall hold its meetings as necessary at the request of either the Mayor, the chairperson, or a majority of the members of the Commission.

(Ord. 18-2003. Passed 4-22-03.)

CHAPTER 167

Litter Control Board

167.01 Established; membership.

167.02 Appointment; compensation.

167.03 Litter control program.

167.04 Meetings.

167.05 Objectives.

167.06 Reports to Council.

CROSS REFERENCES

Removal of noxious weeds or litter - see Ohio R.C. 731.51 et seq.

Littering - see GEN. OFF. 521.08

167.01 ESTABLISHED; MEMBERSHIP.

The Richmond Heights Litter Control Board is hereby established to consist of one member of the Richmond Heights Police Department, one member of Council, one member of the public to represent the Richmond Heights School District, one member of the public to represent the South Euclid-Lyndhurst School District and two or more members of the public. The Mayor shall appoint one member of the Litter Control Board to act as Chairman of the Board.

(Ord. 146-85. Passed 1-14-86.)

167.02 APPOINTMENT; COMPENSATION.

The members of the Litter Control Board shall be appointed by the Mayor and shall be citizens of, or employed within the City and may be officers or employees of the City. The Commission members shall serve without compensation for two-year terms commencing the first day of January, 1986.

(Ord. 146-85. Passed 1-14-86.)

167.03 LITTER CONTROL PROGRAM.

The Litter Control Board is hereby empowered to develop and administer a local litter control program and shall have the authority to receive gifts, donations, grants and other forms of assistance to implement such program.

(Ord. 146-85. Passed 1-14-86.)

167.04 MEETINGS.

The Litter Control Board shall hold meetings as are from time to time required to adopt and implement a litter control program for the City.

(Ord. 146-85. Passed 1-14-86.)

167.05 OBJECTIVES.

The Litter Control Board shall adopt a set of goals and objectives which reflect the general goal of the Ohio Litter Control Program to reduce litter and littering and to change the littering habits and attitudes of all Ohioans and which will directly involve the commitment and support of various community groups and interests including industry, labor, commerce, media, agriculture, conservation, neighborhood associations, youth groups, civic groups and religious organizations.

(Ord. 146-85. Passed 1-14-86.)

167.06 REPORTS TO COUNCIL.

The Litter Control Board shall advise Council from time to time of the development, administration and progress of its local litter control program.

(Ord. 146-85. Passed 1-14-86.)

CHAPTER 168

Tax Incentive Review Council

168.01 Creation of Tax Incentive Review Council.

168.02 Composition of Tax Incentive Review Council.

168.03 Duties.

168.01 CREATION OF TAX INCENTIVE REVIEW COUNCIL.

The City of Richmond Heights Tax Incentive Review Council ("TIRC") is created by operation of Section 5709.85 of the Ohio Revised Code.
(Ord. 49-2019. Passed 5-14-19.)

168.02 COMPOSITION OF TAX INCENTIVE REVIEW COUNCIL.

(a) The TIRC shall be composed of seven (7) total members: three (3) members appointed by the Cuyahoga County Executive- two (2) members appointed by the Mayor with the concurrence of City Council; the Cuyahoga County Auditor or the County Auditor's designee; and an individual appointed by the Board of Education of Richmond Heights Local Schools.

(b) At least two (2) members of the TIRC shall be residents of the City of Richmond Heights.

(c) Every member of the TIRC shall serve a term lasting two (2) years in duration. If a member of the TIRC cannot complete his or her full two-year term for any reason, a replacement member shall be appointed to complete that member's term. The replacement member shall be appointed using the same procedure used to appoint the departing member.
(Ord. 49-2019. Passed 5-14-19.)

168.03 DUTIES.

The TIRC shall:

(a) Review all exemptions from property taxation granted by the City and any performance or audit reports required to be submitted in order to determine whether the party receiving the exemption has complied with the terms of the tax exemption.

(b) Determine whether the owner of the exempted property has complied with the terms of the exemption, and may take into consideration any fluctuations in the business cycle unique to the owner's business.

(c) On or before the first day of September of each year, submit to the City Council written recommendations for continuation, modification, or cancellation of each exemption granted. The City Council may take any action available to a party to a contract or agreement to obtain compliance with the exemption.
(Ord. 49-2019. Passed 5-14-19.)

CHAPTER 169

Commission on Aging

169.01 Established; members.

169.02 Appointments.

169.03 Compensation.

169.04 Powers and duties.

169.05 Meetings.

169.06 Funds.

CROSS REFERENCES

Meals at cost for elderly - see Ohio R.C. 3313.81

Rest homes and nursing homes - see Ohio R.C. Ch. 3721

Medical assistance program - see Ohio R.C. 5101.51

Federal supplements to aid - see Ohio R.C. 5101.53

169.01 ESTABLISHED; MEMBERS.

(a) There is hereby established in the City, a Commission on Aging, consisting of seven members.

(b) The Commission on Aging shall be constituted as follows: The Mayor and the President of Council shall be permanent non-voting members of the Commission. The remaining seven members of the Commission shall be residents of the City preferably sixty years of age or older, and all appointments will be for a term of two years.
(Ord. 10-85. Passed 1-22-85.)

169.02 APPOINTMENTS.

The appointments shall be made as follows:

(a) The Mayor shall appoint four members from a list supplied by the members of Council and which shall be at least one member from each of the four wards of the City.

(b) The Mayor shall appoint three additional members who shall be subject to the approval of Council.
(Ord. 10-85. Passed 1-22-85.)

169.03 COMPENSATION.

All members of the Commission on Aging shall serve without compensation.

(Ord. 10-85. Passed 1-22-85.)

169.04 POWERS AND DUTIES.

The Commission on Aging hereby created shall serve in an advisory capacity to Council on all matters relating to aging, and shall recommend programs for the aging citizens of the City and means of implementing such programs. The Commission may consider and make recommendations in the following areas of concern relating to the problems of aging, without limitation:

(a) Referral Services or Senior Information and Service Center On:

- (1) Job placement.
- (2) Skills bank.
- (3) Medicare - Social Security information.
- (4) Emergency services.
- (5) Telephone assurance.

(b) Health:

- (1) Health survey.
- (2) Health needs defined.
- (3) Increased or changing or existing services.
- (4) Voluntary service programs with medical school, etc.
- (5) Preventive health program.

(c) Leisure Time Activities:

- (1) Trips.
- (2) Classes.
- (3) Exercise programs.
- (4) Social involvement to provide services.
- (5) Programs (dances, plays, movies, lectures).
- (6) Recreation.
- (7) What is happening in Richmond Heights.

(d) Transportation:

- (1) Minibus proposal.
- (2) Define needs (questionnaire).
- (3) Coordinating of other minibus services.

(e) Nutrition:

- (1) Coordinating food programs.
- (2) Food stamp program.
- (3) Hot food (lunches, meals on wheels).
- (4) Nutrition education.

(Ord. 10-85. Passed 1-22-85.)

169.05 MEETINGS.

The Commission on Aging, at the time of its organization, shall select a meeting date which is agreeable to two-thirds of the members of the Commission. The Commission shall meet no less than three times per year with additional meetings as required.

(Ord. 10-85. Passed 1-22-85.)

169.06 FUNDS.

The Commission on Aging shall be appropriated such funds for its operation as shall be determined from time to time by Council, such funds to be used for the benefit of the City's senior citizens in accordance with applicable provisions of Ohio law concerning such expenditures.

(Ord. 10-85. Passed 1-22-85.)

CHAPTER 170

Claims and Litigation

170.01 Claims and Litigation Fund.

170.02 Claims Director.

170.03 Litigation and claims.

CROSS REFERENCES

State provisions - see Ohio R.C. 5705.12 et seq.

Legal defense and indemnification of City officers and employees - see ADM. 159.12

170.01 CLAIMS AND LITIGATION FUND.

(a) Pursuant to the provisions of Ohio R.C. 5705.12, there is hereby established a special fund to be known as "Claims and Litigation Fund".

(b) There shall be deposited to the Claims and Litigation Fund such amounts of money that Council shall from time to time determine are necessary for adequate provision for the establishment of reserves, administration of the self-insurance program and payment of claims made against the City or its employees and officials.

(c) All moneys not immediately necessary for the administration of the program or payment of claims shall be invested by the Finance Director and any interest earned shall be retained in the fund until such time that Council determines an adequate amount of money is available for the necessary administration costs, payment of claims and reserves for potential claims. Such moneys shall not be available for general municipal operations or for the payment of wages or salaries of City employees or officials.

(d) The balance of the fund shall be reviewed by the Mayor and Council each six months to determined the adequacy of the same for purposes set forth above.

(Ord. 117-86. Passed 9-23-86.)

170.02 CLAIMS DIRECTOR.

The Mayor shall serve as the City Claims Director. All claims against the City, its officers and employees shall be referred to the Claims Director for review with the Department of Law and for processing of any claims made against the City, its officers or employees.

(Ord. 117-86. Passed 9-23-86.)

170.03 LITIGATION AND CLAIMS.

(a) The Director of Law is authorized to defend and act as legal counsel for all complaints, suits, and other controversies naming as a party the City, any board or agency of the City, and any employee of the City whether named in their official or individual capacities so long as they are acting in the scope of their employment.

(b) With respect to any complaints, suits or other controversies naming as a party the City of Richmond Heights, or any of its officers or employees, if the matter is covered by insurance, the Claims Director or the Director of Law is authorized without the necessity of further action by Council to refer the matter for defense by insurance counsel. Such insurance defense shall be conducted under the supervision and with the cooperation of the Director of Law.

(c) With respect to any complaints, suits or other controversies being defended by or under the supervision of the Director of Law, he may consent to the settlement of any action as follows:

- (1) He may settle any claim under five hundred dollars (\$500.00) with the advice and consent of the Mayor;
- (2) He may settle any claim in excess of five hundred dollars (\$500.00) with the approval of the Mayor and Council or the approval of five members of Council;
- (3) He may settle any claim not involving any expenditure of money or any other form of remuneration with the advice and consent of the Mayor and Council or the approval of five members of Council.

(Ord. 117-86. Passed 9-23-86.)

TITLE SEVEN - Judicial

Chap. 171 . Mayor's Court.

CHAPTER 171

Mayor's Court

EDITOR'S NOTE: There are no sections in Chapter 171 . This chapter has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES

Jurisdiction - see Ohio R.C. 1905.01 et seq.

Mayor's powers and duties - see Ohio R.C. 1905.20 et seq.

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

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

Trial - see Ohio R.C. Ch. 2938

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

TITLE NINE - Taxation

Chap. 181 . Earned Income Tax.

Chap. 182 . Construction; Tax Registration.

Chap. 183 . Admissions Tax.

Chap. 184. Income Tax Effective January 1, 2016.

CHAPTER 181

Earned Income Tax

EDITOR'S NOTE: See Chapter 184 for income tax effective January 1, 2016.

181.01 Purpose of levy of income tax.

181.02 Definitions.

181.03 Imposition of tax.

181.04 Effective period.

181.05 Determination of allocation of tax.

181.06 Sales made in the City.

181.07 Total allocation.

181.08 Rentals.

181.09 Operating loss; carry-forward.

181.10 Sources of income not taxed.

181.11 When return required to be made.

181.12 Form and content.

181.13 Extension of time for filing.

181.14 Consolidated returns.

181.15 Amended returns.

181.16 Payment of tax on filing of return.

181.17 Collection at source.

181.18 Declaration of income.

181.19 Filing of declaration.

181.20 Form of declaration.

181.21 Payment to accompany declaration.

181.22 Annual return.

181.23 Interest on unpaid tax.

181.24 Penalties on unpaid tax and unfiled returns or declarations.

181.25 Exceptions.

181.26 Abatement of interest and penalty.

181.27 Violations.

181.28 Limitation on prosecution.

181.29 Failure to procure forms not excused.

181.30 Unpaid taxes recoverable as other debts.

181.31 Refunds of taxes erroneously paid.

181.32 Amounts of less than one dollar.

181.33 Nonresident taxpayer relief and reciprocity provision.

181.34 Tax credit.

181.35 Claim of credit.

181.36 Disbursement of funds collected.

181.37 Duties of the Administrator.

181.38 Authority to make and enforce regulations.

181.39 Authority to arrange installment payments.

181.40 Authority to determine amount of tax due.

181.41 Authority to make investigations.

181.42 Authority to compel productions of records.

181.43 Refusal to produce records.

181.44 Confidential nature of information obtained.

181.45 Taxpayer required to retain records.

181.46 Authority to contract for central collection facilities.

181.47 Board of Review established.

181.48 Board to approve regulations and to hear appeals.

181.49 Severability.

181.50 Collection after termination of Sections 181.27 through 181.32.

181.51 Tenant identification statement.

181.99 Penalty.

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XII §8

Limitation on the rate of taxation - see CHTR. Art. XII

Payroll deductions - see Ohio R. C. 9.42

Municipal income taxes - see Ohio R. C. Ch. 718

181.01 PURPOSE OF LEVY OF INCOME TAX.

To provide funds for the purposes of general Municipal functions of the City, there shall be and is hereby levied a tax on all salaries, wages, commissions and other compensations, and on net profits as hereinafter provided.

(Ord. 36-67. Passed 6-13-67.)

181.02 DEFINITIONS.

The following terms, phrases, words and their derivatives shall have the meanings respectively ascribed to them in this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter.

(Ord. 36-67. Passed 6-13-67.)

- (a) The position of Tax Administrator for the City is hereby created. The appointment to this position shall be made by the Mayor and the appointee shall serve at his/her pleasure. He/she shall report and be responsible to the Mayor. The general duties of the Tax Administrator shall be the supervision, auditing and prescribing of procedures with respect to the City income tax together with cooperation with the

- Director of Finance, as well as acting as the City representative for tax matters. The Mayor may assign other specific projects relating to City problems. (Ord. 48-72. Passed 4-11-72.)
- (b) "Adjusted Federal Taxable Income". For tax years prior to 2004, see definition of "Net Profits" as set forth in Section 181.02 (l). For taxable years 2004 and later, "Adjusted Federal Taxable Income" shall mean a "C" corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions. Pass-through entities must compute "Adjusted Federal Taxable Income" as if the pass-through entity was a "C" corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code (ORC) Section 5745.03 or to the net profit from a sole proprietorship. This definition is effective for tax years beginning on or after January 1, 2004.
 - (c) "Association" means any partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
 - (d) "Board of Review" means the Board created by and constituted as provided in Section 181.47 of this chapter.
 - (e) "Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or other entity, excluding however, all nonprofit corporations which are exempt from the payment of Federal Income Tax.
 - (f) "Corporation" means a corporation of joint stock associations organized under the laws of the United States, the State of Ohio or any other state, territory, foreign country or dependency.
 - (g) "Employee" means one who works for a wage, salary, commission or any other type of compensation in the service of an employer.
 - (h) "Employer" means an individual, partnership, association, corporation, government 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 basis of compensation.
 - (i) "Fiscal year" means an accounting period of twelve months or less ending on any day other than December 31.
 - (j) "Generic Form" shall mean an electronic or paper form designed for reporting estimated municipal income taxes, and/or annual municipal income tax liability, and/or requests for refunds, which contain all the information required on the City's regular tax return, estimated payment forms and request for refund forms, and are in a similar format that will allow processing of the generic forms without altering the City's procedures for processing forms.
 - (k) "Gross receipts" means the total income from any source whatever.
 - (l) "Net profits", for taxable years prior to 2004, means a net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary 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; and, in the case of an association, without deduction of salaries paid to partners and other owners. For taxable years 2004 and later, see "adjusted federal taxable income".
 - (m) "Nonresident" means an individual domiciled outside the City.
 - (n) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City.
 - (o) "Person" means 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.
 - (p) "Place of business" means 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.
 - (q) "Qualifying wage" means wages as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, but including subsequent adjustments from required additions and deductions. "Qualifying wage" represents employees' income (including non-qualified deferred compensation and stock options) from which municipal tax shall be deducted by the employer, and any wages not considered a part of "qualifying wage" shall not be taxed by the City. This definition is effective January 1, 2004, for taxable years 2004 and later.
 - (r) "Resident" means an individual domiciled in the City.
 - (s) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City.
(Ord. 36-67. Passed 6-13-67.)
 - (t) "Taxable income" means wages, salaries and other compensation paid by an employer or employers before any deduction of any kind and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of this chapter. "Other compensation" includes, but is not limited to, bonuses; commissions; incentive payments; directors' and other fees; property in lieu of cash; tips; dismissal or severance pay; supplemental income benefits for early retirement regardless of their label; contest prizes and awards; tax shelter plans (including contributions to retirement plans, annuities or Independent Retirement Accounts (IRAs) and all other deferred compensation plans); vacation and sick pay regardless of label (such as sick leave including third-party sick pay, disability, vacation pay, etc.); wage continuation plans; supplemental employment benefits (subpay); depreciation recapture; gifts and gratuities in connection with employment; fellowships, grants and stipends (including those representing payment for teaching, research or other services); group term life insurance protection over \$50,000 (taxed on the cost of such insurance in excess of \$50,000); benefits resulting from an employer's assumption of a tax; stock options given as compensation; income from gaming, wagering and lotteries (including the Ohio State Lottery); and all other compensation earned, received or accrued and not excluded at Section 181.10 herein.
(Ord. 18-93. Passed 3-23-93.)
 - (u) "Taxable year" means the calendar year or the fiscal year upon the basis of which the net profits are to be computed under this chapter, 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.
 - (v) "Taxpayer" means a person, whether an individual, partnership, association or any corporation or other entity, required hereunder to file a return or pay a tax.

(Ord. 36-67. Passed 6-13-67; Ord. 5-2005. Passed 2-22-05.)

181.03 IMPOSITION OF TAX.

An annual tax for the purposes specified in Section 181.01 shall be imposed on January 1, 1993 through June 30, 2013 at the rate of two percent (2.0%) per annum, and shall be imposed on and after July 1, 2013 at a rate of two and one-quarter percent (2.25%) per annum, upon the following:

- (a) On all salaries, wages, commissions and other compensation earned by residents of the Municipality;
- (b) On all salaries, wages, commissions and other compensation earned by nonresidents of the Municipality for work done or services performed or rendered within the Municipality;
- (c) On all salaries, wages, commissions and other compensation earned for work done or services performed or rendered by employees of the Municipality who are not otherwise subject to the provisions of this chapter;
- (d) On the portion attributable to the Municipality on the net profits earned of all resident unincorporated business entities or professions or other activities, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality;
- (e) On the portion of the distributive share of the net profits earned of a resident partner or owner of a resident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality;
- (f) On the portion attributable to the Municipality of the net profits earned of all nonresident unincorporated business entities, professions or other activities, derived from sales made, work done, services performed or rendered, and business and other activities conducted in the Municipality, whether or not such unincorporated business entity has an office or place of business in the Municipality;
- (g) On the portion of the distributive share of the net profits earned of a resident partner or owner of a nonresident unincorporated business entity not attributable to the Municipality and not levied against such unincorporated business entity by the Municipality; and
- (h) On the portion attributable to the Municipality of the net profits earned of all corporations, derived from sales made, work done, services performed or rendered, and business or other activities conducted in the Municipality, whether or not such corporations have an office or place of business in the Municipality. (Ord. 4-2013. Passed 1-8-13.)

181.04 EFFECTIVE PERIOD.

The tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities, earned on January 1, 1993 through June 30, 2013 at a rate of two percent (2.0%) per annum and earned on and after July 1, 2013 at a rate of two and one-quarter percent (2.25%) per annum. (Ord. 4-2013. Passed 1-8-13.)

181.05 DETERMINATION OF ALLOCATION OF TAX.

(a) The portion of the entire net profits of a taxpayer to be allocated as having been derived from within the City, in the absence of actual records thereof, shall be determined as follows:

Multiple the entire net profits by a business allocation percentage to be determined by a three-factor formula of property, payroll and sales, each of which shall be given equal weight, as follows:

- (1) The average net book value of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average net book value of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated. 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 persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession wherever their services are performed.
 - (3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.
- (b) In the event that the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted so as to produce such result.
- (c) If the Tax Administrator approves the use of books and records as a substitute method, the following shall apply:
- (1) The net profits allocable to the Municipality from business, professional or other activities conducted in the Municipality by corporations or unincorporated entities (whether resident or nonresident) may be determined from the records of the taxpayer only if the taxpayer has bona fide records which disclose with reasonable accuracy what portion of his net profits is attributable to that part of his activities conducted within the Municipality.
 - (2) If the books and records of the taxpayer are used as the basis for apportioning net profits, a statement must accompany the return explaining the manner in which such apportionment is made in sufficient detail to enable the Tax Administrator to determine whether the net profits attributable to the Municipality are apportioned with reasonable accuracy.
 - (3) In determining the income allocable to the Municipality from the books and records of a taxpayer, an adjustment may be made for the contribution made to the production of such income by headquarters activities of the taxpayer, whether such headquarters is within or without the Municipality.

(Ord. 5-2005. Passed 2-22-05.)

181.06 SALES MADE IN THE CITY.

As used in Section 181.05 (c) hereof, "sales made in the City" mean:

- (a) All sales of tangible personal property which is delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City.
- (b) All sales of tangible personal property which is delivered within the City regardless of where title passes even though transported from a point outside the City if the taxpayer is regularly engaged through his own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
- (c) All sales of tangible personal property which is shipped from a place within the City to purchasers outside the City regardless of where title passes if the taxpayer is not, through his own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Ord. 36-67. Passed 6-13-67.)

181.07 TOTAL ALLOCATION.

Add together the percentages determined in accordance with subsections (a), (b) and (c) of Section 181.05 or such of the aforesaid percentages as are applicable to the particular taxpayer and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 181.05.

A factor is applicable even though it may be allocable entirely in or outside the City.

(Ord. 36-67. Passed 6-13-67.)

181.08 RENTALS.

Rental income received by a taxpayer shall be included in the computation of net profits from business activities under subsections (c), (d) and (e) of Section 181.03, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived (whether so rented, managed or operated by a taxpayer, individually, or through agents or other representatives) constitutes a business activity of the taxpayer in whole or in part.

Where the gross monthly rental of any and all real properties regardless of number and value, aggregates in excess of two hundred fifty dollars (\$250.00) per month, it shall be prima- facie evidence that the rental, ownership, management or operation of such properties is a business activity of such taxpayer, and the net income of such rental property shall be subject to tax; provided that in the case of commercial property, the owner

shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits of the lessee, whether or not such rental exceeds two hundred fifty dollars (\$250.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is leased on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month; and provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds two hundred fifty dollars (\$250.00) per month.

Property owners who are considered to have a business activity under the provisions of this section shall submit or cause to be submitted to the Administrator a list of names and addresses of all persons, firms, corporations or other entities occupying, leasing or renting any premises belonging to the property owner within this municipality. The required list shall be prepared as of December 31 of each year and submitted on or before January 31 of the following year.

(Ord. 33-73. Passed 4-24-73.)

181.09 OPERATING LOSS; CARRY-FORWARD.

(a) The portion of a net operating loss sustained in any taxable year subsequent to January 1, 1967, allocable to the City may be applied against the portion of the profit of succeeding tax years allocable to the City until exhausted but in no event for more than five taxable years immediately following the year in which the loss occurred. No portion of a net operating loss shall be carried back against net profits of any prior year.

(b) The portion of net operating loss sustained shall be allocated the City in the same manner as provided herein for allocating net profits to the City.

(c) The Administrator shall provide by rules and regulations the manner in which such net operating loss carry-forward shall be determined. (Ord. 36-67. Passed 6-13-67.)

181.10 SOURCES OF INCOME NOT TAXED.

The tax provided herein shall not be levied on the following:

(a) Pay or allowance of active members of the Armed Forces of the United States or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities and by enumeration in Section 718.01 of the Ohio Revised Code or Section 501(a) of the Internal Revenue Code.

(b) Poor relief, unemployment insurance benefits; social security; medicare, old age pensions or similar payments, including disability benefits received from local, state or federal governments or charitable, religious or educational organizations.

(c) Proceeds of insurance paid by reason of death of the insured, pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered, from whatever source derived.

(d) Receipts from seasonal or casual entertainment, amusements, sports events, and health and welfare activities when such are conducted by bona fide charitable, religious or educational organizations and associations.

(e) Alimony received.

(f) Personal earnings of any natural person under eighteen years of age.

(g) Compensation for personal injuries or for damages to property by way of insurance or otherwise.

(h) Interest, dividends or other revenue and royalties from intangible property.

(i) Gains from involuntary conversion, cancellation of indebtedness, interest on federal obligations, items of income already taxed by the state from which the City is specifically prohibited from taxing and income of a decedent's estate during the period of administration (except such income from the operation of a business).

(j) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce.

(k) Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State of Ohio or any act of the Ohio General Assembly limiting the power of the City to impose net income taxes.

(l) Gifts (other than those in connection with employment), inheritances, and scholarships used for tuition and course-related expenses.

(Ord. 18-93. Passed 3-23-93.)

(m) Parsonage allowance, to the extent of the rental allowance or rental value of a house provided as part of an ordained minister's compensation. The ordained minister must be duly ordained, commissioned or licensed by a religious body constituting a church or church denomination, and must have authority to perform all sacraments of the church.

(Ord. 5-2005. Passed 2-22-05.)

181.11 WHEN RETURN REQUIRED TO BE MADE.

Each taxpayer shall, whether or not a tax is due thereon, make and file a return on or before April 15 of the year following the effective date of this chapter and on or before April 15 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 months from the end of such fiscal year or period. (Ord. 5-2005. Passed 2-22-05.)

181.12 FORM AND CONTENT.

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, setting forth:

(a) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from the business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to such tax.

(b) The amount of the tax imposed by this chapter on such earnings and profits, and

(c) Such other pertinent statements, information returns or other information as the Administrator may require, including, but not limited to, Internal Revenue Service Forms W-2 and 1099.

(Ord. 5-2005. Passed 2-22-05.)

181.13 EXTENSION OF TIME FOR FILING.

The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not more than six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended. The extension request may be made by filing a copy of the taxpayer's request for a federal filing extension, or by filing a written request. The Administrator may deny the extension if the taxpayer's income tax account with the City is delinquent in any way.

(Ord. 5-2005. Passed 2-22-05.)

181.14 CONSOLIDATED RETURNS.

(a) An affiliated group which files a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code may file a consolidated return with the City. However, once the affiliated group has elected to file a consolidated return or a separate return with the City, the affiliated group may not change their method of filing in any subsequent tax year without written approval from the City.

(b) Filing of consolidated returns may be permitted or required in accordance with rules and regulations prescribed by the Administrator.

(c) 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 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. If the Administrator finds that net profits are not properly allocated to the City 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.

(Ord. 5-2005. Passed 2-22-05.)

181.15 AMENDED RETURNS.

(a) 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, limitations or both, contained in Sections 181.30 to 181.33 and 181.35 hereof. Such amended return shall be on a form obtainable on request from the Administrator or on a generic form. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(b) Within three months from the final determination of any Federal tax liability affecting the taxpayer's City tax liability, such taxpayer shall make and file an amended City return showing income subject to the City 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.

(Ord. 5-2005. Passed 2-22-05.)

181.16 PAYMENT OF TAX ON FILING OF RETURN.

(a) The taxpayer making a return shall, at the time of filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided that:

(1) Where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 181.17 ;

(2) Where any portion of such tax has been paid by the taxpayer pursuant to the provisions of Section 181.18 hereof;

(3) Where an income tax has been paid on the same income to another Municipality,

credit for the amount so deducted, or paid or credit to the extent provided for in Section 181.34 , shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(b) A taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election, indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

(Ord. 80-71. Passed 12-13-71.)

181.17 COLLECTION AT SOURCE.

(a) In accordance with rules and regulations prescribed by the Administrator, each employer within or doing business within the Municipality shall deduct, at the time of the payment of the salary, wages, commission or other compensation, the tax of two percent (2%) per annum of the gross salaries, wages, commissions or other compensation due by the employer to the employee, and shall, on or before the last day of each month, make a return and pay to the Administrator the amount of taxes so deducted during the previous month. However, if the amount of the tax so deducted by any employer in any one month is less than one hundred dollars (\$100.00), the employer may defer the filing of a return and payment of the amount deducted until the last day of the month following the end of the calendar quarter in which that month occurred.

(Ord. 67-92. Passed 8-11-92.)

(b) The officer or employee having control or supervision or charged with the responsibility of filing the return and making the payment, shall be personally liable for failure to file the return or pay the tax due as required herein. The dissolution, bankruptcy, or reorganization of any such employer does not discharge an officer's or employee's liability for a prior failure of such business to file a return or pay taxes due.

(Ord. 48-85. Passed 5-28-85.)

(c) Returns shall be on a form or forms prescribed or acceptable to the Administrator, or on a generic form, and shall be subject to the rules and regulations prescribed therefor by the Administrator. The employer shall be liable for the payment of the tax required to be deducted and withheld whether or not such taxes have, in fact, been withheld.

(Ord. 5-2005. Passed 2-22-05.)

(d) Such employer in collecting such tax shall be deemed to hold the same, until payment is made by such employer to the City, as a trustee for the benefit of the City, and any such tax collected by such employer from his employees, shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer.

(e) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the City, but such employee shall be subject to all the requirements of this chapter.

(Ord. 80-71. Passed 12-13-71.)

(f) A non-resident individual who works in the City twelve (12) or fewer days per year shall be considered an occasional entrant, and shall not be subject to the City's municipal income tax for those twelve (12) days. For purposes of the 12-day calculation, any portion of a day worked in the City shall be counted as one day worked in the City.

(g) Beginning with the thirteenth day, the employer of said individual shall begin withholding the City's income tax from remuneration paid by the employer to the individual, and shall remit the withheld income tax to

the City in accordance with the requirements of this chapter. Since the individual can no longer be considered to have been an occasional entrant, the employer is further required to remit taxes on income earned in the City by the individual for the first twelve (12) days.

(h) If the individual is self-employed, it shall be the responsibility of the individual to remit the appropriate tax to the City.

(i) The 12-day occasional entry rule does not apply to entertainers or professional athletes, their employers or individuals who perform services on their behalf, or to promoters and booking agents of such entertainment events and sporting events.

(Ord. 5-2005. Passed 2-22-05.)

181.18 DECLARATION OF INCOME.

(a) Except as provided in this section, every person shall file a declaration setting forth taxable income, including distributive shares of net profits of unincorporated business entities, estimated to be earned by the taxpayer during the current tax year, together with the estimated tax due thereon, less the tax withheld within the City and less the tax credit allowed in Section 181.03 hereof, unless such taxpayer anticipates that such tax will be fully withheld within the City, and any income earned outside of the City will be fully taxed at the same rate or higher rate of tax in another municipality. If the estimated tax for the current year, less the tax to be withheld and less such tax credit, amounts to not more than one hundred dollars (\$100.00), no declaration or payment of estimated tax is required. No penalties or interest shall be assessed on estimated payments if the taxpayer has remitted an amount equal to one hundred percent of the previous year's tax liability, provided that the previous year reflected a twelve-month period or if ninety percent (90%) of the actual tax liability has been received.

(b) Effective January 1, 2003, the Declaration of Estimated Tax to be paid to the City by taxpayers who are individuals shall be accompanied by a payment of at least one-fourth (1/4) of the Declaration amount and at least a similar amount shall be paid on or before July 31st and October 31st of the taxable year, and January 31st of the following year.

(c) Effective January 1, 2003, such declaration of estimated tax to be paid to the City by corporations and associations shall be accompanied by a payment of at least one-fourth (1/4) of the Declaration amount and at least a similar amount shall be paid on or before June 15th, September 15th and December 15th. In the case of a fiscal year taxpayer, the second, third and fourth quarterly estimated payments shall be due on the fifteenth day of the sixth, ninth and twelfth months of the taxpayer year, respectively.

(Ord. 5-2005. Passed 2-22-05.)

181.19 FILING OF DECLARATION.

(a) The declaration required by Section 181.18 above shall be filed on or before April 15 of each year during the effective period set forth in Section 181.04 or within four months of the date the taxpayer becomes subject to tax for the first time.

(b) Those taxpayers reporting on a fiscal year basis shall file a declaration within four months after the beginning of each fiscal year or period.

(Ord. 5-2005. Passed 2-22-05.)

181.20 FORM OF DECLARATION.

(a) The declaration required by Section 181.18 shall be filed upon a form furnished by or obtainable from the Administrator, or on a generic form, provided, however, credit shall be taken for City tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.34 hereof, credit shall be taken for tax to be paid or to be withheld and remitted to another taxing municipality.

(b) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for therein.

(Ord. 5-2005. Passed 2-22-05.)

181.21 PAYMENT TO ACCOMPANY DECLARATION.

Such declaration of estimated tax to be paid to the City shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh and tenth months after the beginning of the taxable year and on or before the last day of the first month of the succeeding year following the taxable year. However, in case an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates.

(Ord. 96-73. Passed 11-13-73.)

181.22 ANNUAL RETURN.

On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the City shall be paid therewith in accordance with the provisions of Section 181.16 hereof. However, any taxpayer may file, on or before the last day of the first month of the year following that for which such declaration or amended declaration was filed, an annual return and pay any balance due at such time, in lieu of filing a declaration or an amended declaration, and in lieu of paying the final quarterly installment based upon a declaration or amended declaration of estimated tax.

(Ord. 80-71. Passed 12-13-71.)

181.23 INTEREST ON UNPAID TAX.

All taxes imposed and all moneys withheld or required to be withheld by employers and all installments of estimated taxes required to be paid under the provisions of this chapter and remaining unpaid after they become due, shall bear interest at the rate of twelve percent (12%) per year.

(Ord. 50-80. Passed 4-22-80.)

181.24 PENALTIES ON UNPAID TAX AND UNFILED RETURNS FOR DECLARATIONS.

In addition to interest as provided in Section 181.23 hereof, penalties based on the unpaid tax and for unfiled returns or declarations are hereby imposed as follows:

- (a) For failure to pay taxes or estimated taxes due, other than taxes withheld: twelve percent (12%) per year but not less than ten dollars (\$10.00).
- (b) For failure by an employer to remit taxes withheld from employees: twelve percent (12%) per month or fraction thereof, but accumulated penalty shall not exceed fifty percent (50%) of any unpaid amount and shall not be less than ten dollars (\$10.00).
- (c) For the failure or neglect to file any return or declaration required by this chapter, there shall be assessed a penalty in the amount of fifty dollars (\$50.00) for the first instance, seventy-five dollars (\$75.00) for the second instance, and one hundred dollars (\$100.00) for all subsequent instances.

(Ord. 18-91. Passed 1-22-91.)

181.25 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. Further, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a Federal audit, provided an amended return is filed and the additional tax is paid within three months after a final determination of the Federal tax liability.

(Ord. 36-67. Passed 6-13-67.)

181.26 ABATEMENT OF INTEREST AND PENALTY.

Either the Administrator or the Board of Review may abate penalty or interest or both, for good cause shown.

(Ord. 80-71. Passed 12-13-71.)

181.27 VIOLATIONS.

No person shall:

- (a) Fail, neglect or refuse to make any return or declaration required by this chapter;
- (b) Make any incomplete, false or fraudulent return;
- (c) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this chapter;
- (d) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator;
- (e) Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer;
- (f) 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;
- (g) Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer;
- (h) Fail to comply with the provisions of this chapter or any order or subpoena of the Administrator authorized hereby;
- (i) 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;
- (j) Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and City tax withheld, or to knowingly give the Administrator false information; or
- (k) Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(Ord. 36-67. Passed 6-13-67.)

181.28 LIMITATION ON PROSECUTION.

All prosecutions under this chapter must be commenced within five 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 ten years from the date the return was due or the date the false or fraudulent return was filed.

(Ord. 36-67. Passed 6-13-67.)

181.29 FAILURE TO PROCURE FORMS NOT EXCUSED.

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.

(Ord. 36-67. Passed 6-13-67.)

181.30 UNPAID TAXES RECOVERABLE AS OTHER DEBTS.

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, of omission of a substantial portion of income subject to this tax or of failure to file a return, an additional assessment shall not be made after three years from the time the return was due or filed, whichever is later. 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 year from the time of the final determination of the Federal tax liability.

(Ord. 36-67. Passed 6-13-67.)

181.31 REFUNDS OF TAXES ERRONEOUSLY PAID.

Taxes erroneously paid shall not be refunded unless a claim for refund is made within three years from the date on which such payment was made or the return was due, or within three months after the final determination of the Federal tax liability, whichever is later.

(Ord. 36-67. Passed 6-13-67.)

181.32 AMOUNTS OF LESS THAN ONE DOLLAR.

Amounts of less than one dollar (\$1.00) shall not be collected or refunded.

(Ord. 36-67. Passed 6-13-67.)

181.33 NONRESIDENT TAXPAYER RELIEF AND RECIPROCITY PROVISION.

Notwithstanding any other provisions of this chapter, when a taxpayer who is a nonresident of Richmond Heights but who is domiciled in Cuyahoga County or in any county immediately contiguous to Cuyahoga County is subject to the tax imposed by this chapter and is also subject to tax on the same income in the municipality of his residence, a credit of twenty-five percent of the tax due under the ordinance of such other municipality, whichever is the lesser, shall be allowed against the tax due under this chapter, provided, however, that such credit shall not be allowed unless such other municipality imposes on its residents a tax on the same income and reciprocal provision is made in the ordinance of such other municipality granting to nonresidents thereof a credit of not less than the percentage provided for herein against the tax levied thereby and provided further that such reciprocal credit shall not be allowed unless such nonresident is liable and has acknowledged such liability in the municipality of his residence for any tax due after such reciprocal credit is allowed, and the municipality of his residence furnishes evidence of payment of tax therein or evidence of assignment by the taxpayer of his claim for reciprocal credit to such other municipality. The credit allowed under this section to a taxpayer who is a nonresident of Richmond Heights but who is domiciled in Cuyahoga County or in any County immediately contiguous to Cuyahoga County may be assigned to the municipality of his residence and the amount of such credit paid to such other municipality in such manner as the Administrator designated by the City may prescribe.

(Ord. 66-67. Passed 6-13-67.)

181.34 TAX CREDIT.

(a) When the taxable income of a resident of the City of Richmond Heights is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident shall be allowed a credit of the amount of income tax paid on such taxable income to such other municipality, equal to one hundred percent (100%) of the amount obtained by multiplying the lower of the tax rate of such other municipality or of the City of Richmond Heights by the taxable income earned in or attributable to the Municipality of employment or business activity. For the purposes of this section, taxable income shall include the distributive share of net profits of a resident partner or owner of an unincorporated business entity.

(b) A claim for credit or refund under this section shall be made in such manner as the Administrator may by regulation provide. In the event a City of Richmond Heights resident fails, neglects, or refuses to file an annual return or declaration on the form prescribed by the Administrator, he shall not be entitled to such credit or refund and shall be considered in violation of this chapter for failure to file a return.

(Ord. 61-85. Passed 7-8-85.)

181.35 CLAIM FOR CREDIT.

Any claim for credit for income taxes paid another municipality on the same income taxable hereunder, or claim for an assignment of any refund due to the credit provided for herein, must be filed with the Administrator on or before December 31 of the year following that for which such credit is claimed provided that in the case such claim for reciprocity refund shall have been assigned to the municipality of residence, such municipality of residence shall file a claim for refund with the Administrator of the City on or before January 31 following. Failure to file such claim for reciprocity credit or refund or assignment thereof, within the time prescribed herein, shall render such credit, claim for refund or assignment null and void.

(Ord. 36-67. Passed 6-13-67.)

181.36 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in subsection (a) herein shall be deposited in the General Fund for municipal purposes.

(Ord. 36-67. Passed 6-13-67.)

181.37 DUTIES OF THE ADMINISTRATOR.

(a) 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 moneys so received.

(b) It shall be the duty of the Administrator to enforce payment of all taxes owing to the City, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration and make any return, or both, including taxes withheld and to show the dates and amounts of payments thereof.

(Ord. 36-67. Passed 6-13-67.)

181.38 AUTHORITY TO MAKE AND ENFORCE REGULATIONS.

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 re-examination and correction of returns.

(Ord. 36-67. Passed 6-13-67.)

181.39 AUTHORITY TO ARRANGE INSTALLMENT PAYMENTS.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties 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 owed by him under this chapter.

Failure to make any deferred payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Sections 181.27 and 181.30 of this chapter shall apply.

(Ord. 36-67. Passed 6-13-67.)

181.40 AUTHORITY TO DETERMINE AMOUNT OF TAX DUE.

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 from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(Ord. 36-67. Passed 6-13-67.)

181.41 AUTHORITY TO MAKE INVESTIGATIONS.

The Administrator or any 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 to making such examinations and investigations as are hereby authorized.

(Ord. 36-67. Passed 6-13-67.)

181.42 AUTHORITY TO COMPEL PRODUCTIONS OF RECORDS.

The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before them 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 them, whether as parties or witnesses, whenever they believe such persons have knowledge of such income or information pertinent to such inquiry.

(Ord. 36-67. Passed 6-13-67.)

181.43 REFUSAL TO PRODUCE RECORDS.

The refusal to produce books, papers, records and Federal income tax returns, or the refusal to submit to such examination by any employer or persons 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 chapter or with an order or subpoena of the Administrator authorized hereby shall be punished as provided in Section 181.99.

(Ord. 36-67. Passed 6-13-67.)

181.44 CONFIDENTIAL NATURE OF INFORMATION OBTAINED.

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. No person shall divulge such information.

(Ord. 36-67. Passed 6-13-67.)

181.45 TAXPAYER REQUIRED TO RETAIN RECORDS.

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

(Ord. 36-67. Passed 6-13-67.)

181.46 AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION FACILITIES.

(a) The City, having already entered into an agreement for the establishment of a Regional Council of Governments, pursuant to Ordinance 38-71, passed May 25, 1971, which Council has organized a municipal tax collection agency known as the Regional Income Tax Agency, the Board of Trustees of the Regional Income Tax Agency is authorized to administer and enforce the provisions of this chapter as the agent of the City, and the duties and authority of the Administrator hereunder may be performed by the Board of Trustees of the Agency through the Administrator of the Agency. However, the Administrator of the Agency shall have no authority to abate penalties or interest provided for in Section 181.23 and Section 181.24.

(b) The City Council, pursuant to Ordinance 5-2005, passed February 22, 2005, adopted the rules and regulations of the Regional Income Tax Agency as they currently exist or may be amended from time to time. Should any provision of the rules and regulations conflict with any provision of this chapter, the specific provisions of this chapter shall control.

(Ord. 5-2005. Passed 2-22-05.)

181.47 BOARD OF REVIEW ESTABLISHED.

A Board of Review, consisting of the Mayor, the President of Council and a member of Council to be elected by that body, is hereby created. The Board shall select, each year for a one- year term, one of its members to serve as Chairperson and one to serve as Secretary. 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 hearing by the Board may be conducted privately and the provisions of Section 181.44 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 on appeal.

(Ord. 13-2015. Passed 2-10-15.)

181.48 BOARD TO APPROVE REGULATIONS AND TO HEAR APPEALS.

(a) All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

(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, provided the taxpayer making the appeal has filed with the City the required return or other documents concerning the obligation at issue. The appeal shall be in writing and shall state why the decision should be deemed incorrect or unlawful.

(c) The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. Such hearing shall be scheduled within 45 days from the date of appeal. The Board's ruling must be made within 30 days from the date of the closing of the record, shall be in writing and filed with the Administrator, and within 15 days of its decision shall send notice of its decision by ordinary mail to the taxpayer making the appeal.

(d) For matters relating to tax years beginning on or after January 1, 2004, any ruling or decision of the Board of Review may be appealed to a court of competent jurisdiction or to the State Board of Tax Appeals.

(Ord. 5-2005. Passed 2-22-05.)

181.49 SEVERABILITY.

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 Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

181.50 COLLECTION AFTER TERMINATION OF SECTIONS 181.27 THROUGH 181.32.

(a) This chapter shall continue effective 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 effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.27 through 181.32.

(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 181.11 and 181.17 of this chapter as though the same were continuing.

(Ord. 36-67. Passed 6-13-67.)

181.51 TENANT IDENTIFICATION STATEMENT.

(a) The Tax Administrator is hereby authorized to prepare and disseminate an annual tenant identification statement. Each taxpayer or designated agent thereof receiving rental income which constitutes a business activity pursuant to Section 181.08 is required to accurately and fully complete the tenant identification statement and furnish same to the Tax Administrator, or his duly authorized agent, within thirty days following receipt of a tenant identification statement by such taxpayer or designated agent.

(b) The fact that an annual tenant identification statement is not received by a taxpayer or designated agent shall in no matter negate or alleviate the taxpayer's or the agent's obligation for its completion and timely return. Such tenant identification statements shall be available at the City Hall Income Tax Office and through any other sources which the Tax Administrator may designate.

(c) Each taxpayer or designated agent thereof shall furnish the Tax Administrator with a tenant information statement within thirty days of the time any new tenant commences occupancy.

(d) It shall be the duty of the taxpayer and the designated agent to accurately and fully complete and timely return the tenant identification statement. A taxpayer or designated agent who fails to accurately and fully complete and timely return a tenant identification statement shall be deemed guilty of a violation of this chapter.

(Ord. 13-87. Passed 2-24-87.)

181.99 PENALTY.

(a) Whoever violates any of the provisions of this chapter, for which no penalty is otherwise provided, shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense.

(b) Whoever violates Section 181.44 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates Section 181.44 shall be guilty of an offense punishable by immediate discharge.

(Ord. 36-67. Passed 6-13-67.)

CHAPTER 182

Construction; Tax Registration

182.01 Registration.

182.02 Application.

182.03 Registration denial; renewal.

182.04 Registration prerequisite for other matters.

182.05 Exemptions.

182.06 Definitions.

182.99 Penalty.

182.01 REGISTRATION.

(a) No person, firm, partnership or corporation shall perform any construction work in the City unless they possess an uncanceled certificate of tax registration issued by the City Tax Administrator.

(b) A person, firm, partnership or corporation performing or engaged in any construction work in the City shall file an application with the City Tax Administrator and comply with all the requirements with respect to maintaining the certificate of tax registration pursuant to the provisions of this chapter.

(c) The City Tax Administrator shall maintain a list, and provide quarterly updates to the City Division of Building, Zoning and Housing of all uncanceled certificate of tax registration holders.

(Ord. 110-96. Passed 12-23-96.)

182.02 APPLICATION.

A person, firm, partnership or corporation that will perform construction work in the City shall file annually with the City Tax Administrator an application in the form prescribed by the Tax Administrator, verified by the oath of the principal officer (that is, notarized), setting forth information which includes but is not limited to:

(a) The actual and exact name, as well as the taxpayer identification number (TIN) under which the person, firm, partnership or corporation will perform construction work;

(b) The address and telephone number for the principal place of business for the person, firm, partnership or corporation that will perform the construction work;

(c) Proof that the person, firm, partnership or corporation that will perform construction work is current in its obligation to file tax returns and pay taxes to the City;

(d) Proof of current coverage under Ohio Workers' Compensation and Unemployment Compensation at the time of registration and/or reregistration;

(e) Proof of the appointment, as well as the complete name and address, of the statutory or designated agent for the entity that will perform construction work;

(f) The irrevocable consent of such person, firm, partnership or corporation that will perform construction work in the City to service of process on such agent and/or upon the Secretary of State.

(Ord. 110-96. Passed 12-23-96.)

182.03 REGISTRATION DENIAL; RENEWAL.

(a) A certificate of tax registration shall be denied to any person, firm, partnership or corporation that will perform construction work in the City for:

(1) Failure to file tax returns;

(2) Failure to be current in the obligation to file tax returns;

(3) Failure to pay taxes;

(4) Failure to be current in the obligation to pay taxes; or

(5) For good cause articulated by the Tax Administrator.

(Ord. 110-96. Passed 12-23-96.)

(b) A certificate of tax registration shall remain valid and is renewable annually unless canceled by the Tax Administrator for any of the grounds for denial stated in subsection (a) hereof. The Tax Administrator shall give written notice of the cancellation and the reason(s) thereof to the holder of the certificate of tax registration by hand delivery or certificate mail, return receipt requested. Such cancellation shall be effective upon the Tax Administrator's issuance of said written notice. Upon adequate proof of a cure of the reason(s) for cancellation, the Tax Administrator may reinstate or renew the certificate of registration.

(Ord. 87-2004. Passed 11-9-04.)

(c) Any person, firm, partnership or corporation shall register with the Tax Administrator if their certificate of tax registration is canceled pursuant to this Chapter.

(Ord. 110-96. Passed 12-23-96.)

182.04 REGISTRATION PREREQUISITE FOR OTHER MATTERS.

A person, firm, partnership or corporation shall possess and present to the City of Building, Zoning and Housing Division, an uncanceled certificate of tax registration in order to:

(a) Obtain the permit required by Chapter 1325 of the Building Code.

(b) Register as a contractor pursuant to Chapter 1335 of the Building Code; and/or

(c) Renew registration as a contractor.

(Ord. 110-96. Passed 12-23-96.)

182.05 EXEMPTIONS.

Section 182.04(a) does not apply to homeowners obtaining a permit for his or her principal residence.

(Ord. 110-96. Passed 12-23-96.)

182.06 DEFINITIONS.

"Construction" means any construction, reconstruction, rehabilitation, remodeling, improvement, enlargement, alteration, repair, painting, decorating or landscaping.

(Ord. 110-96. Passed 12-23-96.)

182.99 PENALTY.

(a) Any person, firm, partnership, or corporation convicted of violating any section of this chapter shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than six months, or both, for each offense. Each day the violation is committed or permitted to continue shall constitute a separate offense.

(b) The Commissioner of Building, Zoning and Housing may provide written notice ordering any person, firm, partnership or corporation in noncompliance with any provision of this chapter to cease and desist construction until that person, firm, partnership or corporation complies with the provisions of this chapter.

(Ord. 110-96. Passed 12-23-96.)

CHAPTER 183

Admissions Tax

183.01 Definitions.

183.02 Rate and admissions taxable.

183.03 Exemptions.

183.04 Collection procedure.

183.05 Certificate of registration.

183.06 Certificate for temporary or transitory amusement.

183.07 Rules and regulations.

183.08 Appeals.

183.09 Confidential information.

183.10 Severability.

183.99 Penalty.

CROSS REFERENCE

Limitation on the rate of taxation - see CHTR. Art. XII

183.01 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them:

- (a) "Admission charge" means the charge made for the right or privilege to enter into a place. However, if such charge includes rental of property or services it shall be deemed to be an admission charge if so designated, unless the charge is for rental or services and persons who do not use such property or services are admitted free. If a lesser charge is made to persons who do not desire to use the property or services offered, the lesser charge shall constitute the admission charge. The designation of the charge as a rental or service charge shall not be construed to avoid the application of the tax if it is in effect a charge for admission.
- (b) "Place" includes, but is not restricted to, theaters, bowling alleys, dance halls, amphitheaters, auditoriums, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, side shows, swimming pools, outdoor amusement parks and such attractions as merry-go-rounds, Ferris wheels, dodge' ems, roller coasters and observation towers.
- (c) "Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock company, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(Ord. 5-66. Passed 5-10-66.)

183.02 RATE AND ADMISSIONS TAXABLE.

There is hereby levied and imposed upon every person who pays an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates, to any place for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations:

- (a) A tax of three percent on the amounts received for admission to any place, including admission by season ticket or subscription. The tax shall apply to every admission within the City for which a charge is made, notwithstanding that the sale of the ticket or other evidence of right of admission thereto is made outside the City.
- (b) A tax of three percent on the excess of the amounts received for tickets or cards of admission to theaters, operas and other places of amusement, sold at newsstands, hotels and places other than the ticket offices of such theaters, operas or other places of amusement, over and above the amounts representing the established price therefor at such ticket offices, such tax to be returned and paid in the manner provided in Section 183.04 hereof by the person selling the ticket.
- (c) A tax of three percent on the amount received for admission to any public performance for profit at any roof garden, cabaret or other similar entertainment in case the charge for admission is in the form of a service charge or cover charge or other similar charge.

(Ord. 5-66. Passed 5-10-66.)

- (d) A tax of three percent on the amount received as annual membership dues by every club or organization maintaining a swimming pool, tennis, racket ball and handball courts, a tax of three percent on the amount received as annual membership dues by every club or organization maintaining a golf course, a tax of three percent on greens fees collected by golf courses either under club or private ownership, and a tax of three percent on fees charged by any golf driving range or practice fairway.

(Ord. 124-78. Passed 12-26-78.)

183.03 EXEMPTIONS.

- (a) No tax shall be levied with respect to any admission, all the proceeds of which inure:

- (1) Exclusively to the benefit of religious, educational or charitable institutions, societies or organizations, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual.
- (2) Exclusively to the benefit of persons in the military or naval forces of the United States or of National Guard organizations, reserve officer associations or posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in this State and if no part of their net earnings inure to the benefit of any private stockholder or individual.
- (3) Exclusively to the benefit of persons who serve in the military or naval forces of the United States and are in need.
- (4) Exclusively to the benefit of members of the Division of Police or Division of Fire of any municipal corporation, or the dependents or heirs of such members.
- (5) Exclusively to the benefit of the general revenue fund of any municipal corporation or exclusively to the benefit of any fund of any municipal corporation under the control of a Recreation Commission. This exemption from the tax, however, shall not be allowed in cases wherein the admission price is forty-three cents (43¢) or more.
- (b) The exemption from tax provided by this section shall, however, not be allowed of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, nor in the case of admission to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any high school, academy, preparatory or other school, in cases wherein the admission price is forty-three cents (43¢) or more, or wholly or partly to the benefit of any college or university.
- (c) Immediately after the event for which an exemption from admission tax has been allowed, the Treasurer of the institution, society or organization for whose benefit such event was held shall file an itemized statement with the Director of Finance setting forth the amount of money actually received by such Treasurer together with the expenses of promoting and conducting such event. Such statement shall be used as a basis of subsequent requests for exemption from admissions tax for the benefit of such institution, society or organization and if such statement shows a disproportionate expenditure for promoting and conducting of such event, in relation to the profits, if any, no such exemption shall thereafter be allowed to such institution, society or organization.
- (d) The exemption from tax provided in this section shall not be allowed to any institution, society or organization which does not control the sales of admissions to the event for which the exemption is requested, nor shall any exemption be allowed where talent, services or other items are compensated for on a percentage basis if such percentage results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

(Ord. 5-66. Passed 5-10-66.)

183.04 COLLECTION PROCEDURE.

Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Director of Finance as herein provided. Any person required to collect the tax imposed under this chapter who fails to collect the same, or having collected the same, fails to remit the same to the Director of Finance in the manner prescribed by this chapter, whether such failure be the result of his own act or the result of acts or conditions beyond his control, shall nevertheless be personally liable to the City for the amount of such tax, and shall, unless the remittance be made as herein required, be guilty of a violation of this chapter. The tax imposed hereunder shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the Director of Finance in monthly installments and remittances therefor on or before the thirtieth day of the month next succeeding the end of the monthly period in which the tax is collected or received. Payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Director of Finance, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Director of Finance unless the check is honored and is in the full and correct amount. The person receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the Director of Finance may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Director of Finance with a remittance for such amount. The Director of Finance may, at his discretion, require verified annual returns from any person receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable. Whenever any theater, circus, bowling alley, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Director of Finance shall be the judge, the Director of Finance may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as the Director of Finance shall determine. Failure to comply with any requirement of the Director of Finance as to report and remittance of the tax as required shall be a violation of this chapter. The books, records and accounts of any person collecting a tax herein levied shall, as to admission charges and tax collections, be at all reasonable times subject to examination and audit by the Director of Finance. If the tax imposed by this chapter is not paid when due there shall be added, as part of the tax, interest at the rate of one percent per month from the time when the tax became due until paid.

(Ord. 5-66. Passed 5-10-66.)

183.05 CERTIFICATE OF REGISTRATION.

Any person conducting or operating any place for entrance to which an admission charge is made, shall, on the form prescribed by the Director of Finance, make application to and procure from the Director of Finance a certificate of registration, the fee for which shall be one dollar (\$1.00), which certificate shall continue valid until December 31 of the year in which the same is issued. Such certificate of registration or duplicate original copies thereof to be issued by the Director of Finance without additional charge, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

(Ord. 5-66. Passed 5-10-66.)

183.06 CERTIFICATE FOR TEMPORARY OR TRANSITORY AMUSEMENT.

Whenever a certificate of registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 183.04 hereof by such owner, lessee or custodian, unless paid by the person conducting the place. The applicant for a certificate of registration for such purpose shall furnish with the application therefor the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the Director of Finance of the issuance of such certificate and the joint liability for collection and remittance of such tax.

(Ord. 5-66. Passed 5-10-66.)

183.07 RULES AND REGULATIONS.

The Director of Finance shall have power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied. A copy of such rules and regulations shall be published as ordinances of the City are published before they become effective, and copies shall be made available in the office of the Director of Finance. Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter.

Until such time as rules and regulations are promulgated under this section, the rules and regulations of the Department of Taxation, State of Ohio, relating to admission taxes in effect on March 31, 1966, except as the same may conflict with the provisions of this chapter, shall be deemed to be the rules and regulations hereunder.

(Ord. 5-66. Passed 5-10-66.)

183.08 APPEALS.

Appeals from any ruling of any official hereunder shall be made to Council, and Council shall have authority to annul, modify or affirm any such ruling appealed from, in conformity with the intent and purpose of this chapter.

(Ord. 5-66. Passed 5-10-66.)

183.09 CONFIDENTIAL INFORMATION.

All returns and information relating to the business of any person required to collect the tax imposed by this chapter and coming into the possession of the Director of Finance, or any official or employee of the City, shall be held confidential. No disclosures thereof shall be made unless ordered by a court of competent jurisdiction excepting, however, that the Director of Finance may furnish the Bureau of Internal Revenue, Treasury Department of the United States, with copies of returns filed.

(Ord. 5-66. Passed 5-10-66.)

183.10 SEVERABILITY.

The sections of Chapter 183 and each part of a section are hereby declared to be independent sections or parts of sections. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of such sections, or the application thereof to any person or circumstances, is held invalid, the remaining sections or parts of sections, and the application of such provision to any persons or circumstances, other than those as to which it is held invalid, shall not be affected thereby, and it is hereby declared that this chapter would have been passed independently of such section, sections or parts of a section so held to be invalid.

(Ord. 5-66. Passed 5-10-66.)

183.99 PENALTY.

- (a) Whoever, being a person charged by this chapter with the duty of collecting or paying the taxes imposed by this chapter, willfully fails or refuses to charge and collect or to pay such taxes, or to make return to the Director of Finance as required by this chapter, or to permit the Director of Finance, or his duly authorized agent, to examine his books and other records, in or upon any premises where the same are kept, to the extent necessary to verify any return made or to ascertain and assess the tax imposed by this chapter if no return was made, or to maintain and keep for three years or such lesser or greater time as may be permitted or required by the Director of Finance, shall be fined not more than one hundred dollars (\$100.00), and upon conviction for a second or other subsequent offense shall, if a corporation, be fined not more than five hundred dollars

(\$500.00), or, if an individual or member of a partnership, firm or association, be fined not more than one hundred dollars (\$100.00) or imprisoned not more than sixty days, or both.

(b) Whoever violates Section 183.09 shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than thirty days, or both, for each such violation and shall thereafter be disqualified from acting in any official capacity whatsoever in connection with the assessment or collection of taxes under this chapter.

(Ord. 5-66. Passed 5-10-66.)

CHAPTER 184

Income Tax Effective January 1, 2016

184.01 Authority to levy tax; purpose of tax.

184.02 Definitions.

184.03 Imposition of tax.

184.04 Collection at source.

184.05 Annual return; filing.

184.06 Credit for tax paid to other municipalities.

184.07 Estimated taxes.

184.08 Rounding of amounts.

184.09 Request for refunds.

184.10 Second municipality imposing tax after time period allowed for refund.

184.11 Amended returns.

184.12 Limitations.

184.13 Audits.

184.14 Service of assessment.

184.15 Administration of claims.

184.16 Tax information confidential.

184.17 Fraud.

184.18 Interest and penalties.

184.19 Authority of Tax Administrator; verification of information.

184.20 Request for opinion of the Tax Administrator.

184.21 Board of Tax Review.

184.22 Authority to create rules and regulations.

184.23 Rental and leased property.

184.24 Savings clause.

184.24 Collection of tax after termination of chapter.

184.26 Adoption of RITA rules and regulations.

184.27 Filing net profit taxes; election to be subject to R.C. 718.80 to 718.95.

184.99 Violations; penalties.

CROSS REFERENCES

Power to levy income tax - see Ohio Const., Art. XII §8

Limitation on the rate of taxation - see CHTR. Art. XII

Payroll deductions - see Ohio R. C. 9.42

Municipal income taxes - see Ohio R. C. Ch. 718

184.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

(A) For the purpose of providing funds for general Municipal functions of the City there is hereby levied an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

(B) (1) The annual tax is levied at a rate of two and one-quarter percent (2.25%). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 184.03 of this Chapter and other sections as they may apply.

(2) Intentionally left blank.

(C) The tax on income and the withholding tax established by this Chapter 184 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718).

(Ord. 90-2015. Passed 11-24-15.)

184.02 DEFINITIONS.

(A) 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 ORC, 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 ORC 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 ORC.

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) 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 (C)(24)(e) of this division, 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 (5%) of intangible income deducted under division (C)(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 (C)(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 (C)(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 ORC;

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

(i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 184.05.

(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 (V)(3)(b) of Section 184.05.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(e) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States 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 (C)(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 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 that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 184.21, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 184.09, 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 (C)(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 Tax Review" or "Board of Review" or "Board of Tax Appeals"**, or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 184.21.

(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 ORC.

(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 ORC.

(8) **"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.

(9) **"Domicile"** means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.

(10) **"Employee"** means an individual who is an employee for federal income tax purposes.

(11) **"Employer"** means a person that is an employer for federal income tax purposes.

(12) **"Exempt income"** means all of the following:

(a) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state.

(b) Intangible income.

(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 (C)(12)(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 ORC to a person serving as a precinct election official to the extent that such compensation does not exceed \$1,000 for the taxable year. Such compensation in excess of \$1,000 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) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from 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 ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745 of the ORC.
- (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 (C)(35) 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) Intentionally left blank.
- (o) Intentionally left blank.
- (p) (i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 184.04 to the extent the qualifying wages are not subject to withholding for the City under either of those divisions.
- (ii) The exemption provided in division (C)(12)(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 (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 184.04.
- (iv) The exemption provided in division (C)(12)(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 (C)(2) of Section 184.04, 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 (C)(5) of Section 184.04, 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 (C)(12)(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 (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City on not more than twenty (20) days in a taxable year.
- (ii) The exemption provided in division (C)(12)(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 municipal corporation.
- (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 (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 184.04 (C).
- (iii) Compensation to which division (C)(12)(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 (C)(12)(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 ORC 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 (C) 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.
- (13) **"Form 2106"** means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (14) **"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 or for filing a refund claim.
- (15) **"Gross receipts"** means the total revenue derived from sales, work done, or service rendered.
- (16) **"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 (C)(24)(e) of this division.
- (ii) For the purposes of division (C)(16)(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 (C)(16)(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 (C)(16)(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' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(12)(n) or (C)(16)(e) 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 municipal corporation, 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.
- (e) In accordance with a ballot issue, regarding S corporation language, approved by the voters in the election on November 4, 2003, a shareholder's share of net profits of an S corporation are taxable to the City.
- (17) **"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 ORC, and patents, copyrights, trademarks, tradenames, 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.
- (18) **"Internal Revenue Code"** has the same meaning as in Section 5747.01 of the ORC.
- (19) **"Limited liability company"** means a limited liability company formed under Chapter 1705 of the ORC or under the laws of another state.
- (20) **"Municipal corporation"** 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 ORC.
- (21) (a) **"Municipal Taxable Income"** means the following:
- (i) For a person other than an individual, income apportioned or situated to the City under Section 184.03, and further reduced by any pre-2017 net operating loss carryforward available to the person for the City.
- (ii) (a) For an individual who is a resident of the City, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the municipal corporation.
- (b) For an individual who is a nonresident of the City, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the municipal corporation under Section 184.03, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City.
- (b) In computing the Municipal Taxable Income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) 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, but to the extent the expenses do not relate to exempt income. 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 and are not related to exempt income.
- (22) **"Municipality" and/or "City"** means the same as the City of Richmond Heights, Ohio. If the terms are capitalized in the Chapter they are referring to Richmond Heights, Ohio. If not capitalized they refer to a municipal corporation other than Richmond Heights, Ohio.
- (23) **"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.
- (24) (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 division (C)(24)(a) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h)(24)(c) of this section.
- (b) "Net profit" for a person other than an individual means adjusted federal taxable income reduced by any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (C)(24)(c) of this Section.
- (c) (i) The amount of such operating loss shall be deducted from net profit to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five (5) consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.
- (ii) No person shall use the deduction allowed by division (C)(24)(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 more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(24)(c) of this section.

- (b) For taxable years beginning in 2023 or thereafter, a person may deduct the full amount allowed by (C)(24)(c) of this section without regard to the limitation of division (C)(24)(c)(iii)(a) 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 (C)(24)(c) of this section.
- (v) Nothing in division (C)(24)(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)(24)(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)(24)(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)(24)(c)(iii)(a) of this section shall apply to the amount carried forward.
- (d) For the purposes of this Chapter, and notwithstanding division (C)(24)(a)(b) 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) 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 by the City, may elect to be treated as a C corporation for the City. The election shall be made on the annual return for the City. The City will treat the publicly traded partnership as a C corporation if the election is so made.
- (25) **"Nonresident"** means an individual that is not a resident.
- (26) **"Ohio Business Gateway"** means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
- (27) **"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.
- (28) **"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.
- (29) **"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.
- (30) **"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.
- (31) **"Postal service"** means the United States postal service.
- (32) **"Postmark date," "date of postmark,"** and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.
- (33) (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 City that was adopted by the City before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in the City 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.
- (34) **"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.
- (35) **"Qualifying wages"** means wages, as defined in Section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:
- (a) Deduct the following amounts:
- 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.
 - 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.
 - Intentionally left blank.
 - Intentionally left blank.
 - Any amount included in wages that is exempt income.
- (b) Add the following amounts:
- Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - 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 (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.
 - 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 (C)(35)(b)(iii) of this section applies only to employee contributions and employee deferrals.
 - Any amount that is supplemental unemployment compensation benefits described in Section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - 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.
 - Any amount not included in wages if all of the following apply:
 - For the taxable year the amount is employee compensation that is earned outside 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;
 - For no preceding taxable year did the amount constitute wages as defined in Section 3121(a) of the Internal Revenue Code;
 - For no succeeding taxable year will the amount constitute wages; and
 - For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or ORC Section 718.03, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (36) **"Related entity"** means any of the following:
- 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 (50%) of the value of the taxpayer's outstanding stock;
 - 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 (50%) of the value of the taxpayer's outstanding stock;
 - 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 (C)(36)(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;
 - The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.
- (37) **"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 (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.
- (38) **"Resident"** means an individual who is domiciled in the municipal corporation as determined under Section 184.03(E).
- (39) **"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.
- (40) **"Schedule C"** means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (41) **"Schedule E"** means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (42) **"Schedule F"** means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (43) **"Single member limited liability company"** means a limited liability company that has one direct member.
- (44) **"Small employer"** means any employer that had total revenue of less than \$500,000 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; compensation; 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.
- (45) (a) **"Tax Administrator"** means the individual charged with direct responsibility for administration of an income tax levied by the City in accordance with this Chapter. Tax Administrator does not include the state tax commissioner.
- (b) **"Tax Commissioner"** means the tax commissioner appointed under Section 121.03 of the Ohio 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 (C)(48)(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:
- The limited liability company's single member is also a limited liability company.
 - The limited liability company and its single member were formed and doing business in one or more Ohio municipal corporations for at least five (5) years before January 1, 2004.
 - 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 ORC 718.01 as that section existed on December 31, 2004.
 - 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.
 - 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 (C)(48)(b)(ii) 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 \$400,000.
- (49) **"Taxpayers' rights and responsibilities"** means the rights provided to taxpayers in Sections 184.09, 184.12, 184.13, 184.19(B), 184.20, 184.21, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the ORC and resolutions, ordinances, and rules and regulations adopted by the City 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 ORC.
- (51) **"Video lottery terminal sales agent"** means a lottery sales agent licensed under Chapter 3770 of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.

184.03 IMPOSITION OF TAX.

The income tax levied by the City at a rate of two and one-quarter percent (2.25%) is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the City, **Individuals.**

- (A) For residents of the City, the income tax levied herein shall be on 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. This is further detailed in the definition of income (Section 184.02 (C)(16)).
- (B) For 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 municipal corporation, 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 residents and nonresidents, income can be reduced to "Municipal Taxable Income" as defined in Section 184.02 (C)(21). Exemptions which may apply are specified in Section 184.02 (C)(12).

Refundable credit for Nonqualified Deferred Compensation Plan.

- (D) (1) As used in this division:
- (a) "Nonqualified deferred compensation plan" means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
 - (b) "Qualifying loss" means the amount of compensation attributable to a taxpayer's nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the 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.
 - (c) (i) "Qualifying tax rate" means the applicable tax rate for the taxable year for which the taxpayer paid income tax to the City with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.
 - (ii) 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 City each year with respect to the nonqualified deferred compensation plan.
 - (d) "Refundable credit" means the amount of Municipal income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.
- (2) If, in addition to the City, a taxpayer has paid tax to other municipal corporations 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.
- (3) In no case shall the amount of the credit allowed under this section exceed the cumulative income tax that a taxpayer has paid to the City for all taxable years with respect to the nonqualified deferred compensation plan.
- (4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
- (a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - (b) The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

Domicile.

- (E) (1) (a) An individual is presumed to be domiciled in the City for all or part of a taxable year if the individual was domiciled in the City on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the City for all or part of the taxable year.
- (b) An individual may rebut the presumption of domicile described in division (E)(1)(a) of this section if the individual establishes by a preponderance of the evidence that the individual was not domiciled in the City for all or part of the taxable year.
- (2) For the purpose of determining whether an individual is domiciled in the City for all or part of a taxable year, factors that may be considered include, but are not limited to, the following:
- (a) The individual's domicile in other taxable years;
 - (b) The location at which the individual is registered to vote;
 - (c) The address on the individual's driver's license;
 - (d) 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;
 - (e) The location and value of abodes owned or leased by the individual;
 - (f) Declarations, written or oral, made by the individual regarding the individual's residency;
 - (g) The primary location at which the individual is employed.
 - (h) The location of educational institutions attended by the individual's dependents as defined in Section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation where the educational institution is located;
 - (i) The number of contact periods the individual has with the City. For the purposes of this division, an individual has one "contact period" with the City if the individual is away overnight from the individual's abode located outside of the City and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the City.
- (3) All additional applicable factors are provided in the Rules and Regulations.

Businesses.

- (F) This division applies to any taxpayer engaged in a business or profession in the City, unless the taxpayer is an individual who resides in the City 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 ORC.
- (1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:
- (a) 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 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;
 - (b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City 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 184.04 (C);
 - (c) Total gross receipts of the business or profession from sales and rentals made and services performed during the taxable period in the City to total gross receipts of the business or profession during the same period from sales, rentals, and services, wherever made or performed.
- (2) (a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the Tax Administrator of the City 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:
- (i) Separate accounting;
 - (ii) The exclusion of one or more of the factors;
 - (iii) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the municipal corporation;
 - (iv) A modification of one or more of the factors.
- (b) 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 Section 184.12 (A).
- (c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 184.12 (A).
- (d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.
- (3) As used in division (F)(1)(b) 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:
- (a) A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
 - (i) The employer;
 - (ii) A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 - (iii) A vendor, customer, client, or patient of a person described in (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.
 - (b) 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;
 - (c) 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 (F) (3)(a) or (b) of this section solely in order to avoid or reduce the employer's municipal income tax liability. If the 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.
- (4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be situated to a municipal corporation as follows:
- (a) 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 either of the following criteria:
 - (i) The property is shipped to or delivered within the City from a stock of goods located within the City.
 - (ii) The property is delivered within the City from a location outside the City, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City and the sales result from such solicitation or promotion.
 - (b) Gross receipts from the sale of services shall be situated to the City to the extent that such services are performed in the City.
 - (c) To the extent included in income, gross receipts from the sale of real property located in the City shall be situated to the City.
 - (d) To the extent included in income, gross receipts from rents and royalties from real property located in the City shall be situated to the City.
 - (e) Gross receipts from rents and royalties from tangible personal property shall be situated to the City based upon the extent to which the tangible personal property is used in the City.
- (5) 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 the City's tax only if the property generating the net profit is located in the City or if the individual taxpayer that receives the net profit is a resident of the City. The City 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.
- (6) (a) 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 the City, if applicable, 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 to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.
- (b) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City's income tax ordinance.
- (7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) 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.
- (8) Intentionally left blank.
- (9) Intentionally left blank. (Ord. 42-2018. Passed 3-27-18.)

184.04 COLLECTION AT SOURCE.**Withholding provisions.**

- (A) Each employer, agent of an employer, or other payer located or doing business in the City shall withhold an income tax from the qualifying wages earned and/or received by each employee in the City. Except for qualifying wages for which withholding is not required under Section 184.03 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 184.01 of this Chapter, of two and one-quarter percent (2.25%). 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.
(Ord. 90-2015. Passed 11-24-15.)
- (B) (1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the City 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 according to the following schedule:
- (a) 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 City in the preceding calendar year exceeded \$2,399, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the City in any month of the preceding calendar quarter exceeded \$200.
Payments under division (B)(1)(a) of this section shall be made to the Tax Administrator not later than fifteen (15) days after the last day of each month for which the tax was withheld.

- (b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the last day of the month following the last day of each calendar quarter.
(Ord. 85-2016. Passed 9-13-16.)
- (c) Intentionally left blank.
- (2) 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 shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the City. 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.
- (3) 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 Tax Administrator and the City as the return required of a non-resident 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.
- (4) An employer, agent of an employer, or other payer is not required to withhold City 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.
- (5) (a) 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.
(b) The failure of an employer, agent of an employer, or other payer to remit to the City 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.
- (6) Compensation deferred before June 26, 2003, is not subject to City income tax or 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.
- (7) 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 City until such time as the withheld amount is remitted to the Tax Administrator.
- (8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:
(a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the City during the preceding calendar year;
(b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year;
(c) 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;
(d) 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;
(e) Other information as may be required by the Tax Administrator.
- (9) 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.
- (10) An employer is required to deduct and withhold City income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but 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.
- (11) The 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.

Occasional Entrant - Withholding.

- (C) (1) As used in this division:
(a) "Employer" includes a person that is a related member to or of an employer.
(b) "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.
(c) "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 (C)(2)(a)(i) 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 determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.
(d) "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
(e) "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
(f) "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.
(g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty (20) days during the calendar year. "Worksite location" does not include the home of an employee.
- (2) (a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold City income tax on qualifying wages paid to an employee for the performance of personal services in the City if the employee performed such services in the City on twenty (20) or fewer days in a calendar year, unless one of the following conditions applies:
(i) The employee's principal place of work is located in the City.
(ii) The employee performed services at one or more presumed worksite locations in the City. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the City at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than twenty (20) days in a calendar year. Services can "reasonably be expected by the employer to last more than twenty (20) days" if either of the following applies at the time the services commence:
(a) The nature of the services is such that it will require more than twenty (20) days of the services to complete the services;
(b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than twenty (20) days.
(iii) The employee is a resident of the City and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 184.04.
(iv) 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.
- (b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in the City only if the employee spent more time performing services for or on behalf of the employer in the City 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:
(i) Traveling to the location at which the employee will first perform services for the employer for the day;
(ii) Traveling from a location at which the employee was performing services for the employer to any other location;
(iii) 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;
(iv) Transporting or delivering property described in division (C)(2)(b)(iii) 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;
(v) 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.
- (3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) 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 that municipal corporation.
- (4) (a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the City exceeds the twenty (20) day threshold, the employer shall withhold and remit tax to the City for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the City.
(b) An employer required to begin withholding tax for the City under division (C)(4)(a) of this section may elect to withhold tax for the City for the first twenty (20) days on which the employer paid qualifying wages to the employee for personal services performed in the City.
- (5) If an employer's fixed location is the City and the employer qualifies as a small employer as defined in Section 184.02, the employer shall withhold City income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the City, regardless of the number of days which the employee worked outside the corporate boundaries of the City.
To determine whether an employer qualifies as a small employer for a taxable year, the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (6) Divisions (C)(2)(a) and (4) 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 184.04.
(Ord. 90-2015. Passed 11-24-15.)

184.05 ANNUAL RETURN; FILING.

- (A) An annual City income tax return shall be completed and filed by every individual taxpayer and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.
- (1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 184.05 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 the City.
- (2) Retirees having no Municipal Taxable Income for City income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the City, at which time the retiree shall be required to comply with all applicable provisions of this Chapter.
- (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 City, 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.
- (D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.
- (E) The City shall permit spouses to file a joint return.
- (F) (1) Each return required to be filed under this division 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. The return 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) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 or, in the case of a return or request required by a qualified municipal corporation, Ohio form IT-1040; and, with respect to an amended tax return, any other

documentation necessary to support 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) The Tax Administrator may require a taxpayer that is not an individual 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.

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.

- (4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the City 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.
- (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 ORC. 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 City. No remittance is required if the net amount due is ten dollars (\$10.00) or less.
- (b) Except as otherwise provided in this Chapter, each annual net profit 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 (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year. 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 City. No remittance is required if the net amount due is ten dollars (\$10.00) or less.
- (2) 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 the City's income tax return. The extended due date of the City's income tax return shall be the fifteenth (15th) day of the tenth (10th) month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.
- (a) A copy of the federal extension request shall be included with the filing of the City's income tax return.
- (b) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may submit a written 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.
- (3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an extension for the filing of the City's income tax return. The extended due date of the City's income tax return shall be the same as the extended due date of the state income tax return.
- (4) If the Tax Administrator considers it necessary in order to ensure the payment of the tax imposed by the City, the Tax Administrator may require taxpayers to file returns and make payments otherwise than as provided in this division, including taxpayers not otherwise required to file annual returns.
- (5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.
- (H) (1) For taxable years beginning after 2015, the City shall not require a taxpayer to remit tax with respect to net profits if the net amount due is ten dollars (\$10.00) or less.
- (2) Any taxpayer not required to remit tax to the City for a taxable year pursuant to division (H)(1) of this section shall file with the City an annual net profit return under division (F)(3) of this section, unless the provisions of division (H)(3) apply.
- (3) (a) A person may notify the Tax Administrator that the person does not expect to be a taxpayer subject to City income tax ordinance for a taxable year if both the following apply:
- (i) The person was required to file a tax return with the City for the immediately preceding taxable year because the person performed services at a worksite location (as defined in Section 4(C)(1)(g)) within City.
- (ii) The person no longer provides services in the City and does not expect to be subject to City income tax for the taxable year.
- (b) 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 City. The affidavit shall also include the following statement: "The affiant has no plans to perform any services within the City, make any sales in the City, or otherwise become subject to the tax levied by the City during the taxable year. If the affiant does become subject to the tax levied by the City for the taxable year, the affiant agrees to be considered a taxpayer and to properly comply as a taxpayer with the City income tax ordinance and rules and regulations." The person shall sign the affidavit under penalty of perjury.
- (c) If a person submits an affidavit described in division (H)(3)(b) the Tax Administrator shall not require the person to file and 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.
- (d) Nothing in division (H)(3) of this section prohibits the Tax Administrator from performing an audit of the person.
- (Ord. 42-2018. Passed 3-27-18.)
- (I) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.
- (Ord. 85-2016. Passed 9-13-16.)
- (J) Taxes withheld for the City by an employer, the agent of an employer, or other payer as described in Section 184.04 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the City, unless the amounts withheld were not remitted to the City 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 City to be filed in accordance with this division 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.
- (L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the City, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the City or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and any of the City's ordinances, resolutions, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.

- (M) (1) Any taxpayer subject to City income taxation with respect to the taxpayer's net profit from a business or profession may file a City income tax return, estimated City income tax return, or extension for filing a City income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.
- (2) Any employer, agent of an employer, or other payer may report the amount of City income tax withheld from qualifying wages, and may make remittance of such amounts, by using the Ohio Business Gateway.
- (3) Nothing in this section affects the due dates for filing employer withholding tax returns.

Extension for service in or for the armed forces.

(N) 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 City for both an extension of time for filing of the return and an extension of time for payment of taxes required by the City during the period of the member's or civilian's duty service, and for one hundred eighty (180) days thereafter. The application shall be filed on or before the one hundred eightieth (180th) 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.

- (O) (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 (181st) day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (2) If the Tax Administrator determines 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 municipal corporation before the one hundred eighty-first (181st) day after the applicant's active duty or service terminates.
- (3) Taxes paid pursuant to a contract entered into under (O)(1) of this division are not delinquent. The Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.
- (P) (1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) 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 a municipal corporation in accordance with this Chapter. The length of any extension granted under division (P)(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 division, "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 whose payment is extended in accordance with division (P)(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 (P)(2)(a) of this section in calculating the penalty or interest due on any unpaid tax.
- (Q) For each taxable year to which division (N), (O), or (P) of this section applies to a taxpayer, the provisions of divisions (O)(2) and (3) 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.

Consolidated City income tax return.

- (R) 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 (R)(1) of this section.
- (4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.
- (5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.
- (S) (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 City's 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 (5) 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 (5) year period unless the taxpayer elects to discontinue filing consolidated municipal income tax returns under division (S) (2) of this section or 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 (5) year consolidated municipal income tax return election period in effect under division (S)(1) of this section. The election to discontinue filing a consolidated municipal income tax return is binding for a five (5) year period beginning with the first taxable year of the election.
- (3) An election made under division (S)(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 718.80 of the Revised Code, a valid election made by a taxpayer under division (S)(1) or (2) of this section is binding upon the tax commissioner for the remainder of the five-year period.
- (5) When an election is made under section 718.80 of the Revised Code is terminated, a valid election made under section 718.86 of the Revised Code is binding upon the tax administrator for the remainder of the five-year period.
- (T) 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 City 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 City. A taxpayer that is required to file a consolidated City income tax return for a taxable year shall file a consolidated City 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.

- (U) A taxpayer shall prepare a consolidated City 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.
- (V) (1) Except as otherwise provided in divisions (V)(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 184.02, 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 corporations" for "a C corporation's" wherever "a C corporation's" appears in that division.
- (2) No corporation filing a consolidated City income tax return shall make any adjustment otherwise required under Section 184.02(C)(1) 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 (80%) 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 City 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 divisions (R) through (Y) of Section 184.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the City. 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 divisions (R) through (Y) of Section 184.05, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the City. 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 divisions (R) through (Y) of Section 184.05, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to the City;
- (b) The pass-through entity shall be subject to City 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.
- (W) Corporations filing a consolidated City income tax return shall make the computations required under divisions (R) through (Y) of Section 184.05 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.
- (X) Each corporation filing a consolidated City income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the City 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.
- (Y) Corporations and their affiliates that made an election or entered into an agreement with the City before January 1, 2016, to file a consolidated or combined tax return with the City 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. 42-2018. Passed 3-27-18.)

184.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

- (A) Every individual taxpayer domiciled in the City who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this Chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed the tax due the City under this Chapter.
- (B) The City shall grant a credit against its tax on income to a resident of the City 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 ORC to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.
- (C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, "the income, qualifying wages, commissions, net profits or other compensation" subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.
- (D) Intentionally left blank.
- (Ord. 90-2015. Passed 11-24-15.)

184.07 ESTIMATED TAXES.

- (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 the City's income tax for the current taxable year.
- (2) "Tax liability" means the total taxes due to the City 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 \$200. For the purposes of this section:
- (a) Taxes withheld for the City from qualifying wages shall be considered as paid to the City in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they 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.
- (2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.
- (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 184.05 or on or before the fifteenth (15th) day of the fourth month 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 (15th) day of the fourth (4th) 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 City, 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 (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half (22.5%) percent of the tax liability for the taxable year;
- (b) On or before the fifteenth (15th) day of the sixth (6th) month after the beginning of the taxable year, forty-five (45%) percent of the tax liability for the taxable year;
- (c) On or before the fifteenth (15th) day of the ninth (9th) month after the beginning of the taxable year, sixty-seven and one-half (67.5) percent of the tax liability for the taxable year;
- (d) For an individual, on or before the fifteenth (15th) day of the first of the month of the following taxable year, ninety percent (90%) of the tax liability for the taxable year. For a person other than an individual, on or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.
- (2) 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.
- (3) On or before the fifteenth (15th) day of the fourth (4th) 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 184.05.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 184.18 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 (22.5%) 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 (45%) 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 (67.5%) 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 (90%) 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 (90%) 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 City under Section 184.05 for that year.
- (3) The taxpayer is an individual who resides in the City but was not domiciled there on the first (1st) day of January of the calendar year that includes the first (1st) day of the taxable year.
- (Ord. 42-2018. Passed 3-27-18.)

184.08 ROUNDING OF AMOUNTS.

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. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document. (Ord. 90-2015. Passed 11-24-15.)

184.09 REQUESTS FOR REFUNDS.

- (A) As used in this section, "withholding tax" has the same meaning as in Section 184.18.
- (B) Upon receipt of a request for a refund, the Tax Administrator, 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 municipal corporation:
- (1) Overpayments of ten dollars (\$10.00) or more;
- (2) Amounts paid erroneously if the refund requested is ten dollars (\$10.00) or more.
- (C) (1) Except as otherwise provided in this Chapter, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three (3) years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.
- (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 (C)(3) of this section, the Tax Administrator shall issue an assessment to any taxpayer whose request for refund is fully or partially denied. The assessment shall state the amount of the refund that was denied, the reasons for the denial, and instructions for appealing the assessment.
- (3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 184.21.
- (D) A request for a refund that is received after the last day for filing specified in division (C) 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 (7) 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 (7) days of the last day for making the request.

(E) 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 (90) days after the final filing date of the annual return or ninety (90) 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 Section 184.18 (A)(4).

(Ord. 90-2015. Passed 11-24-15.)

184.10 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.

- (A) Income tax that has been deposited with the City, but should have been deposited with another municipality, is allowable by the City as a refund but is subject to the three (3) year limitation on refunds.
- (B) Income tax that was deposited with another municipality but should have been deposited with the City is subject to recovery by City. If the City's tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the City shall allow a nonrefundable credit against the tax or withholding the City claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.
- (C) If the City's tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the City's tax rate. However, if the City's tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the City, along with any penalty and interest that accrued during the period of nonpayment.
- (D) Nothing in this section permits any credit carryforward.

(Ord. 90-2015. Passed 11-24-15.)

184.11 AMENDED RETURNS.

- (A) (1) If a taxpayer's tax liability shown on the annual tax return for the City changes as a result of an adjustment to the taxpayer's federal or state income tax return, the taxpayer shall file an amended return with the City. The amended return shall be filed on a form required by the Tax Administrator.
- (2) 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, no payment need be made. The amended return shall 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 only:
- (i) To determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,
- (ii) If the applicable statute of limitations for civil actions or prosecutions under Section 184.12 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; i.e., the payment shall be the lesser of the two amounts.
- (C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (D) of this section for filing the amended return, even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is less than ten dollars, no refund need be paid by the City. A request filed under this division shall claim refund of overpayments resulting from alterations only to 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 184.09.
- (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. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.
- (D) Within sixty (60) days after the final determination of any federal or state tax liability affecting the taxpayer's City income tax liability, that taxpayer shall make and file an amended City income tax return showing income subject to City income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional City income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten (\$10.00) dollars.

(Ord. 90-2015. Passed 11-24-15.)

184.12 LIMITATIONS.

- (A) (1) (a) Civil actions to recover City income taxes and penalties and interest on City income taxes shall be brought within the later of:
- (i) Three (3) years after the tax was due or the return was filed, whichever is later; or
- (ii) One (1) 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 the Board of Tax Review the request described in Section 184.21. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
- (b) Ending the later of the sixtieth (60th) day after the date on which the final determination of the Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth (60th) day after the date on which the final determination of the 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 (3) 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 (25%) or more of income required to be reported, prosecutions may be commenced within six (6) 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 184.09.
- (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 City 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 Board of Tax Review, 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 resultant amount due is less than the amount paid, a refund will be paid in the amount of the overpayment as provided by Section 184.09, with interest on that amount as provided by division (E) of Section 184.09.
- (E) No civil action to recover City 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. 90-2015. Passed 11-24-15.)

184.13 AUDITS.

- (A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a 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. (Ord. 90-2015. Passed 11-24-15.)

184.14 SERVICE OF ASSESSMENT.

- (A) As used in this section:
- (1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.
- (2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.
- (B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, 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.
- (C) (1) (a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within sixty (60) days after the assessment's postmark.
- (b) Once the Tax Administrator or other City official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the Board of Tax Review within sixty (60) days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.
- (2) If mailing of an assessment by a Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:
- "This assessment is deemed to be served on the addressee under applicable law ten (10) days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."
- Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten (10) days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.
- If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.
- (D) (1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. 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 (20%) 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 (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty

(60) days after the initial contact by the Tax Administrator or other City 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.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply.

(Ord. 90-2015. Passed 11-24-15.)

184.15 ADMINISTRATION OF CLAIMS.

(A) As used in this section, "claim" means a claim for an amount payable to the City that arises pursuant to the City's income tax imposed in accordance with this Chapter.

(B) Nothing in this Chapter prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the City:

(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.

(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 be to the benefit of only the parties to the compromise or agreement, and shall not eliminate or otherwise affect the liability of any other person.

(E) 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.

(Ord. 90-2015. Passed 11-24-15.)

184.16 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Chapter 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 City as authorized by this Chapter. The Tax Administrator 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 tax commissioner, and tax administrators of other municipal corporations.

(B) This section does not prohibit the City from publishing or disclosing statistics in a form that does not disclose information with respect to particular taxpayers.

(Ord. 90-2015. Passed 11-24-15.)

184.17 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 City 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 City or the Tax Administrator.

(Ord. 90-2015. Passed 11-24-15.)

184.18 INTEREST AND PENALTIES.

(A) As used in this section:

(1) "Applicable law" means this Chapter, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the City provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the City.

(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 (3) 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" means any income tax, estimated income tax, and withholding tax imposed by the City 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 the Tax Administrator or the City 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 applies 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 City 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 and regulations, as adopted before January 1, 2016, of the City to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fail, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the City any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2) (a) With respect to unpaid income tax and unpaid estimated income tax, the City may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the City may impose a penalty not exceeding fifty percent (50%) of the amount not timely paid.

(3) With respect to returns other than estimated income tax returns, the City may impose a penalty of twenty-five dollars (\$25.00) 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 one hundred and fifty dollars (\$150.00) for each failure.

(D) Nothing in this section requires the City to refund or credit any penalty, amount of interest, charges, or additional fees that the City has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of the City to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year the City shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

(G) The City may impose on the taxpayer, employer, any agent of the employer, or any other payer the City's post-judgment collection costs and fees, including attorney's fees.

(Ord. 42-2018. Passed 3-27-18.)

184.19 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

(A) Nothing in this Chapter shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the ORC:

(1) (a) Exercise all powers whatsoever of an inquiry 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.

(b) 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 the City's income tax ordinance;

(2) Appoint agents and prescribe their powers and duties;

(3) 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;

(4) Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Chapter;

(5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

(6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 184.03;

(7) (a) Make all tax findings, determinations, computations, 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, re-determine, or correct any tax findings, determinations, computations, and orders the Tax Administrator has made.

(b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

(8) Destroy any or all returns or other tax documents in the manner authorized by law;

(9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 184.04.

Verification of accuracy of returns and determination of liability.

(B) (1) A 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.

(2) 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 (6) 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 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 City or for the withholding of such tax.

(3) 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.

(4) 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 or state income tax returns under this section shall fail to comply.

Identification information.

- (C) (1) Nothing in this Chapter prohibits the Tax Administrator from requiring 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.
- (2) (a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within thirty (30) 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 184.18, in addition to any applicable penalty described in Section 184.99.
- (b) 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 (C) of Section 184.19 within thirty (30) 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 184.18.
- (c) The penalties provided for under divisions (C)(2)(a) and (b) 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 184.99 for a violation of Section 184.17 and any other penalties that may be imposed by the Tax Administrator by law. (Ord. 90-2015. Passed 11-24-15.)

184.20 REQUEST FOR 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 in accordance with the Rules and Regulations.
- (C) 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.
- (D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.
- (E) An opinion of the Tax Administrator binds the 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.
- (F) An opinion of the Tax Administrator issued under this section is not subject to appeal. (Ord. 90-2015. Passed 11-24-15.)

184.21 BOARD OF TAX REVIEW.

- (A) (1) The Board of Tax Review shall consist of three (3) members. Two (2) members shall be appointed by the legislative authority of the City, but such appointees may not be employees, elected officials, or contractors with the City at any time during their term or in the five (5) years immediately preceding the date of appointment. One (1) member shall be appointed by the Mayor of the City. This member may be an employee of the City, 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.
- (2) The term for members of the Board of Tax Review appointed by the legislative authority of the City shall be two (2) years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the Mayor of the City shall serve at the discretion of the Mayor.
- (3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten (10) days' notice. The decision by the legislative authority on the charges is final and not appealable.
- (4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.
- (5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within sixty (60) 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 of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.
- (6) If a member is temporarily unable to serve on the Board of Tax Review 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 of Tax Review in the member's place. The appointment of such an individual shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (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.
- (C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. 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 (60) days after the taxpayer receives the assessment.
- (D) The Board of Tax Review shall schedule a hearing to be held within sixty (60) 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 of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review 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 (120) days after the first (1st) day of the hearing unless the parties agree otherwise.
- (E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within ninety (90) days after the Board of Tax Review'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 (15) days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.
- (F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC. (Ord. 90-2015. Passed 11-24-15.)

184.22 AUTHORITY TO CREATE RULES AND REGULATIONS.

- (A) Nothing in this Chapter prohibits the legislative authority of the City, or a Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by the City in accordance with this Chapter. Such rules shall not conflict with or be inconsistent with any provision of this Chapter. Taxpayers are hereby required to comply not only with the requirements of this Chapter, but also to comply with the Rules and Regulations.
- (B) All rules adopted under this section shall be published and posted on the internet. (Ord. 90-2015. Passed 11-24-15.)

184.23 RENTAL AND LEASED PROPERTY.

- (A) All property owners of real property located in the City, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before July 31st of each calendar year and the January 31st following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on June 31st and December 31 during such calendar year such apartment, room or other residential dwelling rental property. In addition to the above, property managers and owners who rent or otherwise lease real property located in the City, or any part thereof, to any person for residential dwelling purposes, including apartment, rooms and other rental accommodations, during any calendar year, or part thereof, having 4 or more units or tenants, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on a monthly basis, on or before the 15th day following the end of the previous calendar month, a written report disclosing the name, address and also telephone number, if available, and length of the contemplated tenancy of each tenant known to have occupied on the first day of the proceeding month such apartment, room or other residential dwelling rental property.
- (B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address and telephone number of any tenant of residential rental real property in the City. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address and telephone number of any tenant of residential real property located in the City. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address and telephone number of any tenant of residential real property in the City.
- (C) Any property owner or person that violates one or more of the following shall be subject to Section 184.99 of this Chapter:
- (1) Fails, refuses or neglects to timely file a written report required by subsection (a) hereof; or
 - (2) Makes an incomplete or intentionally false written report required by subsection (a) hereof; or
 - (3) Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or
 - (4) Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator.
- (Ord. 90-2015. Passed 11-24-15.)

184.24 SAVINGS CLAUSE.

This Chapter shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Chapter or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if 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 Council that this Chapter would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein. (Ord. 90-2015. Passed 11-24-15.)

184.25 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

- (A) This Chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this Chapter are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods 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 Section 184.12 and Section 184.99 hereof.
- (B) Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 184.05 and Section 184.04 of this Chapter as though the same were continuing. (Ord. 90-2015. Passed 11-24-15.)

184.26 ADOPTION OF RITA RULES AND REGULATIONS.

The City hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the City's Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of this Chapter and the RITA Rules & Regulations, this Chapter will supersede. Until and if the contractual relationship between the City and RITA ceases, Section 184.26 will supersede all other provisions within Chapter 184 regarding promulgation of rules and regulations by the Tax Administrator. (Ord. 90-2015. Passed 11-24-15.)

184.27 FILING NET PROFIT TAXES; ELECTION SUBJECT TO R.C. 718.80 TO 718.95.

- (A) The City of Richmond Heights hereby adopts and incorporates herein by reference Sections 718.80 to 718.95 of the Ohio Revised Code for tax years beginning on or after January 1, 2018.
- (B) A taxpayer, as defined in division (C) of this Section, may elect to be subject to Sections 718.80 to 718.95 of the Revised Code in lieu of the provisions of this Chapter.
- (C) "Taxpayer" has the same meaning as in Section 184.02 of this Chapter, except that a 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. (Ord. 42-2018. Passed 3-27-18.)

184.99 VIOLATIONS; PENALTIES.

- (A) Whoever violates Section 184.17, division (A) of Section 184.16, or Section 184.04 by failing to remit City 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 \$1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.
- (B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 184.16 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than \$5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five (5) years, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.
- (C) Each instance of access or disclosure in violation of division (A) of Section 184.16 constitutes a separate offense.

- (D) If not otherwise specified herein, no person shall:
- (1) Fail, neglect or refuse to make any return or declaration required by this Chapter;
 - (2) File any incomplete or false return;
 - (3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Chapter;
 - (4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
 - (5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;
 - (6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;
 - (7) Fail to comply with the provisions of this Chapter or any order or subpoena of the Tax Administrator authorized hereby;
 - (8) 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;
 - (9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.
- (E) Any person who violates any of the provisions in Section 184.99 (D) shall be subject to the penalties provided for in Section 184.99 (A) of this Chapter.
- (Ord. 90-2015. Passed 11-24-15.)

**CODIFIED ORDINANCES OF RICHMOND HEIGHTS
PART THREE - TRAFFIC CODE**

TITLE ONE - Administration

- Chap. 301. Definitions.
- Chap. 303. Enforcement, Impounding and Penalty.
- Chap. 305. Traffic Control.
- Chap. 307. Civil Penalties for Violations Under Automated Traffic Control Photographic System.

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. 345. Operation in Shopping Centers.
- Chap. 346. Removal of Unlicensed or Out-of-Repair Vehicles.
- Chap. 347. Transportation of Radioactive Materials.
- Chap. 349. Sale of Vehicles.

TITLE SEVEN - Parking

- Chap. 351. Parking Generally.

TITLE NINE - Pedestrians, Bicycles and Motorcycles

- Chap. 371. Pedestrians.
- Chap. 373. Bicycles and Motorcycles.
- Chap. 375. Snowmobiles, Off-Highway Motorcycles and All Purpose Vehicles.

**CODIFIED ORDINANCES OF RICHMOND HEIGHTS
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- Chap. 301. Definitions.
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- Chap. 305. Traffic Control.
- Chap. 307. Civil Penalties for Violations Under Automated Traffic Control Photographic System.

CHAPTER 301

Definitions

- 301.01** Meaning of words and phrases.
- 301.02** Agricultural tractor.
- 301.03** Alley.
- 301.031** Beacon; hybrid beacon.
- 301.04** Bicycle; motorized bicycle; moped; electric bicycle.
- 301.05** Bus.
- 301.06** Business district.
- 301.07** Commercial tractor.
- 301.08** Controlled-access highway.
- 301.09** Crosswalk.
- 301.10** Driver or operator.
- 301.11** Emergency vehicle.
- 301.12** Explosives.
- 301.13** Expressway.
- 301.14** Flammable liquid.
- 301.15** Freeway.
- 301.16** Gross weight.
- 301.161** Highway maintenance vehicle.
- 301.162** Highway traffic signal.
- 301.17** Intersection.
- 301.18** Laned street or highway.
- 301.183** Low-speed micromobility device.
- 301.185** Median.
- 301.19** Motorcycle.
- 301.20** Motor vehicle.
- 301.201** Operate.
- 301.21** Park or parking.
- 301.22** Pedestrian.
- 301.23** Person.
- 301.24** Pole trailer.
- 301.25** Police officer.
- 301.251** Predicate motor vehicle or traffic offense.
- 301.26** Private road or driveway.
- 301.27** Public safety vehicle.
- 301.28** Railroad.
- 301.29** Railroad sign or signal.
- 301.30** Railroad train.
- 301.31** Residence district.
- 301.32** Right of way.
- 301.321** Road service vehicle.
- 301.33** Roadway.
- 301.34** Safety zone.
- 301.35** School bus.
- 301.36** Semitrailer.
- 301.361** Shared-use path.
- 301.37** Sidewalk.
- 301.38** State route.
- 301.39** Stop (when required).
- 301.40** Stopping or standing.
- 301.41** Stop intersection.
- 301.42** Street or highway; arterial street.
- 301.43** Through street or highway.
- 301.44** Thruway.
- 301.45** Traffic.
- 301.46** Traffic control devices.
- 301.47** Traffic control signal.
- 301.48** Trailer.
- 301.49** Truck.

- 301.50 Urban district.
- 301.51 Vehicle.
- 301.52 Wheelchair, motorized.
- 301.53 Waste collection vehicle.

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, 4511.51, 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 then 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 Impounding vehicles on private residential or agricultural property.
- 303.082 Private tow-away zones.
- 303.083 Impounding vehicles on public property.
- 303.09 Leaving junk and other vehicles on private or public property without permission or notification.
- 303.10 Leaving junk vehicles on private property with permission of owner.
- 303.11 Storage and towing charges.
- 303.12 Vehicle trespass.
- 303.13 Presenting false name or information to law enforcement officer issuing a traffic ticket or complaint.
- 303.99 General Traffic Code penalties.
- 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. (EDITOR'S NOTE: Refer to Ohio R.C. 2921.331 for filing charges under subsection (b) hereof since the jury or judge as trier of fact may determine the violation to be a felony.)
- (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. Except as hereinafter provided, a violation of subsection (b) is a misdemeanor of the first degree. A violation of subsection (b) is a felony if 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 as 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 and impounding of a vehicle under the following circumstances:
 - (1) When any vehicle is left unattended upon any street, bridge or causeway and is so legally 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) A. When any vehicle or "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 is left 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.

- B. When an "abandoned junk motor vehicle" is left on private property for more than seventy-two consecutive hours without the permission of the person having the right to the possession of the property.
- C. Prior to disposal of an "abandoned junk motor vehicle", it shall be photographed by a law enforcement officer.
(Ord. 134-84, Passed 12-18-84.)
- (3) When any vehicle has been stolen or operated without the consent of the owner.
- (4) When any vehicle displays illegal license plates or fails to display the current lawfully required license plates.
- (5) When any vehicle has been used in or connected with the commission of a felony.
- (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.
- (7) When any vehicle is left unattended due to the removal of an ill, injured or arrested operator.
- (8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision.
- (9) When any vehicle has been operated by any person who is driving without a lawful license or while their license has been suspended or revoked.
- (10) When any vehicle is found for which two or more citation tags for violations of the Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required.
(A.O.)
- (11) When any vehicle has been parked on private property in violation of a posted fire lane.

(Ord. 162-90, Passed 11-13-90.)

(b) The Police Division 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 Division 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 vehicles was impounded 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) 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.

303.081 IMPOUNDING VEHICLES ON PRIVATE RESIDENTIAL OR AGRICULTURAL PROPERTY.

- (a) (1) The chief of a law enforcement agency of the municipal corporation, upon complaint of any person adversely affected may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property. The chief, upon complaint of a repair garage or place of storage, may order into storage any motor vehicle, other than an abandoned junk motor vehicle, that has been left at the garage or place of storage for a longer period than that agreed upon. When ordering a motor vehicle into storage pursuant to this section, the chief may arrange for the removal of the motor vehicle by a towing service and shall designate a storage facility.
- (2) A towing service towing a motor vehicle under subsection (a)(1) of this section shall remove the motor vehicle in accordance with that subsection. The towing service shall deliver the motor vehicle to the location designated by the chief not more than two hours after the time it is removed from the private property, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.
- (3) Subject to subsection (b) of this section, the owner of a motor vehicle that has been removed pursuant to this subsection may recover the vehicle only in accordance with subsection (d) of this section.
- (4) As used in this section "private residential property" means private property on which is located one or more structures that are used as a home, residence or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.
- (b) If the owner or operator of a motor vehicle that has been ordered into storage pursuant to subsection (a)(1) of this section arrives after the motor vehicle has been prepared for removal, but prior to its actual removal from the property, the towing service shall give the owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the motor vehicle established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the motor vehicle. However, if the vehicle is within a municipal corporation and the municipal corporation has established a vehicle removal fee, the towing service shall give the owner or operator oral or written notification that the owner or operator may pay not more than one-half of that fee to obtain release of the motor vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction.

Upon payment of the applicable fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the motor vehicle to the owner or operator. Upon its release, the owner or operator immediately shall move it so that it is not on the private residential or private agricultural property without the permission of the person having the right to possession of the property, or is not at the garage or place of storage without the permission of the owner, whichever is applicable.

- (c) (1) The chief of a law enforcement agency in the municipal corporation shall maintain a record of motor vehicles that the chief orders into storage pursuant to subsection (a)(1) of this section. The record shall include an entry for each such motor vehicle that identifies the motor vehicle's license number, make, model and color, the location from which it was removed, the date and time of its removal, the telephone number of the person from whom it may be recovered, and the address of the place to which it has been taken and from which it may be recovered. The chief shall provide any information in the record that pertains to a particular motor vehicle to any person who, either in person or pursuant to a telephone call, identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (2) Any person who registers a complaint that is the basis of the chief's order for the removal and storage of a motor vehicle under subsection (a)(1) of this section shall provide the identity of the law enforcement agency with which the complaint was registered to any person who identifies self as the owner or operator of the motor vehicle and requests information pertaining to its location.
- (d) (1) The owner or lienholder of a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section may reclaim it upon both of the following:
 - A. Payment of all applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 or, if the vehicle was towed within a municipal corporation that has established fees for vehicle removal and storage, payment of all applicable fees established by the municipal corporation.
 - B. Presentation of proof of ownership, which may be evidenced by a certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement.
- (2) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (3) Upon presentation of proof of ownership as required under subsection (d)(1)B. of this section, the owner of a motor vehicle that is ordered into storage under subsection (a)(1) of this section may retrieve any personal items from the motor vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under division (B)(3) of Ohio R.C. 4513.69, if applicable. The owner of a motor vehicle shall not do either of the following:
 - A. Retrieve any personal item that has been determined by the chief to be necessary to a criminal investigation;
 - B. Retrieve any personal item from a vehicle if it would endanger the safety of the owner unless the owner agrees to sign a waiver of liability.
- For purposes of subsection (d)(2) of this section, "personal items" do not include any items that are attached to the motor vehicle.
- (4) If a motor vehicle that is ordered into storage pursuant to subsection (a)(1) of this section remains unclaimed by the owner for thirty days, the procedures established by Ohio R.C. 4513.61 and 4513.62 apply.
- (e) (1) No person shall remove, or cause the removal of, any motor vehicle from any private residential or private agricultural property other than in accordance with subsection (a)(1) of this section or Ohio R.C. 4513.61 to 4513.65.
- (2) No towing service or storage facility shall fail to comply with the requirements of this section.
- (f) This section does not apply to any private residential or private agricultural property that is established as a private tow-away zone in accordance with Section 303.082.
- (g) Whoever violates subsection (e) of this section is guilty of a minor misdemeanor.
(ORC 4513.60)

303.082 PRIVATE TOW-AWAY ZONES.

- (a) The owner of a private property may establish a private tow-away zone, but may do so only if all of the following conditions are satisfied:
 - (1) The owner of the private property posts on the property a sign, that is at least eighteen inches by twenty-four inches in size, that is visible from all entrances to the property, and that includes all of the following information:
 - A. A statement that the property is a tow-away zone;
 - B. A description of persons authorized to park on the property. If the property is a residential property, the owner of the private property may include on the sign a statement that only tenants and guests may park in the private tow-away zone, subject to the terms of the property owner. If the property is a commercial property, the owner of the private property may include on the sign a statement that only customers may park in the private tow-away zone. In all cases, if it is not apparent which persons may park in the private tow-away zone, the owner of the private property shall include on the sign the address of the property on which the private tow-away zone is located, or the name of the business that is located on the property designated as a private tow-away zone.
 - C. If the private tow-away zone is not enforceable at all times, the times during which the parking restrictions are enforced;
 - D. The telephone number and the address of the place from which a towed vehicle may be recovered at any time during the day or night;
 - E. A statement that the failure to recover a towed vehicle may result in the loss of title to the vehicle as provided in division (B) of Ohio R.C. 4505.101.
 - In order to comply with the requirements of subsection (a)(1) of this section, the owner of a private property may modify an existing sign by affixing to the existing sign stickers or an addendum in lieu of replacing the sign.
- (2) A towing service ensures that a vehicle towed under this section is taken to a location from which it may be recovered that complies with all of the following:
 - A. It is located within twenty-five linear miles of the location of the private tow-away zone, unless it is not practicable to take the vehicle to a place of storage within twenty-five linear miles.
 - B. It is well-lighted.
 - C. It is on or within a reasonable distance of a regularly scheduled route of one or more modes of public transportation, if any public transportation is available in the municipal corporation or township in which the private tow-away zone is located.
- (b) (1) If a vehicle is parked on private property that is established as a private tow-away zone in accordance with subsection (a) of this section, without the consent of the owner of the private property or in violation of any posted parking condition or regulation, the owner of the private property may cause the removal of the vehicle by a towing service. The towing service shall remove the vehicle in accordance with this section. The vehicle owner and the operator of the vehicle are considered to have consented to the removal and storage of the vehicle, to the payment of the applicable fees established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, and to the right of a towing service to obtain title to the vehicle if it remains unclaimed as provided in Ohio R.C. 4505.101. The owner or lienholder of a vehicle that has been removed under this section, subject to subsection (c) of this section, may recover the vehicle in accordance with subsection (g) of this section.
- (2) If a municipal corporation requires tow trucks and tow truck operators to be licensed, no owner of a private property located within the municipal corporation shall cause the removal and storage of any vehicle pursuant to subsection (b) of this section by an unlicensed tow truck or unlicensed tow truck operator.
- (3) No towing service shall remove a vehicle from a private tow-away zone except pursuant to a written contract for the removal of vehicles entered into with the owner of the private property on which the private tow-away zone is located.
- (c) If the owner or operator of a vehicle that is being removed under authority of subsection (b) of this section, arrives after the vehicle has been prepared for removal, but prior to the actual removal from the property, the towing service shall give the vehicle owner or operator oral or written notification at the time of such arrival that the vehicle owner or operator may pay a fee of not more than one-half of the fee for the removal of the vehicle established by the Public Service Commission in rules adopted under Ohio R.C. 4921.25, in order to obtain release of the vehicle. That fee may be paid by use of a major credit card unless the towing service uses a mobile credit card processor and mobile service is not available at the time of the transaction. Upon payment of that fee, the towing service shall give the vehicle owner or operator a receipt showing both the full amount normally assessed and the actual amount received and shall release the vehicle to the owner or operator. Upon its release the owner or operator immediately shall move the vehicle so that the vehicle is not parked on the private property established as a private tow-away zone without the consent of the owner of the private property or in violation of any posted parking condition or regulation.
- (d) (1) Prior to towing a vehicle under subsection (b) of this section, a towing service shall make all reasonable efforts to take as many photographs as necessary to evidence that the vehicle is clearly parked on private property in violation of a private tow-away zone established under subsection (a) of this section.

The towing service shall record the time and date of the photographs taken under this section. The towing service shall retain the photographs and the record of the time and date, in electronic or printed form, for at least thirty days after the date on which the vehicle is recovered by the owner or lienholder or at least two years after the date on which the vehicle was towed, whichever is earlier.
- (2) A towing service shall deliver a vehicle towed under subsection (b) of this section to the location from which it may be recovered not more than two hours after the time it was removed from the private tow-away zone, unless the towing service is unable to deliver the motor vehicle within two hours due to an uncontrollable force, natural disaster, or other event that is not within the power of the towing service.

- (e) (1) If an owner of a private property that is established as a private tow-away zone in accordance with subsection (a) of this section causes the removal of a vehicle from that property by a towing service under subsection (b) of this section, the towing service, within two hours of removing the vehicle, shall provide notice to the law enforcement agency of the municipal corporation concerning all of the following:
- The vehicle's license number, make, model and color;
 - The location from which the vehicle was removed;
 - The date and time the vehicle was removed;
 - The telephone number of the person from whom the vehicle may be recovered;
 - The address of the place from which the vehicle may be recovered.
- (2) The chief of a law enforcement agency of the municipal corporation shall maintain a record of any vehicle removed from private property in the chief's jurisdiction that is established as a private tow-away zone of which the chief has received notice under this section. The record shall include all information submitted by the towing service. The chief shall provide any information in the record that pertains to a particular vehicle to a person who, either in person or pursuant to a telephone call, identifies self as the owner, operator or lienholder of the vehicle, and requests information pertaining to the vehicle.
- (f) (1) When a vehicle is removed from private property in accordance with this section, within three business days of the removal, the towing service or storage facility from which the vehicle may be recovered shall cause a search to be made of either of the following to ascertain the identity of the owner and any lienholder of the vehicle:
- The records of the Bureau of Motor Vehicles;
 - The records of any vendor or vendors, approved by the Registrar of Motor Vehicles, that are capable of providing real-time access to owner and lienholder information.
- (2) The towing service or storage facility may search the National Motor Vehicle Title Information System in order to determine the state in which the vehicle is titled. The entity that provides the record of the owner and any lienholder under this division shall ensure that such information is provided in a timely manner.
- (3) Subject to subsection (f)(6) of this section, the towing service or storage facility shall send notice to the vehicle owner and any known lienholder as follows:
- Within five business days after the applicable entity provides the identity of the owner and any lienholder of the motor vehicle, if the vehicle remains unclaimed, to the owner's and lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt.
 - If the vehicle remains unclaimed thirty days after the first notice is sent, in the manner required under subsection (f)(3)A. of this section.
- (4) Sixty days after any notice sent pursuant to subsection (f)(3) of this section is received, as evidenced by a receipt signed by any person, or the towing service or storage facility has been notified that delivery was not possible, the towing service or storage facility, if authorized under Ohio R.C. 4505.101(B), may initiate the process for obtaining a certificate of title to the motor vehicle as provided in that section.
- (5) A towing service or storage facility that does not receive a signed receipt of notice, or a notification that delivery was not possible, shall not obtain, and shall not attempt to obtain, a certificate of title to the motor vehicle under Ohio R.C. 4505.101(B).
- (6) With respect to a vehicle concerning which a towing service or storage facility is not eligible to obtain title under Ohio R.C. 4505.101, the towing service or storage facility need only comply with the initial notice required under subsection (f)(3)A. of this section.
- (g) (1) The owner or lienholder of a vehicle that is removed under subsection (b) of this section may reclaim it upon both of the following:
- Presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement;
 - Payment of the following fees:
 - All applicable fees established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25, except that the lienholder of a vehicle may retrieve the vehicle without paying any storage fee for the period of time that the vehicle was in the possession of the towing service or storage facility prior to the date the lienholder received the notice sent under subsection (f)(1)A. of this section;
 - If notice has been sent to the owner and lienholder as described in subsection (f) of this section, a processing fee of twenty-five dollars (\$25.00).
- (2) A towing service or storage facility in possession of a vehicle that is removed under authority of subsection (b) of this section shall show the vehicle owner, operator or lienholder who contests the removal of the vehicle all photographs taken under subsection (d) of this section. Upon request, the towing service or storage facility shall provide a copy of all photographs in the medium in which the photographs are stored, whether paper, electronic, or otherwise.
- (3) When the owner of a vehicle towed under this section retrieves the vehicle, the towing service or storage facility in possession of the vehicle shall give the owner written notice that if the owner disputes that the motor vehicle was lawfully towed, the owner may be able to file a civil action under Ohio R.C. 4513.611.
- (4) Upon presentation of proof of ownership, which may be evidenced by a certificate of title to the vehicle, a certificate of registration for the motor vehicle or a lease agreement, the owner of a vehicle that is removed under authority of subsection (b) of this section may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. The owner of the vehicle shall not retrieve any personal items from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability. For purposes of subsection (g)(4) of this section, "personal items" do not include any items that are attached to the vehicle.
- (h) No person shall remove, or cause the removal of any vehicle from private property that is established as a private tow-away zone under this section, or store such a vehicle other than in accordance with this section, or otherwise fail to comply with any applicable requirement of this section.
- (i) This section does not affect or limit the operation of Ohio R.C. 4513.60 or Ohio R.C. 4513.61 to 4613.65 as they relate to property other than private property that is established as a private tow-away zone under subsection (a) of this section.
- (j) Whoever violates subsection (h) of this section is guilty of a minor misdemeanor.
- (k) As used in this section, "owner of a private property" or "owner of the private property" includes, with respect to a private property, any of the following:
- Any person who holds title to the property;
 - Any person who is a lessee or sublessee with respect to a lease or sublease agreement for the property;
 - A person who is authorized to manage the property;
 - A duly authorized agent of any person listed in subsections (k)(1) to (3) of this section. (ORC 4513.601)

303.083 IMPOUNDING VEHICLES ON PUBLIC PROPERTY.

- (a) The chief of a law enforcement agency of the municipal corporation, within the chief's respective territorial jurisdiction, or a state highway patrol trooper, upon notification to the chief of such action and of the location of the place of storage, may order into storage any motor vehicle, including an abandoned junk motor vehicle as defined in Ohio R.C. 4513.63, that:
- Has come into the possession of the chief, or state highway patrol trooper as a result of the performance of the chief's or trooper's duties; or
 - Has been left on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer without notification to the chief of the reasons for leaving the motor vehicle in such place. However, when such a motor vehicle constitutes an obstruction to traffic it may be ordered into storage immediately unless either of the following applies:
 - The vehicle was involved in an accident and is subject to Ohio R.C. 4513.66, or any substantially equivalent municipal ordinance;
 - The vehicle is a commercial motor vehicle. If the vehicle is a commercial motor vehicle, the chief, or state highway patrol trooper shall allow the owner or operator of the vehicle the opportunity to arrange for the removal of the motor vehicle within a period of time specified by the chief, or state highway patrol trooper. If the chief, or state highway patrol trooper determines that the vehicle cannot be removed within the specified period of time, the chief, or state highway patrol trooper shall order the removal of the vehicle.
- (3) Subject to subsection (c) of this section, the chief shall designate the place of storage of any motor vehicle so ordered removed.
- (b) If the chief, or a state highway patrol trooper issues an order under subsection (a) of this section and arranges for the removal of a motor vehicle by a towing service, the towing service shall deliver the motor vehicle to the location designated by the chief not more than two hours after the time it is removed.
- (c) (1) The chief shall cause a search to be made of the records of an applicable entity listed in Ohio R.C. 4513.601(F)(1) to ascertain the identity of the owner and any lienholder of a motor vehicle ordered into storage by the chief, or by a state highway patrol trooper within five business days of the removal of the vehicle. Upon obtaining such identity, the chief shall send or cause to be sent to the owner or lienholder at the owner's or lienholder's last known address by certified or express mail with return receipt requested, by certified mail with electronic tracking, or by a commercial carrier service utilizing any form of delivery requiring a signed receipt. The notice shall inform the owner or lienholder that the motor vehicle will be declared a nuisance and disposed of if not claimed within ten days of the date of the sending of the notice.
- (2) A. The owner or lienholder of the motor vehicle may reclaim the motor vehicle upon payment of any expenses or charges incurred in its removal and storage, and presentation of proof of ownership, which may be evidenced by a certificate of title or memorandum certificate of title to the motor vehicle, a certificate of registration for the motor vehicle, or a lease agreement. Upon presentation of proof of ownership evidenced as provided above, the owner of the motor vehicle also may retrieve any personal items from the vehicle without retrieving the vehicle and without paying any fee. However, a towing service or storage facility may charge an after-hours retrieval fee established by the Public Utilities Commission in rules adopted under Ohio R.C. 4921.25 if the owner retrieves the personal items after hours, unless the towing service or storage facility fails to provide the notice required under Ohio R.C. 4513.69(B)(3), if applicable. However, the owner shall not do either of the following:
- Retrieve any personal item that has been determined by the chief, or a state highway patrol trooper, as applicable, to be necessary to a criminal investigation;
 - Retrieve any personal item from a vehicle if it would endanger the safety of the owner, unless the owner agrees to sign a waiver of liability.
- B. For purposes of subsection (c)(2) of this section, "personal items" do not include any items that are attached to the vehicle.
- (3) If the owner or lienholder of the motor vehicle reclaims it after a search of the applicable records has been conducted and after notice has been sent to the owner or lienholder as described in this section, and the search was conducted by the place of storage, and the notice was sent to the motor vehicle owner by the place of storage, the owner or lienholder shall pay to the place of storage a processing fee of twenty-five dollars (\$25.00), in addition to any expenses or charges incurred in the removal and storage of the vehicle.
- (d) If the owner or lienholder makes no claim to the motor vehicle within ten days of the date of sending the notice, and if the vehicle is to be disposed of at a public auction as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the chief, without charge to any party, shall file with the Clerk of Courts of the county in which the place of storage is located an affidavit showing compliance with the requirements of this section. Upon presentation of the affidavit, the Clerk, without charge, shall issue a salvage certificate of title, free and clear of all liens and encumbrances, to the chief. If the vehicle is to be disposed of to a motor vehicle salvage dealer or other facility as provided in Ohio R.C. 4513.62 or any substantially equivalent municipal ordinance, the chief shall execute in triplicate an affidavit, as prescribed by the Registrar of Motor Vehicles, describing the motor vehicle and the manner in which it was disposed of, and that all requirements of this section have been complied with. The chief shall retain the original of the affidavit for the chief's records, and shall furnish two copies to the motor vehicle salvage dealer or other facility. Upon presentation of a copy of the affidavit by the motor vehicle salvage dealer, the Clerk of Courts, within thirty days of the presentation, shall issue a salvage certificate of title, free and clear of all liens and encumbrances.
- (e) Whenever a motor vehicle salvage dealer or other facility receives an affidavit for the disposal of a motor vehicle as provided in this section, the dealer or facility shall not be required to obtain an Ohio certificate of title to the motor vehicle in the dealer's or facility's own name if the vehicle is dismantled or destroyed and both copies of the affidavit are delivered to the Clerk of Courts.
- (f) No towing service or storage facility shall fail to comply with this section.
- (ORC 4513.61)

303.09 LEAVING JUNK AND OTHER VEHICLES ON PRIVATE OR PUBLIC PROPERTY WITHOUT PERMISSION OR NOTIFICATION.

No person shall willfully leave any vehicle or an "abandoned junk motor vehicle" as defined in Ohio R.C. 4513.63 on private property for more than seventy-two 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 hours or longer, without notification to the chief of the law enforcement agency of the municipal corporation of the reason for leaving the motor vehicle in such place.

For purposes of this section, the fact that a vehicle has been so left without permission or notification is prima-facie evidence of abandonment. Nothing contained in this section shall invalidate the provisions of other ordinances regulating or prohibiting the abandonment of motor vehicles on streets, highways, public property or private property within the Municipality.

(ORC 4513.64)

(b) Whoever violates this section is guilty of a minor misdemeanor, and shall also be assessed any costs incurred by the Municipality in disposing of such junk motor vehicle, including any storage and towing charges assessed pursuant to Section 303.11, less any money accruing to the Municipality from such disposal.

(Ord. 57-79. Passed 5-22-79.)

303.10 LEAVING JUNK VEHICLES ON PRIVATE PROPERTY WITH PERMISSION OF OWNER.

(a) For the purposes of this section, "junk motor vehicle" means any motor vehicle meeting the requirements of Ohio R.C. 4513.63(B) to (E) that is left uncovered in the open on private property for more than seventy-two hours with the permission of the person having the right to the possession of the property, except if the person is operating a junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12; or regulated under authority of the Municipality; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless the person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation, or if the motor vehicle is a collector's vehicle.

Persons may store or keep by unrestricted method any collector's vehicle as defined in Ohio R.C. 4501.01(F) on private property with the permission of the person having the right to the possession of the property; except that such person having such permission shall conceal, by means of buildings, fences, vegetation, terrain or other suitable obstruction, any unlicensed collector's vehicle stored in the open.

Council, the chief of a law enforcement agency, a state highway patrol trooper or the Municipal Zoning Authority, may send notice by certified mail with return receipt requested, to the person having the right to the possession of the property on which a junk motor vehicle is left, that within ten days of receipt of the notice, the junk motor vehicle either shall be covered by being housed in a garage or other suitable structure or shall be removed from the property.

No person shall willfully leave a junk motor vehicle uncovered in the open for more than ten days after receipt of a notice as provided in this section. The fact that a junk motor vehicle is so left is prima-facie evidence of willful failure to comply with the notice. Each subsequent period of thirty days that a junk motor vehicle continues to be so left constitutes a separate offense.

(b) Whoever violates this section is guilty of a minor misdemeanor.
(ORC 4513.65)

303.11 STORAGE AND TOWING CHARGES.

(a) Any police officer may impound any property, including motor vehicles, in connection with the protection of the public peace, health, safety and welfare of the City in the enforcement of its ordinances and the laws of the State. Any person desiring to redeem such impounded property shall pay storage of two dollars (\$2.00) per day for the time the impounded property is held in storage by the City.

(Ord. 7-64. Passed 3-3-64.)

(b) The Mayor is authorized to contract with operators of towing services to be responsible for providing towing services within the City at a reasonable rate for each towing service. Any person desiring to redeem a towed vehicle shall appear at the Police Division to furnish satisfactory evidence of identity and ownership or right to possession. Such person shall obtain from the Division the release form required by Section 303.08. The pound operator shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges accruing. In any event, the City shall not be responsible for any towing charges to the designated towing service operators.

(Ord. 105-78. Passed 9-26-78.)

303.12 VEHICLE TRESPASS.

(a) No person shall enter into or upon any vehicle, motorcycle or motor vehicle, the property of another person, without the consent of the owner or operator thereof.

(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.

303.13 PRESENTING FALSE NAME OR INFORMATION TO LAW ENFORCEMENT OFFICER ISSUING A TRAFFIC TICKET OR COMPLAINT.

(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.

(Ord. 183-91. Passed 12-23-91.)

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 of the first degree. (Ord. 87-2019. Passed 9-24-19.)

(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 <u>Misdemeanor</u>	Maximum Term	Maximum
	<u>of Imprisonment</u>	<u>Fine</u>
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 an electronic wireless communications device, as defined in Ohio R.C. 4511.204, in violation of that section.

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 Division of Traffic Engineering and Safety created.

305.02 Authority and considerations for placement of devices.

305.03 Conformity with State Manual.

305.04 Powers of Public Safety Director.

305.05 Posting of signs and signals required.

305.06 Director's powers not limited.

305.07 Records of Director.

305.08 Reservation of power to Council.

305.09 Violations subject to misdemeanor classification.

305.10 Creating a "Business District" for portions of Richmond and Highland Roads.

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 DIVISION OF TRAFFIC ENGINEERING AND SAFETY CREATED.

Pursuant to Ohio R.C. 737.021 and 737.022, a Division of Traffic Engineering and Safety is hereby created, and the Director of Public Safety shall be the executive head of such Division.

305.02 AUTHORITY AND CONSIDERATIONS FOR PLACEMENT OF DEVICES.

The Director of Public Safety is hereby authorized to place and maintain traffic control devices upon any street or highway under his jurisdiction as are necessary to effectuate the provisions of this Traffic Code, or to regulate, warn or guide traffic, and such other traffic control devices as he shall deem necessary for the proper control of traffic. The Director of Public Safety shall determine the location, timing and coordination of such traffic control devices upon the basis of an applicable engineering or traffic investigation and shall consider the following:

(a) The maximum safety and protection of vehicular and pedestrian traffic from physical injury or property damage.

(b) The existing and potential traffic movement, volume and conditions.

(c) The location and frequency of accidents, including studies of remedial measures.

(d) The recommendations of the Police and Fire Chiefs.

(e) The acceleration of transportation of persons and property by vehicles so as to expedite travel and promote public safety.

(f) The convenience and welfare of the general public in parking, standing, loading and unloading, and the use of the streets as affecting business concerns and places of assembly.

(g) Economy in the expenditure of money.

305.03 CONFORMITY WITH STATE MANUAL.

All traffic control devices placed pursuant to the provisions of this Traffic Code shall conform to the Ohio Manual of Uniform Traffic Control Devices for Streets and Highways, as set forth in Ohio R.C. 4511.09.

305.04 POWERS OF PUBLIC SAFETY DIRECTOR.

The Director of Public Safety is hereby empowered to:

(a) Designate any street or highway as a through street or highway and require that all vehicles stop or yield the right of way as may be required before entering the same.

(b) Designate any intersection as a stop intersection and require all vehicles to stop at one or more entrances to such intersection.

(c) Designate any intersection as a yield intersection and require all vehicles to yield the right of way as required.

- (d) Designate any street as a one-way street and require that all vehicles thereon be moved in one specific direction.
- (e) Designate and mark lanes to be used by traffic moving in a particular direction regardless of the center line of the roadway.
- (f) Erect signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction.
- (g) Designate those portions of any street, where overtaking and passing other traffic or driving to the left of the center or center line of the roadway would be especially hazardous, by appropriate signs or markings on the street to indicate the beginning and end of such zones. Such zones may be marked by an auxiliary yellow line placed parallel and to the right of the normal center line or offset marked lane line.
- (h) Place markers, buttons or signs within or adjacent to intersections and require that a specific course of direction be traveled by vehicles proceeding in lanes by either permitting, prohibiting or requiring turns at such intersections.
- (i) Install traffic control devices, signals and signs at any location to regulate traffic.
- (j) Establish safety zones, crosswalks, zones of quiet and play streets.
- (k) Close any street or portion thereof to vehicular traffic which is in the process of construction, reconstruction or repair.
- (l) Determine the location of any necessary bus stops and taxicab stands.
- (m) Determine the location and limiting hours of truck loading zones.
- (n) Designate dangerous railroad crossings and erect stop signs thereat.
- (o) Erect "No U Turn" signs at any location to prohibit a vehicle from being turned so as to proceed in the opposite direction.
- (p) Regulate or prohibit the stopping, standing and parking of vehicles on streets, alleys or public property by erecting signs plainly indicating the prohibitions, restrictions or limitations.
- (q) Designate individual parking spaces by markings, which may either be parallel or at a prescribed angle to the curb or edge of the roadway.
- (r) Designate truck routes and streets or parts thereof where either a weight limit restriction or truck exclusion has been imposed by rule or regulation provided such is not in conflict with any legislation.

305.05 POSTING OF SIGNS AND SIGNALS REQUIRED.

No provision of this chapter shall be effective until signs, signals, markings or other devices giving notice of such local traffic regulations are posted upon or at the entrance to the street or part thereof affected, as may be most appropriate, so that in a proper position they are sufficiently legible to be seen by an ordinarily observant person.

305.06 DIRECTOR'S POWERS NOT LIMITED.

The powers of the Director of Public Safety shall not be limited by the specific enumeration of subjects contained in this chapter.

305.07 RECORDS OF DIRECTOR.

The Director of Public Safety shall keep a record of all rules, regulations and proceedings promulgated in connection with this chapter.

305.08 RESERVATION OF POWER TO COUNCIL.

Notwithstanding the provisions of this chapter, Council may override any decision of the Director of Public Safety and may assume any of the powers delegated to the Director, by legislation adopted by a vote of a majority of the members duly elected thereto. Upon the adoption of any such legislation, the same may be changed only by amending or repealing legislation adopted by Council.

305.09 VIOLATIONS SUBJECT TO MISDEMEANOR CLASSIFICATION.

Except as otherwise provided, any person violating the rules and regulations promulgated in connection with this chapter is guilty of a misdemeanor which shall be classified as provided in Section 303.99.

305.10 CREATING A "BUSINESS DISTRICT" FOR PORTIONS OF RICHMOND AND HIGHLAND ROADS.

The following public roadways within the corporate limits of the City of Richmond Heights are hereby declared to be within a "Business District" for purposes of traffic enforcement authorized by either the Codified Ordinances of the City or the Ohio Revised Code:

- (a) On Richmond Road, 300 feet north of Highland Road and 500 feet south of Highland Road; and
 - (b) On Highland Road, 700 feet east of Richmond Road and 500 feet west of Richmond Road.
- (Ord. 58-2004. Passed 7-27-04; Ord. 80-2004. Passed 10-26-04.)

CHAPTER 307

Civil Penalties for Violations Under Automated Traffic Control Photographic System

307.01 Applicability.

307.02 Definitions.

307.03 Notice requirements.

307.04 Offense.

307.05 Notice of liability.

307.06 Options upon notice of liability, administrative appeal.

307.07 Civil penalties.

307.08 Collection of civil penalties.

307.01 APPLICABILITY.

(a) Notwithstanding any other provision of this Traffic Code, there is hereby adopted a civil enforcement system for red-light violations and speed limit violations as outlined in this Chapter. The automated traffic control photographic system (ATCPS) imposes monetary liability on Vehicle Owner or Responsible Party for failure of an operator thereof to comply with traffic control indications in accordance with the provisions of this Chapter.

(b) The City of Richmond Heights Division of Police shall be solely responsible for administering the ATCPS. Specifically, that Division shall be authorized to install and operate the ATCPS within the City.

(c) Intersections in which an ATCPS is installed shall have visible postings upon approach of the intersection indicating that the intersection is equipped with an automated traffic control signal monitoring system.

(d) The Division of Police shall administer the ATCPS program and shall maintain a list of system locations within the City limits where traffic-control photographic systems are installed.

(e) Whenever an officer of the Division of Police witnesses a violation of Sections 313.01, 313.03, and/or 333.03 of the Traffic Code or Ohio Revised Code Sections 4511.13 and/or 4511.21 or otherwise has issued a citation pursuant to those sections, this Ordinance does not apply. However, the recorded images produced by the ATCPS may be used as evidence for a violation of Sections 313.01, 313.03 and/or 333.03 of the Traffic Code or Ohio Revised Code Sections 4511.13 and/or 4511.21. Any citation for a violation of foregoing sections of the Traffic Code or the Ohio Revised Code issued personally by a Police Officer at an ATCPS location need 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.

(f) This Chapter shall not apply to violations involving vehicle or pedestrian collisions.

(Ord. 17-2013. Passed 4-9-13.)

307.02 DEFINITIONS.

For purposes of this Chapter, the following words and phrases shall have the meanings indicated.

- (a) "Vehicle Owner" means the person or entity identified by the Ohio Bureau of Motor Vehicles or registered with any state vehicle registration office as the registered owner of a vehicle, or a lessee of a motor vehicle under a lease agreement that has a lease term of not less than six months.
 - (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) "Automated Traffic Control Photographic System" means a device with one or more motor vehicle sensors, installed to work in conjunction with a traffic control signal, to produce recorded images of motor vehicles entering an intersection against a red signal indication.
 - (d) "In Operation" means operating in good working condition.
 - (e) "Hearing Officer" means an independent third party, not an employee of the City of Richmond Heights.
 - (f) "System Location" is the approach to an intersection toward which a photographic, microphotographic, electronic image, digital image, videotape, or any other medium is directed and is in operation. It is the location where the automated traffic control photographic system is installed to monitor offenses under this Chapter.
 - (g) "Responsible Party" is the person who was operating the vehicle at the time of the violation or the person or entity who had care, custody, and control of the vehicle at the time of the violation.
 - (h) "Division of Police" is the police agency of the City of Richmond Heights, Ohio.
 - (i) "Police Officer" is a sworn law enforcement officer employed by the City of Richmond Heights Division of Police.
- (Ord. 17-2013. Passed 4-9-13.)

307.03 NOTICE REQUIREMENTS.

- (a) Prior to ATCPS implementation, the City or its designee shall publish notice in a local newspaper of general circulation. Said notice must announce when the ATCPS will begin.
 - (b) Prior to ATCPS implementation, the City or its designee shall post all required signs in the time and manner set forth in Ohio Revised Code Section 4511.094(B)(1) to provide notice that an ATCPS is being used to monitor traffic. The City shall maintain compliance with the requirements of Revised Code Section 4511.094 throughout the use of the ATCPS.
 - (c) For the first thirty (30) calendar days that an ATCPS 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. 17-2013. Passed 4-9-13.)

307.04 OFFENSE.

(a) An officer employed by the Division of Police shall examine the images recorded by the ATCPS to determine whether an infraction of Sections 313.01, 313.03 and/or 333.03 of the Traffic Code or Ohio Revised Code Sections 4511.13 and/or 4511.21 has occurred. If the image recorded by the ATCPS 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 Vehicle Owner.

(b) The fact that a person or entity is the Vehicle Owner shall be prima facie evidence that said person or entity was operating the vehicle at the time of an infraction recorded by an ATCPS.

(c) A certified copy of the Notice of Liability alleging violation of this Section, sworn to or affirmed by a duly authorized Police Officer of the Division of Police, with the recorded images produced by an ATCPS, 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 and upon identification of the Vehicle Owner, the City or its designee may issue and send by first-class United States Mail a Notice of Liability charging the Vehicle Owner with an infraction. Said Notice of Liability must be consistent with the requirements set forth in Section 307.05(a).

(e) A person or entity who receives a Notice of Liability shall be required to respond to it in one of the manners set forth in Section 307.06(a).

(f) The Vehicle Owner shall not be responsible for the violation if, within fifteen (15) calendar days after receipt of the Notice of Liability, the Vehicle Owner furnishes the Division of Police with:

- (1) Substantial and convincing evidence of the identity of the Responsible Party at the time of the violation, including, at a minimum, the Responsible Party's name and current address; or
- (2) An affidavit by the Vehicle Owner stating that at the time of the violation, the vehicle or the license plates of the vehicle involved were stolen or were in the care, custody, or control of some person or entity who did not have the Vehicle 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 Vehicle 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) The name and address of the vehicle's lessee or renter at the time of the violation, if the Vehicle 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).

- (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 Division of Police 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 was in operation of the vehicle at the time of the violation.
- (h) Nothing in this Chapter shall be construed as limiting the liability or an operator of a vehicle for any violation of Sections 313.01, 313.03 and/or 333.03 of the Traffic Code or Sections 4511.13 and/or 4511.21. (Ord. 17-2013. Passed 4-9-13.)

307.05 NOTICE OF LIABILITY.

- (a) The Notice of Liability shall be processed by the City or its designee, and shall be served by regular United States Mail to the Vehicle Owner's 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 Vehicle Owner;
 - (2) The license plate number of the motor vehicle involved in the violation;
 - (3) The violation charged;
 - (4) The location of the intersection;
 - (5) The date and time of the violation;
 - (6) A copy of the recorded images(s);
 - (7) 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;
 - (8) A signed statement by a Police Officer that based on inspection of recorded images, the motor vehicle was being operated in violation of Section 307.04(a), and a statement that the recorded images are prima facie evidence of a violation Section 307.04(a);
 - (9) Information advising the person or entity alleged to be liable of the options as provided in Section 307.06;
 - (10) 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 307.06 in a timely manner is an admission of liability.
- (11) A copy of the image(s) that served as a basis for the Notice of Liability must accompany the Notice of Liability.
- (b) The City of Richmond Heights or its designee may serve by regular United States Mail a warning notice in lieu of a Notice of Liability under this Section.
- (c) Except as provided in Section 307.06(c), a Notice of Liability shall be mailed no later than fifteen (15) calendar days after the alleged violation.
- (d) Except as provided in Section 307.06(c), the Division of Police or its designee may not mail a Notice of Liability to a person or entity who is not the Vehicle Owner. (Ord. 17-2013. Passed 4-9-13.)

307.06 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 fifteen (15) calendar days, provide the Division of Police or its designee information as to the Responsible Party at the time of the violation; in the case of a "motor vehicle leasing dealer" or "motor vehicle renting dealer" as defined in Ohio Revised Code 4511.092, provide the Division of Police or its designee the name and address of the lessee or renter at the time of the violation; 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 in the amount equal to the civil penalty as an administrative bond with the Division of Police or its designee. Said written request and bond payment must be filed within fifteen (15) calendar days after receipt 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.
- (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 307.06(a)(3), the following shall apply.
- (1) A Hearing Officer selected by the City of Richmond Heights 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 Section 307.06(a)(3). 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 liable. The Hearing Officer shall advise the person or entity on the day of the hearing 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 liable, the Hearing Officer shall issue a written decision finding the individual not liable and submit it to the Division of Police 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 passed through the intersection 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 331.24 of the Traffic Code and Ohio Revised Code 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 Vehicle 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 Vehicle Owner at the time of the violation, the Vehicle 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 Section is unenforceable because at the time and place of the alleged violation, the traffic control signal was not operating properly or the traffic control signal monitoring 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 Vehicle Owner or person or entity named in the Notice of Liability was not operating the vehicle at the time of the violation. To satisfy the evidentiary burden under this subsection, the Vehicle Owner or person or entity named in the Notice of Liability shall provide to the Hearing Officer evidence showing the identity of the Responsible Party at the time of the violation, including, at a minimum, the Responsible Party's name and current address, and any other evidence that the Hearing Officer deems pertinent.
- (c) If the Hearing Officer finds that the person or entity named in the Notice of Liability was not operating the vehicle at the time of the violation or receives evidence identifying the Responsible Party at the time of the violation, the Hearing Officer shall provide to the Division of Police or its designee within five (5) calendar days, a copy of any evidence substantiating who was operating the vehicle at the time of the violation.
- (1) Upon receipt of evidence of the identity of the Responsible Party, the Division of Police or its designee may issue a Notice of Liability to the Responsible Party.
 - (2) A Notice of Liability issued under this subsection (c)(2) shall be sent by regular United States Mail no later than five (5) business days after receipt of the evidence from the Hearing Officer or the Vehicle Owner. (Ord. 17-2013. Passed 4-9-13.)

307.07 CIVIL PENALTIES.

- (a) Unless the Vehicle Owner or Responsible Party received a citation from a Police Officer at the time of the violation, the Vehicle Owner or Responsible Party is subject to a civil penalty if the motor vehicle is recorded by an ATCPS while being operated in violation of this Chapter.
- (b) The civil penalty under this Chapter shall be determined as follows:
- (1) A violation of Sections 313.01 or 313.03 of the Traffic Code or Section 4511.13 of the Ohio Revised Code shall be subject to a civil penalty of \$100.00.
 - (2) A violation of Section 333.03 of the Traffic Code or Section 4511.21 of the Ohio Revised Code shall be subject to a civil penalty determined as follows:
 - A. One to twenty miles per hour above the applicable speed limit shall have a civil penalty of \$100.00.
 - B. Over twenty miles per hour above the applicable speed limit shall have a civil penalty of \$150.00.
 - C. Notwithstanding the provisions of Sections 307.07(b)(2)A. - C., if the violation occurred within a school zone, the civil penalty shall be \$150.00.
 - (c) Persons or entities who choose to pay the civil penalty without appearing before a Hearing Officer may do so in the manner indicated on the Notice of Liability. Persons or entities who fail to pay the civil penalty within fifteen (15) calendar days after either receiving a Notice of Liability (if not contesting it) or after a Hearing Officer's decision finding liability, shall be liable for an additional penalty in the amount of \$50.00.
 - (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. 17-2013. Passed 4-9-13.)

307.08 COLLECTION OF CIVIL PENALTIES.

If the civil penalty is not timely paid, the civil penalty imposed under the provisions of this Section shall be collectible, together with any interest and penalties thereon, by civil suit. (Ord. 17-2013. Passed 4-9-13.)

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 Zones of quiet.
311.04 Play streets.
311.05 Toy vehicles upon roadway.
311.06 Operation of motorized scooters.

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.

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 Police Chief.

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 ZONES OF QUIET.

(a) Whenever authorized signs are erected indicating a zone of quiet, no person operating a vehicle within any such zone shall sound the horn or other warning device of such vehicle except in an emergency.

(Ord. 30-61. Passed 11-21-61.)

(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 PLAY STREETS.

(a) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then such drivers shall exercise the greatest care in driving upon any such street or portion thereof.

(Ord. 30-61. Passed 11-21-61.)

(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 TOY VEHICLES UPON ROADWAY.

(a) No person riding upon any coaster, roller skates, skateboard, sled, toy vehicle or other similar device, shall go upon any automobile parking lot, publicly owned property or park, or roadway except while crossing a street on a crosswalk and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This section shall not apply to any street while set aside as a play street.

(Ord. 66-90. Passed 6-26-90.)

(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 OPERATION OF MOTORIZED SCOOTERS.

(a) For the purposes of this Traffic Code, "motorized scooter" means a scooter that cannot be titled and registered in accordance with Ohio motor vehicle laws and is powered by an electric driven motor with a maximum speed of fifteen miles per hour which does not have a seat or saddle. A "motorized scooter" does not include a "bicycle" or "motorized bicycle" as defined in Section 301.04 of these Codified Ordinances.

(b) No person who is under twelve years of age shall operate a motorized scooter on any public sidewalk, public property or any public street or highway within the City.

(c) No person twelve years of age or older shall operate a motorized scooter on any public street or highway within the City.

(d) No person shall operate a motorized scooter on private property without the express consent of the owner of the property.

(e) No person shall operate a gasoline powered scooter on any public street, highway, sidewalk, path or any other property owned by the City.

(f) No operator of a motorized scooter on public property shall do any of the following:

- (1) Allow passengers on the motorized scooter while the scooter is in operation or motion.
- (2) Structurally alter the motorized scooter from the original manufacturer's design.

(g) A person exerting control of or operating a motorized scooter shall be permitted to stand or park it on a public sidewalk, without charge or restriction, provided that the motorized scooter does not impede the normal flow of pedestrian traffic.

(h) Permitted hours of operation for motorized scooters are from thirty minutes before sunrise to thirty minutes after sunset. The times for sunrise and sunset shall correspond to the times posted in a daily newspaper of general circulation in northeast Ohio.

(i) No person under twelve years of age shall operate a motorized scooter unless they are wearing shoes and a protective helmet on the person's head with the chin strap properly fastened.

(j) Nothing in this section affects or shall be construed to affect any rule of the Cleveland Metroparks Board of Commissioners governing the operation of vehicles on lands under control of the Cleveland Metroparks Director or Board, as applicable.

(k) Whoever violates any provision of this section is guilty of a misdemeanor of the second degree. (Ord. 102-2018. Passed 9-25-18.)

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 Driving across private property; shortcutting.

313.10 Prohibited right turn on red signal.

313.11 Driver's duties upon approaching ambiguous or nonworking traffic signal.

313.12 Unlawful purchase, possession or sale.

313.13 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.

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 DRIVING ACROSS PRIVATE PROPERTY; SHORTCUTTING.

(a) No person shall drive or operate any automobile or other vehicle from one public street to another by means of driving across private property within 300 feet of an intersection of two or more public streets in order to avoid driving through an intersection or to avoid compliance with any traffic control device there situated for the purpose of regulating traffic.

(b) No operator of a motor vehicle shall enter upon private property for the sole purpose of driving over or across such property, between abutting streets or other public ways thereof.

(c) For purposes of this section, the failure to stop on such private property in connection with or in furtherance of the objects of enterprise or activities being conducted on the property or such operation without first obtaining the consent of the person or persons in charge or control of such private property and without bringing such vehicle to a full stop before again entering the street or highway beyond such street or intersection, shall constitute prima facie evidence of the violation.

(Ord. 95-97. Passed 11-25-97.)

(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.

313.10 PROHIBITED RIGHT TURN ON RED SIGNAL.

(a) Council hereby finds and determines that it is conducive to the safety of motor vehicle operators and pedestrians to prohibit the ability of motor vehicles to turn right on a red signal and, therefore, right turn on red shall be prohibited at the following locations within the City:

- (1) Southbound on Brush Road, a right turn on red onto Chardon Road shall be prohibited at all times.
 - (2) Westbound on Brushview Drive, a right turn on red onto Chardon Road shall be prohibited at all times.
 - (3) Southbound on Richmond Road at the intersection of Wilson Mills Road (Monticello Blvd.) between the hours of 7:00 a.m. to 9:00 a.m. and 5:00 p.m. to 7:00 p.m. a right turn on red shall be prohibited.
 - (4) Northbound and southbound on Richmond Road, a right turn on red onto Highland Road shall be prohibited between the hours of 7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:00 p.m. on school days.
 - (5) Eastbound and westbound on Highland Road, a right turn on red onto Richmond Road shall be prohibited between the hours of 7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 4:00 p.m. on school days.
- (b) The Safety Director is hereby authorized and empowered to erect all necessary and proper signs to advise the users of motor vehicles of the prohibitions set forth in subsection (a) hereof.

(Ord. 32-93. Passed 3-23-93; Ord. 137-93. Passed 10-12-93.)

(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.

313.11 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)

313.12 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)

313.13 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. 345. Operation in Shopping Centers.
- Chap. 346. Removal of Unlicensed or Out-of-Repair Vehicles.
- Chap. 347. Transportation of Radioactive Materials.
- Chap. 349. Sale of 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 road ways.
- 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 travel trailer, fifth wheel vehicle, or manufactured or mobile home while in motion.
- 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 Littering from motor vehicle.
- 331.42 Wearing earplugs or earphones prohibited.
- 331.43 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.

(ORC 4511.25; A.O.)

(d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.26; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.27; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.28; A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.29; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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). (ORC 4511.30; A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.31; A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.33; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4511.34; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.36; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.37; A.O.)

(d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4511.38; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4511.39; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(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.

(ORC 4511.41; A.O.)

(d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.42; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.43(B); A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.43(A); A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.03; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4511.45)

(d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.44; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.431; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.451; A.O.)

(d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4511.70(A), (B),(D); A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.71; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4511.72; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.73; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.60; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.32; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.35; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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.

(A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4511.712; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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. (A.O.)

(d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

331.35 OCCUPYING A MOVING TRAILER OR MANUFACTURED OR MOBILE HOME.

(a) Except as provided in subsection (b) of this section, no person shall occupy any travel trailer, fifth wheel trailer, or manufactured or mobile home while it is being used as a conveyance upon a street or highway.

(b) (1) Subsection (a) of this section does not apply to a fifth wheel trailer when both of the following apply:

A. Any child riding in the fifth wheel trailer is properly secured in the manner provided in Ohio R.C. 4511.81.

B. The operator of the vehicle towing the fifth wheel trailer has some means of viable communication with the passengers riding in the trailer.

(2) As used in this section, "viable communication" includes a cellular or satellite telephone, a radio or any other similar electronic wireless communications device.

(ORC 4511.701; A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

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".

(A.O.)
(b) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.711; A.O.)
(c) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019, Passed 9-24-19.)

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 or 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.

(ORC 4511.62; A.O.)
(c) Whoever violates this section is guilty of a misdemeanor of the second degree.
(Ord. 87-2019, Passed 9-24-19.)

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.

(ORC 4511.61; A.O.)
(2) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019, Passed 9-24-19.)

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 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. (ORC 4511.82; A.O.)

(d) Whoever violates this section is guilty of a second misdemeanor.
(Ord. 87-2019, Passed 9-24-19.)

331.42 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; A.O.)

- (d) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

331.43 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.

(ORC 4511.714; A.O.)

- (c) (1) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

- (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 Full time and attention.

333.11 Operation in violation of immobilization order.

333.12 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 per cent or more but less than seventeen-hundredths of one per cent 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 per cent or more but less than two hundred four-thousandths of one per cent 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 per cent 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 per cent 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 phenylcyclidine in the person's urine of at least twenty-five nanograms of phenylcyclidine per milliliter of the person's urine or has a concentration of phenylcyclidine in the person's whole blood or blood serum or plasma of at least ten nanograms of phenylcyclidine 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 this subsection or a substantially equivalent state law or municipal ordinance, a violation of subsection (a)(1) of this section or a substantially equivalent state law or municipal ordinance, 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 Admision. 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 per cent but less than eight-hundredths of one per cent 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 per cent but less than ninety-six-thousandths of one per cent 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 4511.19)
- (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) 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, or an offender who previously has been convicted of or pleaded guilty to a specification of the type described in Ohio R.C. 2941.1413, is guilty of a felony to 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" and "mandatory term of local incarceration" have the same meanings as in Ohio R.C. 2929.01.
- (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) 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) 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) 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) 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) of Ohio R.C. 4511.19 or division (A) of Ohio R.C. 1547.11;
- I. A violation of a former law of this State that was substantially equivalent to division (A) of Ohio R.C. 4511.19 or division (A) 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.

(ORC 4511.201; A.O.)

- (c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019, Passed 9-24-19.)

(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 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. This subsection does not apply if penalties may be imposed under subsections (j)(1)B. or (j)(1)C. of this section.
- (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. (ORC 4511.22; A.O.)
- (d) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019, Passed 9-24-19.)
- 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. (ORC 4511.23; A.O.)
- (c) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019, Passed 9-24-19.)
- 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.
(ORC 4511.202; A.O.)

(b) Whoever violates this section is guilty of operating a second degree misdemeanor. (Ord. 87-2019. Passed 9-24-19.)

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) Whoever violates this section is guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

333.10 FULL TIME AND ATTENTION.

(a) No person shall operate a motor vehicle or motorcycle in and upon the streets and highways of the Municipality unless he shall give and devote his full time and attention to the operation of such motor vehicle or motorcycle.

(Ord. 49-83. Passed 4-25-83.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

333.11 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)

333.12 TEXTING WHILE DRIVING PROHIBITED.

(a) No person shall operate a motor vehicle on any street, highway, or property open to the public for vehicular traffic while using, holding, or physically supporting with any part of the person's body an electronic wireless communications device.

(b) Subsection (a) of this section does not apply to any of the following:

- (1) A person using an electronic wireless communications device to make contact, for emergency purposes, 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 while using an electronic wireless communications device in the course of the person's duties;
 - (3) A person using an electronic wireless communications device when the person's motor vehicle is in a stationary position and is outside a lane of travel, at a traffic control signal that is currently directing traffic to stop, or parked on a road or highway due to an emergency or road closure;
 - (4) A person using and holding an electronic wireless communications device directly near the person's ear for the purpose of making, receiving, or conducting a telephone call, provided that the person does not manually enter letters, numbers, or symbols into the device;
 - (5) A person receiving wireless messages on an electronic wireless communications 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, provided that the person does not hold or support the device with any part of the person's body;
 - (6) A person using the speaker phone function of the electronic wireless communications device, provided that the person does not hold or support the device with any part of the person's body;
 - (7) A person using an electronic wireless communications device for navigation purposes, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device; or
 - B. Hold or support the device with any part of the person's body;
 - (8) A person using a feature or function of the electronic wireless communications device with a single touch or single swipe, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device; or
 - B. Hold or support the device with any part of the person's body;
 - (9) A person operating a commercial truck while using a mobile data terminal that transmits and receives data;
 - (10) A person operating a utility service vehicle or a vehicle for or on behalf of a utility, if the person is acting in response to an emergency, power outage, or circumstance that affects the health or safety of individuals;
 - (11) A person using an electronic wireless communications device in conjunction with a voice-operated or hands-free feature or function of the vehicle or of the device without the use of either hand except to activate, deactivate, or initiate the feature or function with a single touch or swipe, provided the person does not hold or support the device with any part of the person's body;
 - (12) A person using technology that physically or electronically integrates the device into the motor vehicle, provided that the person does not do either of the following during the use:
 - A. Manually enter letters, numbers, or symbols into the device;
 - B. Hold or support the device with any part of the person's body;
 - (13) A person storing an electronic wireless communications device in a holster, harness, or article of clothing on the person's body.
- (c) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of subsection (a) of this section, the officer shall do both of the following:
- (1) Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
 - (2) Ensure that such report indicates the offender's race.

(d) Whoever violates subsection (a) of this section is guilty of operating a motor vehicle while using an electronic wireless communication device, an unclassified misdemeanor.

(1) Except as provided in subsections (d)(2) and (3) of this section, the court shall impose upon the offender a fine of not more than one hundred fifty dollars (\$150.00).

(2) If, within two (2) years of the violation, the offender has been convicted of or pleaded guilty to one prior violation of this section, the court shall impose upon the offender a fine of not more than two hundred fifty dollars (\$250.00).

(3) If, within two (2) years of the violation, the offender has been convicted of or pleaded guilty to two (2) or more prior violations of this section or a substantially equivalent municipal ordinance, the court shall impose upon the offender a fine of not more than five hundred dollars (\$500.00). The court also may impose a suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege for ninety (90) days.

(4) Notwithstanding subsections (d)(1) to (3) of this section, if the offender was operating the motor vehicle at the time of the violation in a construction zone where a sign was posted in accordance with Section 4511.98 of the Ohio Revised Code, the court, in addition to all other penalties provided by law, shall impose upon the offender a fine of two (2) times the amount imposed for the violation under subsection (d)(1), (2) or (3) of this section, as applicable.

(5) In lieu of payment of the fine of one hundred fifty dollars (\$150.00) under subsection (d)(1) of this section and the assessment of points under subsection (d)(7) of this section, the offender instead may elect to attend the distracted driving safety course, as described in Section 4511.991 of the Ohio Revised Code. 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 not be required to pay the fine and shall not have the points assessed against that offender's driver's license if the offender submits the written evidence to the court.

(6) The court may impose any other penalty authorized under Sections 2929.21 to 2929.28 of the Ohio Revised Code. However, the court shall not impose a fine or a suspension not otherwise specified in subsection (d) of this section. The court also shall not impose a jail term or community residential sanction.

(7) Except as provided in subsection (d)(5) of this section, points shall be assessed for a violation of subsection (a) of this section in accordance with Section 4510.036 of the Ohio Revised Code.

(8) The offense established under this section is a strict liability offense and Section 2901.20 of the Ohio Revised Code 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.

(9) A prosecution for an offense in violation of this section does not preclude a prosecution for an offense in violation of a substantially equivalent state statute based on the same conduct. However, the two offenses are allied offenses of similar import under Section 2941.25 of the Ohio Revised Code.

(e) A law enforcement officer does not have probable cause and shall not stop the operator of a motor vehicle for purposes of enforcing this section unless the officer visually observes the operator using, holding, or physically supporting with any part of the person's body the electronic wireless communications device.

(f) A law enforcement officer who stops the operator of a motor vehicle for a violation of subsection (a) of this section shall inform the operator that the operator may decline a search of the operator's electronic wireless communications device. The officer shall not do any of the following:

- (1) Access the device without a warrant, unless the operator voluntarily and unequivocally gives consent for the officer to access the device;
- (2) Confiscate the device while awaiting the issuance of a warrant to access the device;
- (3) Obtain consent from the operator to access the device through coercion or any other improper means. Any consent by the operator to access the device shall be voluntary and unequivocal before the officer may access the device without a warrant.

(g) 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 device capable of displaying a video, movie, broadcast television image, or visual image;
 - F. Any other substantially similar wireless device that is designed or used to communicate text, initiate or receive communication, or exchange information or data.

An "electronic wireless communications device" does not include a two-way radio transmitter or receiver used by a person who is licensed by the federal communications commission to participate in the amateur radio service.

(2) "Voice-operated or hands-free feature or function" means a feature or function that allows a person to use an electronic wireless communications device without the use of either hand, except to activate, deactivate, or initiate the feature or function with a single touch or single swipe.

(3) "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of Section 4905.03 of the Ohio Revised Code.

(4) "Utility service vehicle" means a vehicle owned or operated by a utility.

(Ord. 77-2023. Passed 5-23-23.)

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.
- 335.15 Distracted driving.

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.
 - (ORC 4510.12; A.O.)
 - (2) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019, Passed 9-24-19.)
- (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 this section is guilty of a second degree misdemeanor. (Ord. 87-2019, Passed 9-24-19.)
- (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. (ORC 4507.05; A.O.)
 - (d) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019, Passed 9-24-19.)

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. (ORC 4507.071; A.O.)
- (h) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019, Passed 9-24-19.)

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)
- (i) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

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 per cent 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:
- 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.
 - 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.
 - 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:
- "Electronic monitoring" has the same meaning as in Ohio R.C. 2929.01.
 - "Equivalent offense" means any of the following:
 - 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;
 - A violation of a former law of this State that was substantially equivalent to subsection (a) of this section.
 - "Jail" has the same meaning as in Ohio R.C. 2929.01.
 - "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:
 - Except as specifically authorized under this section, the term must be served in a jail.
 - 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)
- (i) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency. (ORC 4510.04)

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.
- 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.
 - 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.
 - 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 4509.102)
- (f) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.
- (ORC 4510.04)

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:
- 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.
 - 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.
 - 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)
- (d) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.
- (ORC 4510.04)

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.
- 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)

(d) It is an affirmative defense to any prosecution brought under this section that the alleged offender drove under suspension, without a valid permit or driver's or commercial driver's license, or in violation of a restriction because of a substantial emergency, and because no other person was reasonably available to drive in response to the emergency.

(ORC 4510.04)

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))

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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.

(ORC 4549.11; 4549.12)

(f) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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.

(ORC 4549.08; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

(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)

335.15 DISTRACTED DRIVING.

- (a) As used in this section and each section referenced in subsection (b) of this section, all of the following apply:
- (1) "Distracted" means doing either of the following while operating a vehicle:
 - A. Using an "electronic wireless communications device", as defined in Section 333.12 of the Codified Ordinances, in violation of that section; and /or
 - 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 331.42 of the Codified Ordinances.
 - (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.
 - (4) As used in subsection (a)(3) of this section:
 - A. "Utility" means an entity specified in division (A), (C), (D), (E), or (G) of Section 4905.03 of the Ohio Revised Code.
 - B. "Utility service vehicle" means a vehicle owned or operated by a utility.
- (b) If an offender violates a section of Chapter 331 or 333 of the Codified Ordinances 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 Section 2929.28 of the Ohio Revised Code, is subject to an additional fine of not more than one hundred dollars as follows:
- (1) Subject to Ohio Traffic Rule 13, if a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the aforementioned sections of Chapters 331 or 333 of the Codified Ordinances or 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 the distracted driving safety course, as described in Section 4511.991 of the Ohio Revised Code. 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.
- 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, so long as the offender submits to the court the offender's payment and such written evidence.
- (3) If a law enforcement officer issues an offender a ticket, citation, or summons for a violation of any of the sections in Chapters 331 or 333 of the Codified Ordinances or a substantially equivalent state statute based on the same conduct 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 officer shall do both of the following:
 - A. Report the issuance of the ticket, citation, or summons to the officer's law enforcement agency;
 - B. Ensure that such report indicates the offender's race.
- (Ord. 77-2023, Passed 5-23-23.)

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.**
- 337.04 Tail light; illumination of rear license plate.**
- 337.05 Rear red reflectors.**
- 337.06 Safety lighting on commercial vehicles.**
- 337.07 Obscured lights on vehicles in combination.**
- 337.08 Red light or red flag on extended loads.**
- 337.09 Lights on parked or stopped vehicles.**
- 337.10 Lights, emblems, and reflectors on slow-moving vehicles, farm machinery, agricultural tractors, and animal-drawn vehicles.**
- 337.11 Spotlight and auxiliary lights.**
- 337.12 Cowl, fender and back-up lights.**
- 337.13 Display of lighted lights.**
- 337.14 Use of headlight beams.**
- 337.15 Lights of less intensity on slow-moving vehicles.**
- 337.16 Number of lights; limitations on flashing, oscillating or rotating lights.**
- 337.17 Focus and aim of headlights.**
- 337.18 Motor vehicle and motorcycle brakes.**
- 337.19 Horn, siren and theft alarm signal.**
- 337.20 Muffler; muffler cutout; excessive smoke, gas or noise.**
- 337.21 Rear-view mirror; clear view to front, both sides and rear.**
- 337.22 Windshield and windshield wiper; sign or poster thereon.**
- 337.23 Limited load extension on left side of passenger vehicle.**
- 337.24 Motor vehicle stop lights.**
- 337.25 Air cleaner required.**
- 337.26 Child restraint system usage.**
- 337.27 Drivers and passengers required to wear seat belts.**
- 337.28 Use of sunscreening, nontransparent and reflectorized materials.**
- 337.29 Bumper heights.**
- 337.30 Directional signals required.**

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; A.O.)
- (d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.03)

(e) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.04; A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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.

(ORC 4513.05; A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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.

(ORC 4513.06; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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.

(ORC 4513.08; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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.

(ORC 4513.09; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

337.10 LIGHTS, EMBLEMS AND REFLECTORS ON SLOW-MOVING VEHICLES, FARM MACHINERY, AGRICULTURAL TRACTORS, AND ANIMAL-DRAWN VEHICLES.

(a) Definitions. As used in this section:

- (1) **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.
- (2) **SLOW-MOVING VEHICLE and SMV.** Mean a boat trailer, unit of farm machinery, road construction machinery, or other machinery designed by the manufacturer to operate at a speed of twenty-five miles per hour or less. The term does not include a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle. (ORC 4513.11)

(b) Generally.

- (1) At the times specified in Ohio R.C. 4513.03, no person shall operate either of the following vehicles unless it is equipped with and displays the lamps described in subsection (b)(2) of this section.
 - A. A vehicle not specifically required to be equipped with lamps or other lighting devices by Ohio R.C. 4513.03 to 4513.10;
 - B. A vehicle referred to in Ohio R.C. 4513.02(G).
- (2) Vehicles described in subsection (b)(1) of this section shall be equipped with both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the vehicle;
 - B. Two lamps 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 lamp 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.
- (3) A. At the times specified in Ohio R.C. 4513.03, no person shall operate a multi-wheel agricultural tractor model year 2001 or earlier on a street or highway unless it is equipped with and displays reflectors and illuminated amber lamps so that the extreme left and right projections of the tractor are indicated by all of the following:
 1. Flashing lamps displaying amber light, visible to the front and the rear. The lamps need not flash simultaneously and need not flash in conjunction with any directional signals of the tractor;
 2. Amber reflectors, all visible to the front;
 3. Red reflectors, all visible to the rear.B. Rules adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.111 governing the lamps and reflectors described in subsection (b)(3)A. of this section and their placement correlate with and, as far as possible, conform with paragraphs 4.1.4.1, 4.1.7.1 and 4.1.7.2 respectively of the American Society of Agricultural Engineers Standard ANSI/SAE S279.10 OCT98, Lighting and Marking of Agricultural Equipment on Highways.
- (4) At the times specified in Ohio R.C. 4513.03, no person shall operate a unit of farm machinery model year 2002 or later on a street or highway unless it is equipped with and displays markings and illuminated lamps that meet or exceed the lighting, illumination and marking standards and specifications that are applicable to that type of farm machinery for the unit's model year specified in the American Society of Agricultural Engineers Standard ANSI/SAE S279.10 OCT 98, lighting and marking of agricultural equipment on highways.
- (5) Any unit of farm machinery designed by its manufacturer to operate at a speed of twenty-five miles per hour or greater or any SMV may be equipped with and display a red flashing light that is visible from a distance of not less than 1,000 feet to the rear at all times specified in Ohio R.C. 4513.03. When a double-faced light is used, it shall display amber light to the front and red light to the rear.
- (6) Lights and reflectors required under subsections (b)(3) and (b)(4) of this section and authorized under subsection (b)(5) of this section are in addition to other lights required or permitted by this subsection (b) or Ohio R.C. 4513.17.
- (7) The Ohio Director of Public Safety shall adopt rules in accordance with Ohio R.C. Chapter 119 Code that establish standards and specifications for lamps and reflectors required or authorized by this section. Lamps and reflectors required or authorized by this section shall meet those standards and specifications.
- (8) This subsection (b) does not apply to a bicycle, motorized bicycle, electric bicycle, or animal-drawn vehicle. (ORC 4513.111)

(c) Slow-Moving Vehicles.

- (1) Except as otherwise provided in this section, no person shall operate an SMV on a street or highway as follows:
 - A. At a speed exceeding twenty-five miles per hour;
 - B. Without displaying the triangular SMV emblem mounted in accordance with subsection (c)(2) of this section.
- (2) The SMV emblem shall be mounted so as to be visible from a distance of not less than 500 feet to the rear. In accordance with Ohio R.C. Chapter 119, 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 the SMV emblem correlate with and, so far as possible, conform with those approved by the American Society of Agricultural Engineers.
- (3) A person may operate an SMV on a street or highway without displaying the triangular SMV emblem when any of the following apply:
 - A. The SMV is being used in actual construction and maintenance work in an area guarded by a flagperson, or where flares are used;
 - B. The SMV is operating or traveling within the limits of a construction area designated by the Ohio Director of Transportation, a city engineer, or the county engineer of the several counties, when such construction area is marked in accordance with requirements of the Ohio Director of Transportation and the Manual of Uniform Traffic Control Devices, as set forth in Ohio R.C. 4511.09.
- (4) No person shall display an SMV emblem on any of the following:
 - A. Any vehicle not required to use the SMV emblem by this subsection (c) or Ohio R.C. 4513.113 or 4513.114;
 - B. An SMV being transported upon any other vehicle;
 - C. Any stationary object on the highway.
- (5) No person shall sell, lease, rent or operate an SMV, except a unit designed to be completely mounted on a primary power unit that is manufactured or assembled on or after April 1, 1966, unless it is equipped with an SMV emblem mounting device. (ORC 4513.112)
- (d) Farm Machinery and Agricultural Tractors.
 - (1) 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 both of the following:

- A. The SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 - B. A speed identification symbol that does both of the following:
 - 1. Meets the specifications contained in the American Society of Agricultural Engineers Standard ANSI/SAE S584 JAN2005, Agricultural Equipment: Speed Identification Symbol (SIS);
 - 2. Indicates the maximum speed in miles per hour at which the unit of farm machinery is designed by its manufacturer to operate;
 - (2) No person operating a tractor on a street or highway that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour and that is towing, pulling or otherwise drawing a unit of farm machinery while operating at a speed greater than twenty-five miles per hour shall fail to display both of the following on the unit of farm machinery:
 - A. The SMV emblem;
 - B. The speed identification symbol that matches the speed identification symbol required to be displayed on the agricultural tractor;
 - (3) No person shall operate an agricultural tractor that is designed by its manufacturer to operate at a speed greater than twenty-five miles per hour unless the person possesses 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;
- (ORC 4513.113)
- (e) Animal-Drawn Vehicles.
- (1) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at the times specified in Ohio R.C. 4513.03, both of the following:
 - A. At least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of the animal-drawn vehicle;
 - B. Two lamps displaying red light visible from a distance of not less than 1,000 feet to the rear of the animal-drawn vehicle, or as an alternative, one lamp 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 one hundred feet to the rear when illuminated by the lawful lower beams of headlamps.
 - (2) Except as otherwise provided in subsection (e)(4) of this section, no person shall operate an animal-drawn vehicle on a street or highway unless it is equipped with and displays, at all times, all of the following:
 - A. One yellow flashing lamp displaying yellow light that is visible from a distance of not less than 1,000 feet and that is mounted in either of the following positions:
 - 1. On the top most portion of the rear of the animal-drawn vehicle;
 - 2. On the top of the animal-drawn vehicle;
 - B. At least one of the following:
 - 1. An SMV emblem mounted in accordance with Ohio R.C. 4513.112(B);
 - 2. Micro-prism reflective tape that is visible from a distance of not less than 500 feet to the rear when illuminated by the lawful lower beams of headlamps;
 - 3. Both an SMV emblem and micro-prism reflective tape, as specified in this division.
 - C. Lamps and micro-prism reflective tape required by this section shall meet standards and specifications adopted by the Ohio Director of Public Safety under Ohio R.C. 4513.114.
 - (3) The Ohio Director of Public Safety, in accordance with Ohio R.C. Chapter 119, shall adopt rules establishing standards and specifications for the position and mounting of the lamps and micro-prism reflective tape required by Ohio R.C. 4513.114. The rules permit the micro-prism reflective tape to be red, amber, white, or silver in color.
 - (4) A. Subsections (e)(1) and (e)(2) of this section do not apply to the operator of animal-drawn agricultural equipment who is not transporting any livestock or a person other than the operator.
 - B. No operator described in subsection (e)(4)A. of this section shall operate animal-drawn agricultural equipment unless it is equipped with and displays, at all times, the SMV emblem mounted in accordance with Ohio R.C. 4513.112(B).
 - C. As used in subsection (e)(4) of this section, "animal-drawn agricultural equipment" means equipment drawn by the muscular power of an animal that is used solely for agricultural purposes. "Animal-drawn agricultural equipment" includes any of the following:
 - 1. A plow;
 - 2. A manure spreader;
 - 3. A threshing machine. (ORC 4513.114)
 - (f) Strict Liability Offenses. The offenses established under 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 4513.115; A.O.)
- (g) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.12; A.O.)
 - (c) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.13; A.O.)
 - (c) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)

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.
 - (b) However, on a motorcycle, there shall be displayed at least one and not more than two lighted lights as required herein. (ORC 4513.14; A.O.)
 - (c) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.15; A.O.)
 - (b) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)

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 second degree misdemeanor.
- (ORC 4513.16; A.O.)
- (Ord. 87-2019. Passed 9-24-19.)

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 left turn, or in the presence of a vehicular traffic hazard requiring unusual care in approaching, or overtaking or passing.
 - (2) The prohibition in subsection (c)(1) of this section does not apply to any of the following:
 - A. 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 as provided in Ohio R.C. 4513.182, highway maintenance vehicles, and similar equipment operated by state or local authorities, provided such vehicles are 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;
 - B. Vehicles or machinery permitted by Ohio R.C. 4513.111 to have a flashing red light;
 - C. Farm machinery and vehicles escorting farm machinery, provided such machinery and vehicles are equipped with and display, when used on a street or highway, a flashing, oscillating or rotating amber light.
 - D. A funeral hearse or funeral escort vehicle, provided that the funeral hearse or funeral escort vehicle is equipped with and displays, when used on a street or highway for the special purpose necessitating such lights, a flashing, oscillating or rotating purple or amber light;
 - (3) Subsection (c)(1) of this section does not apply to animal-drawn vehicles subject to Ohio R.C. 4513.114.
 - (d) (1) Except a person operating a public safety vehicle, as defined in Ohio R.C. 4511.01(E), 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.
 - (2) Except a public law enforcement officer, or other person sworn to enforce the criminal and traffic laws of the state, 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 second degree misdemeanor.
- (ORC 4513.17; A.O.)
- (Ord. 87-2019. Passed 9-24-19.)

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 second degree misdemeanor.
- (ORC 4513.19; A.O.)
- (Ord. 87-2019. Passed 9-24-19.)

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 breakdown 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:

	<u>From a speed of 20 miles per hour</u>	
	Deceleration in	
	Stopping distance	feet per second
	<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; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.21; A.O.)
(d) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

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.
(ORC 4513.22; A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.23; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

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 either of the following apply to the device:

- A. It is a "vehicle safety technology" as defined in 49 C.F.R. §393.5 and complies with 49 C.F.R. §393.60(e)(1)(ii).
- B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and 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 either of the following apply to the device:

- A. It is a "vehicle safety technology" as defined in 49 C.F.R. §393.5 and complies with 49 C.F.R. §393.60(e)(1)(ii).
- B. It does not restrict the vehicle operator's sight lines to the road and highway signs and signals, and it is mounted not more than eight and one-half inches below the upper edge of the windshield.

(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.
(ORC 4513.24; A.O.)

(d) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

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.

(Ord. 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.

(ORC 4513.071; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

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.
(A.O.)

(c) Whoever violates this section is guilty of a second degree misdemeanor.
(Ord. 87-2019. Passed 9-24-19.)

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.

(ORC 4511.81; A.O.)

(j) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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. (ORC 4513.263; A.O.)

(g) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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 per cent plus or minus three per cent 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 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 per cent plus or minus three per cent 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 per cent plus or minus three per cent.

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, sidings 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; A.O.)
- (d) **Penalty.** Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)

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:

	Front (inches)	Rear (inches)
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:

	Front (inches)	Rear (inches)
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; A.O.)
- (d) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)
- 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.
- (ORC 4513.261; A.O.)
- (d) Whoever violates this section is guilty of a second degree misdemeanor.
- (Ord. 87-2019. Passed 9-24-19.)

CHAPTER 339

Commercial and Heavy Vehicles

- 339.01 Oversize or overweight vehicle operation on State routes; State permit.**
- 339.02 Use of local streets; local permit and conditions.**
- 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 Truck routes.**339.99 Penalty.**

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)

CROSS REFERENCES**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. (A.O.)

(c) Whoever violates this section is guilty of a misdemeanor of the second degree. (Ord. 87-2019. Passed 9-24-19.)

339.02 USE OF LOCAL STREETS; LOCAL PERMIT AND CONDITIONS.

(a) Use of Local Streets. No person shall operate a vehicle exceeding a size as specified in Section 339.03 or exceeding a gross weight of five tons, upon any street in the Municipality other than a State route, except those local streets designated as a truck route and marked as such by appropriate traffic signs, and except when such operation is necessary to load or unload property, to go to or from the usual place of storage of such vehicle or to perform any other legitimate business or act other than passage through the Municipality. Operators of vehicles so deviating from either a State route or a designated truck route within the Municipality shall confine such deviation to that required in order to accomplish the purpose of the departure.

(b) Local Permit and Conditions. Upon application and for good cause, the Police Chief may issue a local permit authorizing an applicant to move an oversize or overweight vehicle or combination of vehicles upon local streets.

No permittee shall be required to obtain a special permit from the Ohio Director of Transportation for the movement of the vehicle or combination of vehicles on streets or highways under local jurisdiction; however, the approval of the Ohio Director of Transportation shall be required for movement upon State routes as provided in Section 339.01.

The Police Chief may grant a permit for a single or round trip, or for such period of time, not to exceed one year, as the Police Chief in his discretion deems advisable, or for the duration of any construction project. The Police Chief may limit or prescribe terms or conditions of operation for such vehicle or combination of vehicles by designating the route, hours, speed or such other restrictions as may be necessary for the preservation of the public peace, property, health and safety. The Police Chief may require the posting of bond or other security necessary to compensate for any damage to a roadway or road structure.

For each such permit, the Police Chief shall charge ten dollars (\$10.00), and for each hour of time or any part thereof spent by each police officer in supervising the movement of such vehicle, the applicant shall pay the sum of twenty-five dollars (\$25.00) per hour per officer. The charge can be prorated into fifteen minute increments.

Signs shall be posted to apprise drivers of the limitations imposed by this section. Such signs shall be in accordance with the standards for traffic control devices of the State Department of Transportation. No driver shall disobey the instructions indicated on any such sign.

Violation of any of the limitations, terms or conditions of the permit granted by the Police Chief shall be cause for immediate revocation or suspension of such permit, and denial of request for any future permit. Such violation shall also subject the violator to the penalty prescribed by subsection (c) hereof.

(A.O.)
(c) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019. Passed 9-24-19.)

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-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination, except that the Director may prohibit the operation of any such commercial tractor-semitrailer-trailer or commercial tractor-semitrailer-semitrailer combination on such State highways or portions of State highways as the Director designates;

(5) A. 97 feet for drive-away saddle-mount vehicle transporter combinations and drive-away saddle-mount with full-mount 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 saddle-mounted vehicles, but which may include one full-mount;
B. 75 feet for drive-away saddle-mount vehicle transporter combinations and drive-away saddle-mount with full-mount vehicle transporter combinations, when operated on any roadway not designated as an interstate, United States route, or State route, not to exceed three saddle-mounted vehicles, but which may include one full-mount;

(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-semitrailer-semitrailer 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; A.O.)

(i) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019. Passed 9-24-19.)

339.04 ROUTE AND LOAD INFORMATION.

(a) 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. (A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019. Passed 9-24-19.)

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; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor. (Ord. 87-2019. Passed 9-24-19.)

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; A.O.)

(b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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; A.O.)
- (e) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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, refuse, 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; A.O.)
- (e) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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. (A.O.)
- (c) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

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; A.O.)

- (b) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

339.11 USE OF STUDDED 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; A.O.)
- (d) Whoever violates this section is guilty of a second degree misdemeanor.

(Ord. 87-2019. Passed 9-24-19.)

339.12 TRUCK ROUTES.

- (a) The following streets are designated as truck routes in the City: Highland Road, Wilson Mills Road and Monticello Boulevard.

(Ord. 30-61. Passed 11-21-61.)

339.99 PENALTY.

Whoever violates any of the provisions of Section 339.01 or 339.02 shall be fined in accordance with the following schedule:

OVERLOAD (in pounds)		NOT LESS THAN	NOT MORE THAN
Less than	1,001	\$50.00	\$ 75.00
1,001	to 1,500	60.00	90.00
1,501	to 2,000	70.00	100.00
2,001	to 2,500	100.00	150.00
2,501	to 3,000	110.00	165.00
3,001	to 3,500	120.00	180.00
3,501	to 4,000	130.00	195.00
4,001	to 4,500	140.00	210.00
4,501	to 5,000	150.00	225.00
5,001	to 5,500	160.00	240.00
5,501	to 6,000	170.00	255.00
6,001	to 6,500	180.00	270.00
6,501	to 7,000	190.00	285.00
7,001	to 7,500	200.00	300.00
7,501	to 8,000	210.00	315.00
8,001	to 8,500	220.00	330.00
8,501	to 9,000	230.00	345.00
9,001	to 9,500	240.00	360.00
9,501	to 10,000	250.00	375.00
10,001	to 10,500	470.00	705.00
10,501	to 11,000	490.00	735.00
11,001	to 11,500	510.00	765.00
11,501	to 12,000	530.00	795.00
12,001	to 12,500	550.00	825.00
12,501	to 13,000	570.00	855.00
13,001	to 13,500	590.00	885.00
13,501	to 14,000	610.00	915.00
14,001	to 14,500	630.00	945.00
14,501	to 15,000	650.00	975.00
15,001	to 15,500	670.00	1,005.00
15,501	to 16,000	690.00	1,035.00

16,001	to 16,500	710.00	1,065.00
16,501	to 17,000	730.00	1,095.00
17,001	to 17,500	750.00	1,125.00
17,501	to 18,000	770.00	1,155.00
18,001	to 18,500	790.00	1,185.00
18,501	to 19,000	810.00	1,215.00
19,001	to 19,500	830.00	1,245.00
19,501	to 20,000	850.00	1,275.00

More than 20,000 pounds - not less than \$100.00, plus \$4.00 per 100 pounds of overload, and not more than \$1,000 plus \$6.00 per 100 pounds of overload.
However, no penalty prescribed in this section shall be imposed on any vehicle combination if (a) the overload on any axle does not exceed 1,000 pounds, and (b) if the immediately preceding or following axle, except the front axle of the vehicle combination, is underloaded by the same or a greater amount. For purposes of this section, two axles on one vehicle less than eight feet apart shall be considered as one axle.
(Ord. 17-61. Passed 5-2-61.)

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, harmful intoxicant as defined in Ohio R.C. 2925.01, 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.

(ORC 4506.20)

CHAPTER 345

Operation in Shopping Centers

345.01 Enforcement.

345.02 Pedestrian and vehicular traffic control devices.

345.03 Obedience to order of police officer.

345.04 Obedience to pedestrian and vehicular traffic control devices.

345.05 Existing pedestrian and vehicular traffic control devices.

345.06 Speed restrictions.

345.07 Overtaking another vehicle.

345.08 Parking.

345.09 Persons under the influence of intoxicating liquor or narcotic drugs.

345.10 Reckless driving.

345.11 Right of way.

345.12 Duty to stop after accident.

345.13 Unattended motor vehicles.

345.14 Licensing.

345.99 Penalty.

CROSS REFERENCES

Compliance with lawful order of police officer - see TRAF. 303.01

Obedience to traffic control devices - see TRAF. 313.01

Parking in local retail or wholesale premises - see TRAF. 351.13

Disorderly conduct in shopping centers - see GEN. OFF. 509.11

345.01 ENFORCEMENT.

It shall be the duty of the Division of Police to enforce the provisions of this chapter. The Chief of Police shall assign such officers and members of the Division of Police as he may determine necessary to the duty of enforcing the provisions of this chapter. In the event of fire or other emergency, members of the Division of Fire may direct traffic and otherwise assist the Division of Police, notwithstanding any other provisions of this chapter.

(Ord. 72-66. Passed 8-23-66.)

345.02 PEDESTRIAN AND VEHICULAR TRAFFIC CONTROL DEVICES.

The Chief of Police is hereby empowered and authorized to designate or approve the erection of stop signs at such locations in a shopping center as he deems necessary or desirable to the safe and efficient movement of vehicles and pedestrians. The Chief of Police is empowered and authorized to designate or approve the placing of appropriate devices, lines or marks upon the roadways, parking areas and sidewalks to indicate crosswalks, walkways and safety islands at such places in a shopping center as he deems necessary for the safe and efficient movement of pedestrians.

(Ord. 72-66. Passed 8-23-66.)

345.03 OBEDIENCE TO ORDER OF POLICE OFFICER.

No person shall refuse or fail to comply with any order, signal or direction of any member of the Division of Police or Fire given or made in connection with the control of traffic or pedestrian in a shopping center.

(Ord. 72-66. Passed 8-23-66.)

345.04 OBEDIENCE TO PEDESTRIAN AND VEHICULAR TRAFFIC CONTROL DEVICES.

No operator of a vehicle or any pedestrian shall disobey the instructions of any traffic control device placed in accordance with this chapter, unless otherwise directed by a police officer.

(Ord. 72-66. Passed 8-23-66.)

345.05 EXISTING PEDESTRIAN AND VEHICULAR TRAFFIC CONTROL DEVICES.

Any existing traffic control devices in a shopping center on the effective date of this section are hereby as effective as those traffic control devices which may hereafter be designated or approved by the Chief of Police as herein provided.

(Ord. 72-66. Passed 8-23-66.)

345.06 SPEED RESTRICTIONS.

No person shall operate a vehicle at a speed exceeding fifteen miles per hour within any shopping center nor shall he operate a vehicle in a shopping center at a speed greater than or less than is reasonable or proper, having due regard to the traffic conditions. No person shall operate a vehicle in a shopping center at a greater speed than will permit him to bring it to a stop within the assured clear distance ahead.

(Ord. 72-66. Passed 8-23-66.)

345.07 OVERTAKING ANOTHER VEHICLE.

No person operating a vehicle in a shopping center shall overtake or pass another vehicle proceeding in the same direction unless the other vehicle has come to a stop other than in obedience to a traffic control device.

(Ord. 72-66. Passed 8-23-66.)

345.08 PARKING.

(a) No person operating a motor vehicle shall stop, stand or park such vehicle immediately in front of or at the rear of any building, except while loading or unloading passengers or parcels, in which event such motor vehicle shall be parked parallel to the building line or curb (except trucks or semitrailers loading or unloading at the rear of a building). Except as herein provided, no person shall park a vehicle in any place other than those places designated as parking places by markers, signs, lines or stripes.

(b) No person shall park a motor vehicle within ten feet of a fire hydrant in a shopping center.

(c) No person shall stop, stand or park a vehicle on or across a crosswalk or sidewalk, within twenty feet of a crosswalk, within twenty feet of a stop sign or other traffic control device located at the side of the portion of shopping center traversed by vehicles, or within ten feet of a doorway or other access or entrance to the rear of a building except vehicle loading and unloading. The Chief of Police is empowered and authorized to designate or approve the marking of a no-parking area prescribed by this chapter by signs or painted lines or curbs.

(Ord. 72-66. Passed 8-23-66.)

345.09 PERSONS UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR NARCOTIC DRUGS.

No person who is under the influence of intoxicating liquor or narcotic drugs or opiates shall operate or be in actual physical control of any motor vehicle in a shopping center.

(Ord. 72-66. Passed 8-23-66.)

345.10 RECKLESS DRIVING.

No person shall operate a vehicle in a shopping center without due regard for the safety and rights of pedestrians and drivers and occupants of other vehicles, so as to endanger the life, limb or property of any person.

(Ord. 72-66. Passed 8-23-66.)

345.11 RIGHT OF WAY.

The operator of a vehicle shall yield the right of way at a stop sign to all vehicles not obliged to stoop, and shall yield the right of way at an intersection or at a place where lines of traffic cross to a vehicle approaching from the right, in the absence of a stop sign. Pedestrians shall have the right of way at all times and at all places within a shopping center. The operator of a motor vehicle proceeding to leave a parking space shall yield the right of way to all other vehicles being operated in a lawful manner.

(Ord. 72-66. Passed 8-23-66.)

345.12 DUTY TO STOP AFTER ACCIDENT.

In case of accident to, or collision with, persons or property within a shopping center (including buildings and traffic control devices) due to the driving or operation of any vehicle, the person so operating such vehicle having knowledge of such accident or collision shall stop and upon the request of an injured person or any person give such person his name and address, the name and address of the owner of such vehicle and the registered number of such vehicle. The driver of a vehicle involved in an accident resulting in damage to property shall immediately stop and take reasonable steps to locate and notify the owner or person in charge of such property of such accident or collision and give his name and address, the name and address of the owner of such vehicle and the registration number of such vehicle. In the event the owner or person in charge of such property cannot be located after reasonable stops, the driver of such vehicle, within twenty-four hours after such accident, shall give the Chief of Police the same information required to be given to the owner or person in charge of such property, together with the location of the accident and description of the damage. The driver of any vehicle involved in an accident resulting in damage to a traffic control device shall forthwith notify the Chief of Police of such accident.

(Ord. 72-66. Passed 8-23-66.)

345.13 UNATTENDED MOTOR VEHICLES.

No person driving or in charge of a vehicle shall permit it to stand unattended without stopping the engine and effectively setting the brake.

(Ord. 72-66. Passed 8-23-66.)

345.14 LICENSING.

No persons shall operate any motor vehicle or motorcycle in or upon or within a shopping center without being properly licensed according to the terms of Section 335.01 of this Traffic Code.

345.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for penalties applicable to any misdemeanor classification).

Whoever violates Section 345.09, 345.10, 345.12 or 345.14 is guilty of a misdemeanor of the first degree.

(Ord. 57-79. Passed 5-22-79.)

CHAPTER 346

Removal of Unlicensed or Out-of-Repair Vehicles

346.01 Responsibility of parties; definition.

346.02 Notification to remove.

346.03 Exceptions; additional remedy.

346.99 Penalty.

CROSS REFERENCES

Impounding - see TRAF. 303.08 et seq.

In residential areas - see TRAF. 351.16

346.01 RESPONSIBILITY OF PARTIES; DEFINITION.

(a) No person, being the owner, lessee, or bailee of the motor vehicle or the owner, lessee, agent or tenant having charge of any lots and lands within the Municipality, shall park, store or leave, or permit to be parked, stored or left uncovered in the open upon such lots or lands an "unlicensed or out-of-repair vehicle."

(b) For purposes of this chapter, the term "unlicensed or out-of-repair vehicle" means:

- (1) Any motor vehicle meeting the definition of "junk motor vehicle" set forth in Section 303.10 (any motor vehicle meeting the requirements of Ohio R.C. 4513.63(B) to (E) that is left uncovered in the open on private property more than 72 hours with the permission of the person having the right to the possession of the property); or
- (2) Any motor vehicle required to display license plates not having current year license plates or having illegal plates left for a period of more than 15 days unless completely enclosed in a building or garage; or
- (3) Any motor vehicle so damaged or out of repair so as to render it incapable of being moved under its own power left for a period of more than 15 days unless completely enclosed in a building or garage; or
- (4) Any other vehicle or contrivance meant to be propelled by power other than human power, designed to travel along the ground by use of wheels, treads, runners or slides, and to transport persons or property or pull machinery including, but not limited to, trailers, tractors and campers that is incapable of being moved if propelled by appropriate power or used for its intended purpose because of extensive damage including, but not limited to missing wheels, tires, treads, runners or slides, left for a period of more than 15 days unless completely enclosed in a building or garage.

(Ord. 113-94. Passed 12-27-94.)

346.02 NOTIFICATION TO REMOVE.

(a) When the Chief of Police ascertains that an "unlicensed or out-of-repair vehicle" is parked, stored, or left uncovered in the open upon lots and lands within the Municipality, he shall cause written notice and demand to be served upon the owner, lessee or bailee of the motor vehicle or owner, lessee, agent or tenant having charge of such lots or lands that such vehicle shall be licensed, repaired, covered by being housed in a garage or other suitable structure, or removed from the premises within 10 days after service of notice. If the owner or other person having charge of the lands is a nonresident whose address is known, the notice shall be sent to this address by certified mail. If the address of the owner is unknown, it shall be sufficient to publish notice once in a newspaper of general circulation in Cuyahoga County. Any police officer of the Municipality may make service and return of the notice provided for in this section.

(b) The 10 day period as prescribed herein shall be deemed to commence from the day of the service or the date of publication, if any.

(c) If the person notified fails to license, repair, cover or remove such motor vehicle within the time prescribed by this section, the City shall remove or cause to be removed such motor vehicle and dispose of the same according to Ohio R.C. 4513.61 and 4513.62. All expenses and costs of removal and/or disposal shall be charged against the owner of such motor vehicle or the owner of the lots or lands upon which such motor vehicle is parked, stored or left in the open, or both, and shall be in addition to any fine, cost or penalty for which the owner, lessee or bailee of such motor vehicle or the owner or other person having charge of such lots or lands may have become liable.

(Ord. 113-94. Passed 12-27-94.)

346.03 EXCEPTIONS; ADDITIONAL REMEDY.

(a) This chapter shall not apply to any collector's vehicle as defined in Ohio R.C. 4501.01(F) on private property with the permission of the person having the right to possession of the property that is concealed in accordance with Section 303.10(b) of this Traffic Code. This section shall also not apply to persons operating a junk yard or scrap metal processing facility licensed under authority of Ohio R.C. 4737.05 to 4737.12, or regulated under authority of the Municipality; or if the property on which the motor vehicle is left is not subject to licensure or regulation by any governmental authority, unless that person having the right to the possession of the property can establish that the motor vehicle is part of a bona fide commercial operation.

(b) This chapter is intended to be a remedy in addition to the other provisions as to vehicles contained in the Traffic Code. Nothing contained in this chapter shall invalidate the provisions of Section 303.08 as to impoundment of vehicles including, but not limited to, "abandoned junk motor vehicles", Section 303.081 as to impoundment of vehicles left on private residential or agricultural property without permission, Section 303.082 as to "Private Tow-Away Zones", Section 303.083 as to release of vehicles, records and charges, Section 303.09 as to junk and other motor vehicles left on private or public property without permission or notification, Section 303.10 as to leaving junk motor vehicles on private property with permission of the owner, Section 303.11 as to storage and towing charges and impoundment of motor vehicles in connection with the public peace, health, safety and welfare of the City in enforcement of its ordinances and the laws of the State, and Section 351.16 as to parking and storage of out-of-repair and unlicensed motor vehicles in residential districts. This section shall allow junk motor vehicles left on private property with permission of the owner under Section 303.10 and out-of-repair and unlicensed vehicles parked or stored in residential districts for more than 15 days under Section 351.16 to be removed according to the procedures set forth in this chapter.

(Ord. 113-94. Passed 12-27-94.)

346.99 PENALTY.

In addition to the other remedies set forth in this chapter, whoever violates any of the provisions of this chapter is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

CHAPTER 347

Transportation of Radioactive Materials

- 347.01 Definitions.**
347.02 Purpose.
347.03 Permit required.
347.04 Notification of Director of Public Safety required.
347.05 Issuance of permit.
347.99 Penalty.

CROSS REFERENCES

Radiation control - see Ohio R.C. 3701.90 et seq.
Atomic energy development activity - see Ohio R.C. 4163.01 et seq.
Issuance of insurance policy for radiation risks - see Ohio R.C. 5720.07
Operation generally - see TRAF. Ch. 331
Commercial and heavy vehicles - see TRAF. Ch. 339
Drivers of commercial cars or tractors - see TRAF. Ch. 341

347.01 DEFINITIONS.

As used in this chapter:

- (a) "Radioactive material" means any materials or combination of materials, which spontaneously emits ionizing radiation. Materials in which the estimated specific activity is not greater than 0.002 microcuries per gram of material, and in which the radioactivity is essentially uniformly distributed, are not considered to be radioactive materials.
- (b) "Large quantity radioactive materials" means a quantity the aggregate radioactivity of which exceeds that specified in 10 Code of Federal Regulations (C.F.R.) Part 71, entitled "Packaging of Radioactive Material for Transport," Section 71.4(f).
- (c) "Curie" means an expression of the quantity of radiation in terms of the number of atoms which disintegrate per second. A curie that quantity of radioactive materials which decays such that thirty-seven billion atoms disintegrate per second.
- (d) "Millicurie" means one thousandth of a curie.
- (e) "Motor vehicle" means any vehicle defined as a motor vehicle in Section 301.20.
- (f) "Person" means any individual, partnership or corporation engaged in the transportation of passengers or property, as common, contract or private carrier, or freight forwarder, as those terms are used in the Interstate Commerce Act, as amended. (Ord. 116-78. Passed 9-26-78.)

347.02 PURPOSE.

The purpose of this chapter is to provide minimum standards and regulations insuring the safe shipment and transportation of radioactive materials through the City.
(Ord. 116-78. Passed 9-26-78.)

347.03 PERMIT REQUIRED.

- (a) No person shall ship or transport any of the following radioactive materials by motor vehicle into, within, through or out of the City without first having obtained a permit therefor from the Director of Public Safety or his designated representative:
- (1) Plutonium isotopes in any quantity and form exceeding two grams or twenty curies, whichever is less;
 - (2) Uranium enriched in the isotope U-235 exceeding twenty-five atomic percent of the total uranium content, in quantities where the U-235 content exceeds one kilogram;
 - (3) Any elements with atomic number eighty-nine or greater, the activity of which exceeds twenty curies;
 - (4) Spent reactor fuel elements or mixed fission products associated with such fuel elements, the activity of which exceeds twenty curies;
 - (5) Larger quantity radioactive materials;
 - (6) Any quantity, arrangement and packaging combination of fissile material specified by the United States Nuclear Regulatory Commission as a "Fissile Class III" shipment in 10 CFR Part 71, entitled "Packaging of Radioactive Materials for Transport," Section 71.4(d)(3); or
 - (7) Any shipment of transportation of radioactive material that is required by the appropriate regulatory agency to be accompanied by an escort for safety reasons.
- (b) This section shall not apply to radioactive materials shipped or transported by or for the United States Government for military or security purposes or which are related to national defense.

(Ord. 116-78. Passed 9-26-78.)

347.04 NOTIFICATION OF DIRECTOR OF PUBLIC SAFETY REQUIRED.

When those radioactive materials requiring a permit as specified in this chapter are to be shipped or transported into, within, through or out of the City, the shipper or carrier, or person otherwise responsible, shall first notify the Director of Public Safety or his designated representative, on a form provided by the City, two weeks prior to the date of shipment. The form shall include the date of shipment, type and quantity of radioactive materials involved, method of transportation, route, starting point, destination, and such other information as the Director or his designated representative may reasonably require. Any information that cannot be supplied two weeks prior to shipment or transportation, shall be supplied promptly by the person responsible for such shipment or transportation when such information becomes available to him. Nothing in this section shall be construed as requiring the disclosure of any defense information or restricted data as defined in the Atomic Energy Act of 1954 and the Energy Reorganization Act of 1974, as amended.

(Ord. 116-78. Passed 9-26-78.)

347.05 ISSUANCE OF PERMIT.

- (a) The Director of Public Safety or his designated representative shall not issue a permit to any person for the shipment or transportation of those radioactive materials specified in this chapter, unless:
- (1) There is showing that the radioactive material has been or will be containerized and packaged, and all warning labels affixed to the outer container holding the radioactive material and the motor vehicle transporting such material, in conformity with the regulations of the United States Department of Transportation, United States Nuclear Regulatory Commission or other related Federal or State agencies, regardless of whether the shipment is being made intracity, intrastate or interstate; and
 - (2) There is a showing that the shipment or transportation of radioactive materials is necessitated by urgent public policy or national security interests transcending public safety and health concerns of the City.
For the purposes of this section:
 - A. "Urgent public policy" include medical and educational interests.
 - B. "Urgent public policy" does not include interests other than medical and educational interests, unless expressly authorized in writing by the United States Department of Transportation or by any other appropriate Federal or State agency which may be required by the Director of Health or his designated representative. Such authorization shall state that the particular interest involved is, in the opinion of the agency, permitted by Federal or State regulations pertaining to the shipment or transportation of radioactive materials, and that the interest involved justifies the apparent risks resulting from such shipment or transportation.
- (b) Radioactive materials which are permitted to be shipped or transferred through the City pursuant to this chapter shall be shipped or transported through the City over such route, or at such time of the day, consistent with the public health, safety and welfare and the convenience of the shipper or carrier, as the Director of Public Safety or his designated representative may direct.

(Ord. 116-78. Passed 9-26-78.)

347.99 PENALTY.

(EDITOR'S NOTE: See Section 303.99 for penalties applicable to any misdemeanor classification.)
Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree.

(Ord. 116-78. Passed 9-26-78.)

CHAPTER 349

Sale of Vehicles

- 349.01 Definitions.**
349.02 Casual sales; limitation.
349.03 Limits for display.
349.99 Penalty

CROSS REFERENCES

Motor vehicle dealers, distributors, auction owners, and sales - persons - see Ohio R.C. Ch. 4517
Operation or sale without certificate of title - see TRAF. 335.08
Use of illegal license plates; transfer or registration - see TRAF. 335.11
Selling or repairing vehicle upon roadway - see TRAF. 351.06
Parking and storage of out-of-repair and unlicensed motor vehicles - see TRAF. 351.16

349.01 DEFINITIONS.

As used in this chapter:

- (a) "Person" includes individuals, firms, partnerships, associations, joint stock companies, corporations and any combination of individuals.
- (b) "Motor vehicle" means motor vehicles as defined in Ohio R.C. 4501.01.
- (c) "Casual sale" means any transfer of a motor vehicle by a person other than a dealer, salesperson, motor vehicle auction owner, manufacturer or distributor acting in his capacity as a dealer, salesperson, auction owner, manufacturer or distributor, to a person who purchases the motor vehicle for use as a customer.
- (d) "Retail sale" or "sale at retail" means the act or attempted act of selling, bartering, exchanging or otherwise disposing of a motor vehicle to an ultimate purchaser for use as a consumer.
- (e) "Vehicle" as used in this chapter means vehicles as defined in Ohio R.C. 4501.01, including motor vehicles as defined therein.
(Ord. 28-95. Passed 3-14-95.)

349.02 CASUAL SALES; LIMITATION.

Except as specifically exempted by Ohio R.C. 4517.02, no person shall make more than two casual sales of motor vehicles in a twelve-month period, commencing with the day of the month in which the first such sale is made, nor provide a location or space for the sale of motor vehicles at a flea market, without obtaining a license as a dealer under Ohio R.C. 4517.01 to 4517.45, inclusive.

(Ord. 28-95. Passed 3-14-95.)

349.03 LIMITS FOR DISPLAY.

- (a) No person shall park or stand a vehicle on public or private property for the purpose of selling or trading such vehicle, or advertise the same as being "for sale" or "for trade".
- (b) Subsection 349.02(a) shall not apply to the display for sale or trade of not more than two vehicles in any twelve-month period provided that the following conditions are met:
- (1) Not more than one vehicle is offered for sale or trade at any given time.
 - (2) The vehicle is parked or stored on a hard surface driveway at least ten feet from the street right of way on residentially-zoned properties and fifty feet from the street right of way in all other zoning districts.
 - (3) The owner of the vehicle is the owner or lessee of the premises.
- (Ord. 28-95. Passed 3-14-95.)

349.99 PENALTY.

Whoever violates this chapter shall be guilty of a minor misdemeanor. Each day during or on which the violation continues shall be deemed a separate offense.
(Ord. 28-95. Passed 3-14-95.)

TITLE SEVEN - Parking

Chap. 351. Parking Generally.

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; handicapped locations on public and private lots and garages.
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 Parking in alleys and narrow streets; exceptions.
351.12 Prohibition against parking on streets or highways.
351.13 Truck parking in residential districts.
351.14 Parking on premises in local retail or wholesale districts.
351.15 Parking on streets and highways generally.
351.16 Parking and storage of out-of-repair and unlicensed motor vehicles.
351.17 Snow and other emergencies.
351.18 Parking on posted private property.
351.19 Parking of commercial vehicles; parking in side and rear yards.
351.99 Penalty.

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;
 - (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.
- (ORC 4511.68)
- (17) On any street driveway apron;
- (18) Upon the side of any street or which fire hydrants are located, when signs are erected giving notice of such prohibition;
- (19) Upon any private property within the City, except upon driveways, parking lots, in garages or in an area improved for vehicular use;
- (20) 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 the operation of the fire-fighting equipment of the Municipality, when signs are erected giving notice thereof.

(Ord. 86-70. Passed 7-14-70.)

351.04 PARKING NEAR CURB; HANDICAPPED LOCATIONS ON PUBLIC AND PRIVATE LOTS AND GARAGES.

- (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.
- (e) Special parking locations and privileges for persons with disabilities that limit or impair the ability to walk, also known as handicapped parking spaces or disability parking spaces shall be provided and designated by the Municipality and all agencies and instrumentalities thereof at all offices and facilities, where parking is provided, whether owned, rented or leased, and at all publicly owned parking garages. The locations shall be designated through the posting of an elevated sign, whether permanently affixed or movable, imprinted with the international symbol of access and shall be reasonably close to exits, entrances, elevators and ramps. All elevated signs posted in accordance with this subsection and Ohio R.C. 3781.111 (C) shall be mounted on a fixed or movable post, and the distance from the ground to the bottom edge of the sign shall measure not less than five feet. If a new sign or a replacement sign designating a special parking location is posted on or after October 14, 1999, there also shall be affixed upon the surface of that sign or affixed next to the designating sign a notice that states the fine applicable for the offense of parking a motor vehicle in the special designated parking location if the motor vehicle is not legally entitled to be parked in that location.
- (f) (1) A. No person shall stop, stand or park any motor vehicle at special parking locations provided under subsection (e) hereof, or at special clearly marked parking locations provided in or on privately owned parking lots, parking garages, or other parking areas and designated in accordance with subsection (e) hereof, unless one of the following applies:
1. The motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a valid removable windshield placard or special license plates;
 2. The motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates.

- B. Any motor vehicle that is parked in a special marked parking location in violation of subsection (f)(1)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. If a person is charged with a violation of subsection (f)(1)A. of this section, it is an affirmative defense to the charge that the person suffered an injury not more than seventy-two hours prior to the time the person was issued the ticket or citation and that, because of the injury, the person meets at least one of the criteria contained in Ohio R.C. 4503.44(A)(1).
- (2) No person shall stop, stand or park any motor vehicle in an area that is commonly known as an access aisle, which area is marked by diagonal stripes and is located immediately adjacent to a special parking location provided under subsection (e) of this section or at a special clearly marked parking location provided in or on a privately owned parking lot, parking garage, or other parking area and designated in accordance with that subsection.
- (g) When a motor vehicle is being operated by or for the transport of a person with a disability that limits or impairs the ability to walk and is displaying a removable windshield placard or a temporary removable windshield placard or special license plates, or when a motor vehicle is being operated by or for the transport of a handicapped person and is displaying a parking card or special handicapped license plates, the motor vehicle is permitted to park for a period of two hours in excess of the legal parking period permitted by local authorities, except where local ordinances or police rules provide otherwise or where the vehicle is parked in such a manner as to be clearly a traffic hazard.
- (h) As used in this section:
- (1) "Handicapped person" means any person who has lost the use of one or both legs, or one or both arms, who is blind, deaf or so severely handicapped as to be unable to move without the aid of crutches or a wheelchair, or whose mobility is restricted by a permanent cardiovascular, pulmonary or other handicapping condition.
 - (2) "Person with a disability that limits or impairs the ability to walk" has the same meaning as in Ohio R.C. 4503.44.
 - (3) "Special license plates" and "removable windshield placard" mean any license plates or removable windshield 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 or temporary removable windshield placard issued by a state, district, country or sovereignty.
- (i) (1) A. Whoever violates subsection (f)(1)A.1. or 2. of this section is guilty of a misdemeanor and shall be punished as provided in subsection (i)(1)A. and B. of this section. Except as otherwise provided in subsection (i)(1)A. of this section, an offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00). An offender who violates subsection (f)(1)A.1. or 2. of this section shall be fined not more than one hundred dollars (\$100.00) if the offender, prior to sentencing, proves either of the following to the satisfaction of the court:
1. At the time of the violation of subsection (f)(1)A.1. 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 or special license plates that then were valid but the offender or the person neglected to display the placard or license plates as described in subsection (f)(1)A.1. of this section.
 2. At the time of the violation of subsection (f)(1)A.2. of this section, the offender or the person for whose transport the motor vehicle was being operated had been issued a parking card that then was valid or special handicapped license plates that then were valid but the offender or the person neglected to display the card or license plates as described in subsection (f)(1)A.2. of this section.
- B. In no case shall an offender who violates subsection (f)(1)A.1. or 2. of this section be sentenced to any term of imprisonment.
- An arrest or conviction for a violation of subsection (f)(1)A.1. or 2. 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 contained in any application for employment, license, or other right or privilege, or made in connection with the person's appearance as a witness.
- (3) Whoever violates subsection (f)(2) of this section shall be fined not less than two hundred fifty dollars (\$250.00) nor more than five hundred dollars (\$500.00).
- In no case shall an offender who violates subsection (f)(2) of this section be sentenced to any term of imprisonment. An arrest or conviction for a violation of subsection (f)(2) 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 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 4511.69)

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.

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.

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.

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.

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.

351.11 PARKING IN ALLEYS AND NARROW STREETS; EXCEPTIONS.

- (a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when directed to by a police officer or traffic control signal.
- Except as otherwise provided by law, no person shall stop, stand or park a vehicle within an alley except while actually loading and unloading, and then only for a period not to exceed thirty minutes.

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.

(ORC 4511.66)

351.13 TRUCK PARKING IN RESIDENTIAL DISTRICTS.

- (a) No person shall park or allow to be parked in a residence district area in the City any truck, tractor, semitrailer or trailer, except as hereinafter set forth:
- (1) Trucks having not more than three-fourths ton capacity, providing they are kept housed in an approved garage.
 - (2) Farm vehicles bearing current farm licenses issued by the State or if they are used exclusively upon the premises.
 - (3) Trucks making bona fide deliveries to the premises where they are parked and for only so long a time as is reasonably necessary to make such delivery.

(Ord. 753-57. Passed 12-30-57.)

351.14 PARKING ON PREMISES IN LOCAL RETAIL OR WHOLESALE DISTRICTS.

- (a) The use of premises for the outdoor parking of motor vehicles, buses, trucks, tractors, trailers or semitrailers, except as a bona fide accessory use, which accessory use shall continue only during the regular hours of a business established and being conducted in a building or other structure located upon such premises or while the owner or lessee or an agent or an employee of the owner or lessee is upon the premises, is determined and declared to be a use which is not permitted in any local retail or wholesale district as defined and permitted under the provisions of the Zoning Code.

(b) No person shall park or leave standing in any local retail or wholesale district in the City any unhushe motor vehicle, bus, truck, tractor, trailer or semitrailer, except as a bona fide accessory use, which accessory use shall continue only during the regular hours of the business established and being conducted in a building or other structure located upon such premises or while the owner of the premises, lessee or an agent or an employee of the owner or lessee is upon the premises.

(c) No person being the owner, lessee, occupant, manager or other person in charge or having control of a business established and being conducted on premises in any local retail or wholesale district in the City shall knowingly permit any person to park or leave standing, on such premises, any unhushe motor vehicle, bus, truck, tractor, trailer or semitrailer, except as a bona fide accessory use to the business, which accessory use may continue only during the regular hours of such business or while the owner or lessee of the premises, or an agent or employee of such owner or lessee, is upon the premises.

(Ord. 446-54. Passed 5-3-54.)

351.15 PARKING ON STREETS AND HIGHWAYS GENERALLY.

- (a) No person shall park a vehicle at any time on any street or highway in the City except as hereinafter set forth:
- (1) Parking shall be permitted on one side of a street only, which areas shall be designated by signs throughout the City.
 - (2) Parking shall be prohibited on the opposite side of any street where parking is permitted by appropriate signs.
 - (3) There shall be no parking upon either side of any street or highway in the City during the hours of 2:00 a.m. through 6:00 a.m. of each day.

- (4) Stopping of any motor vehicles shall be permitted in case of emergency or for the delivery of passengers or merchandise to properties within the City.
(Ord. 51-87. Passed 5-26-87.)

351.16 PARKING AND STORAGE OF OUT-OF-REPAIR AND UNLICENSED MOTOR VEHICLES.

(a) No person, firm or corporation shall store or permit to be stored, for a period of more than fifteen days, any motor vehicle not having current year license plates and/or one damaged or out of repair so as to render it incapable of being moved under its own power, upon any lot or land designated as within the boundaries of a Residence Class District, as the same is defined in the Zoning Code, unless the same shall be in a completely enclosed building or garage.

(Ord. 34-64. Passed 10-13-64.)

(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 SNOW AND OTHER EMERGENCIES.

(a) Whenever snow accumulation exceeds two (2) inches on City streets, parking of any vehicles, excepting for immediate loading or unloading of passengers, shall be prohibited on all streets within the confines of this City.

(b) Whenever the Director of Public Safety declares an emergency to exist, by reason of heavy snow accumulation, ice or other cause, parking of any vehicles, excepting for immediate loading or unloading of passengers, shall be prohibited during the duration of such emergency on all streets within the confines of this City. Such ban shall commence one hour after the first announcement by radio, telephone, or other media or internet outlets that such emergency has been declared.

(Ord. 81-2015. Passed 9-8-15.)

351.18 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.

351.19 PARKING OF COMMERCIAL VEHICLES; PARKING IN SIDE AND REAR YARDS.

(a) No person shall cause or permit to stand, park, or permit to be parked, any commercial vehicle in or upon any driveway, side yard or rear yard, unless enclosed within a garage, or screened in such a manner as may be approved upon issuance of a special permit by the Zoning Board of Appeals, nor shall any commercial vehicle be permitted to stand or park in or upon any public street adjacent to the premises or within twenty feet of any building or driveway.

(b) Section (a) hereof shall apply to any residential use district classed as R-1, R-2, R- 3, RTF, RMF-1, RS-1 and RMF-2, or any other district used for human habitation.

(c) The foregoing prohibition shall not apply to a temporary purpose incidental to performing maintenance or repair services at or upon the premises, or otherwise during the time reasonably necessary for loading or discharging property or passengers, or such conduct that may be in compliance with the direction of a police officer or as otherwise may be authorized by the Mayor or the Director of Public Safety when such use does not otherwise impair the safety of other persons in the use of any public street or right-of-way or when such use does not cause blight or otherwise downgrade or detract from the character of the use district.

(d) For purposes of the foregoing provisions, "commercial vehicles" are hereby defined as:

- (1) Motor vehicles bearing the vehicle identification number as set forth in the most recent editions of the National Auto Theft Bureau Commercial Vehicle Identification Manual and the National Commercial Vehicle and Offroad Equipment Identification Manual; or
 - (2) Motor vehicles bearing commercial motor vehicle license plates; or
 - (3) Those commercial motor vehicles which are too large to fit within any fully-enclosed garage located on the premises.
- (e) For the purpose of enforcement with respect to the foregoing, citations or summons shall issue for such violations through the Police or Building Departments. Any appeal regarding the within sections shall be submitted to the Zoning Board of Appeals which shall not grant a variance or special permit unless and until the applicant demonstrates that the use of the vehicle upon the applicant's premises conforms to the requirements of the Planning and Zoning Code and the Board of Zoning Appeals.

(Ord. 170-90. Passed 12-27-90.)

(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.

351.99 PENALTY.

(a) Except as is otherwise provided for in this chapter, any person charged with a violation of any provision of this chapter may pay such sum in the manner prescribed on the issued parking violation citation at the Division of Police. Such payment shall be deemed a plea of guilty, a waiver of a court appearance, and acknowledgment of conviction of the alleged offense and such payment will be accepted in full satisfaction of the prescribed penalty for such alleged violation. Payment of the prescribed fine need not be accepted when laws prescribe that a certain number of such offenses shall require a court appearance.

(b) Whoever receives a citation for violation of provisions of this chapter that provide for the payment of a waiver pursuant to subdivision (a) above, may pay that waiver in accordance with the provisions of subdivision (a) of this section in the following amounts:

- (1) If paid within seventy-two hours of the date and time of the citation: \$20.00.
 - (2) If paid after seventy-two hours of the date and time of the citation: \$25.00.
- (c) Whoever receives a citation for a violation of Section 351.04(f)(1)A. or B. of this chapter may pay that waiver in accordance with the provisions of subdivision (a) of this section in the following amounts:
- (1) If paid within seventy-two hours of the date and time of the citation: \$250.00;
 - (2) If paid after seventy-two hours of the date and time of the citation: \$500.00.
- (Ord. 80-2016. Passed 8-23-16.)

TITLE NINE - Pedestrians, Bicycles and Motorcycles

- Chap. 371. Pedestrians.
Chap. 373. Bicycles and Motorcycles.
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.
- (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 4511.99)

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 Riding on sidewalks.

373.11 Motorized bicycle operation, equipment and license.

373.12 Paths exclusively for bicycles.

373.13 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 autocyce 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 autocyce 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. (ORC 4511.53; A.O.)
- (k) (1) No person under the age of sixteen years shall operate a bicycle, or ride as a passenger on a bicycle equipped with a passenger seat, within the City unless such person is wearing a protective helmet on the person's head with the chin strap fastened under the chin. Such helmet shall be fitted to the size of the operator or passenger and shall meet or exceed the standards set by the American National Standards Institute (ANSI) or the Snell Memorial Foundation (SNELL). This subdivision shall not apply to any person riding a bicycle or who is a passenger on a bicycle on private property zoned R-1, R-2 or R-3 where such person resides.
- (2) No parent, guardian or person acting for a parent or guardian shall permit a person under sixteen years of age to violate this subdivision.
- (3) Any person under the age of sixteen years found in violation of this subsection shall be informed by the police of the violation and of the serious injuries which may result when an accident occurs to a child not wearing a helmet. The police may take possession of the bicycle and hold it until the parent or guardian, or person acting on behalf of the parent or guardian of the child claims the bicycle and is informed by the police of the violation and the serious injuries which may occur to a child not wearing a helmet.
- (4) It shall be an affirmative defense to a violation of this subdivision that the parent, guardian or person acting on behalf of parent or guardian made a good faith effort to purchase a helmet for the minor but was unable to do so as a result of the unavailability of a helmet meeting the requirements in this subdivision.
- (5) Any parent, guardian or person acting on behalf of a parent or guardian of a person under the age of sixteen years, who permits such person under the age of sixteen years to operate or be a passenger on a bicycle in the City, on public or private property, in violation of this subdivision, shall be fined not more than thirty dollars (\$30.00).
- (l) Except as otherwise provided in this subdivision and in subdivision (k), 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. 59-2019. Passed 6-11-19.)

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 RIDING ON SIDEWALKS.

- (a) No person shall operate a bicycle upon a sidewalk within a business district or upon a sidewalk where signs are erected prohibiting such operation.
- (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 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 is fourteen or fifteen years of age and holds a valid probationary motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, or the person is sixteen years of age or older and holds either a valid commercial driver's license issued under Ohio R.C. Chapter 4506, or a driver's license issued under Ohio R.C. Chapter 4507, or a valid motorized bicycle license issued after the person has passed the test provided for in Ohio R.C. 4511.521, except that if a person is sixteen years of age, has a valid probationary motorized bicycle license and desires a motorized bicycle license, the person is not required to comply with the testing requirements provided for in 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)
- (e) The provisions of Chapter 373 pertaining to and regulating the use of bicycles shall be interpreted to include and regulate the operation of motorized bicycles for the purpose of this chapter. Any conflicts between this Section 373.11 and other provisions of this Chapter 373 shall be governed by the provisions of this Section 373.11.

(Ord. 94-84, Passed 7-24-84.)

373.12 PATHS EXCLUSIVELY FOR BICYCLES.

- (a) No person shall operate a motor vehicle, snowmobile, or all-purpose vehicle upon any path set aside for the exclusive use of bicycles, when an appropriate sign giving notice of such use is posted on the path. Nothing in this section shall be construed to affect any rule of the Ohio Director of Natural Resources governing the operation of motor vehicles, snowmobiles, all-purpose vehicles, and bicycles on lands under the Director's jurisdiction.
 - (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 4511.713)

373.13 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 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 RICHMOND HEIGHTS PART FIVE - GENERAL OFFENSES CODE

Chap. 501 . General Provisions and Penalty.
 Chap. 505 . Animals and Fowl.
 Chap. 509 . Disorderly Conduct and Peace Disturbance.
 Chap. 513 . Drug Abuse Control.
 Chap. 517 . Gambling.
 Chap. 519 . Clean Indoor Air.
 Chap. 521 . Health, Safety and Sanitation.
 Chap. 525 . Law Enforcement and Public Office.
 Chap. 529 . Liquor Control.
 Chap. 533 . Obscenity and Sex Offenses.
 Chap. 537 . Offenses Against Persons.
 Chap. 541 . Property Offenses.
 Chap. 545 . Theft.
 Chap. 549 . Weapons and Explosives.
 Chap. 553 . Noise Control.

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, 2903.18, 2903.21, 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, 2917.32, 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.
 - (5) A violation of division (C) of Ohio R.C. 959.131.
- (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. 737.10 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 ordinance 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 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 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 their legal representative who is not themselves 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 themselves from this Municipality or concealed their 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 their complicity, moral turpitude or self-interest, but the admitted or claimed complicity of a witness may affect their credibility and make their 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 their complicity, under circumstances manifesting a complete and voluntary renunciation of their 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 they 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 and, if the offender is being sentenced for a criminal offense as defined in Ohio R.C. 2930.01, shall sentence the offender to make restitution pursuant to this section and Ohio R.C. 2929.281. If the court, in its discretion or as required by this section, 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 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 the victim's estate, 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 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. The court shall determine the amount of restitution to be paid by the offender. The victim, victim's representative, victim's attorney, if applicable, the prosecutor or the prosecutor's designee, and the offender may provide information relevant to the determination of the amount of restitution. The amount the court orders as restitution shall not exceed the amount of the 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 or is required to impose restitution, the court shall hold an evidentiary hearing on restitution if the offender, victim, victim's representative, victim's attorney, if applicable, or victim's estate disputes the amount of restitution. The court shall determine the amount of full restitution by a preponderance of the evidence.
- C. All restitution payments shall be credited against any recovery of economic loss in a civil action brought by the victim or the victim's estate 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. The court may order that the offender pay a surcharge, of not more than five percent (5%) of the amount of the restitution otherwise ordered, to the entity responsible for collecting and processing restitution payments.
- E. The victim, victim's attorney, if applicable, or the attorney for the victim's estate 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 but shall not reduce the amount of restitution ordered, except as provided in Ohio R.C. 2929.281(A).
- (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:
- All or part of the costs of implementing any community control sanction, including a supervision fee under Ohio R.C. 2951.021 and the costs of global positioning system device monitoring;
 - 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:
- 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.
 - 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:

Type of	Maximum
<u>Misdemeanor</u>	<u>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

- 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).
 - 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.
 - 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)
- (d) Forfeiture. In addition to any other sanction imposed upon an offender for violation of Chapter 549, Weapons and Explosives, of these Codified Ordinances, the court shall order the forfeiture of any property that is an instrumentality that is used or intended to be used in the commission of the offense, in accordance with the provisions of Ohio Revised Code Chapter 2981, as is now or may be hereafter enacted. (Ord. 101-2022. Passed 9-27-22.)

CHAPTER 505

Animals and Fowl

- 505.01 Dogs, cats 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 Injuring animals.
- 505.06 Poisoning animals.
- 505.07 Cruelty to animals generally.
- 505.071 Cruelty to companion animals.
- 505.072 Neglect of animals.
- 505.08 Nuisance conditions prohibited.
- 505.09 Loud animals.
- 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 Housing of animals restricted.
- 505.14 Steel jawed traps prohibited.
- 505.15 Certain animals prohibited.
- 505.16 Report of escape of exotic or dangerous animal.
- 505.17 Vicious dogs.
- 505.171 Impoundment of dogs involved in biting/attacking incidents.
- 505.18 Maximum number of dogs or cats permitted.
- 505.19 Harboring of stray dogs, cats or other domestic animals.

505.20 Designation of dog as nuisance; dangerous, or vicious; hearing and appeal.
505.21 Feeding of nuisance animals prohibited; exemptions; secure outdoor storage of refuse or waste.
505.22 Assaulting police dog or assistance dog.
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
Discharging firearms prohibited - see GEN. OFF. 549.12

505.01 DOGS, CATS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of cattle, horses, sheep, geese, ducks, 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.

(b) No person being the owner or having charge of any dog, cat or other domestic animal shall permit it to run at large upon any public place, including sidewalks, rights of way and streets, or upon the premises of another. The owner, keeper or harbinger of every dog, cat or other domestic animal shall at all times keep it either confined upon the premises of the owner or keeper, or under reasonable control of some person.

(c) No owner, keeper or harbinger of any female dog, cat or other domestic animal shall permit it to go beyond the premises of such owner, keeper or harbinger at any time such dog, cat or other domestic animal is in heat, unless it is properly in leash.

(d) "At large" means not under control by leash, cord, chain, tether or other physical control device; provided further, however, that any cat not in heat shall not be deemed to be running at large if it is within the physical control of the person having charge of such cat.

(e) The running at large of any such animal in and upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(f) It shall be an affirmative defense to a violation of this section that the animal was:

- (1) Securely confined in an automobile or cage which was adequately ventilated;
- (2) Being exhibited at a public show, parade or public institution;
- (3) Engaged in any activity expressly approved by the laws of the State.

(g) 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.
(Ord. 23-94. Passed 4-26-94.)

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 Fiscal Officer. 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) No person shall own, keep or harbor a dog wearing a fictitious, altered or invalid registration tag or a registration tag not issued by the County Fiscal Officer in connection with the registration of such animal. (ORC 955.25)

(c) 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)

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 their 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 inhumane 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.

(Ord. 115-2017. Passed 11-14-17.)

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, including a "pet store" as defined in Ohio R.C. 956.01. "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.
- (8) "Boarding kennel" has the same meaning as in Ohio R.C. 956.01.
- (9) "Training kennel" means an establishment operating for-profit that keeps, houses, and maintains dogs for the purpose of training the dogs in return for a fee or other consideration.
- (10) "Serious physical harm" as used in this section does not have the same meaning as used in Section 505.22; "Serious Physical Harm" means any of the following:
 - A. Physical harm that carries an unnecessary or unjustifiable substantial risk of death;
 - B. Physical harm that involves either partial or total permanent incapacity;
 - C. Physical harm that involves acute pain of a duration that results in substantial suffering or that involves any degree of prolonged or intractable pain;
 - D. Physical harm that results from a person who confines or who is the custodian or caretaker of a companion animal depriving the companion animal of good, wholesome food and water that proximately causes the death of the companion animal.

(ORC 959.131(A))

(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. (ORC 959.131(B))

(c) No person who confines or who is the custodian or caretaker of a companion animal shall negligently do any of the following:

- (1) Torture, torment, or commit an act of cruelty against the companion animal;
- (2) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate shelter;

- (3) Deprive the companion animal of necessary sustenance, or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation, or confinement. (ORC 959.131(D))
- (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) Torture, torment, or commit an act of cruelty against the companion animal;
 - (2) Deprive the companion animal of necessary sustenance or confine the companion animal without supplying it during the confinement with sufficient quantities of good, wholesome food and water, if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the deprivation or confinement;
 - (3) Impound or confine the companion animal without affording it, during the impoundment or confinement, with access to shelter from heat, cold, wind, rain, snow, or excessive direct sunlight if it can reasonably be expected that the companion animal would become sick or suffer in any other way as a result of or due to the lack of adequate.
- (ORC 959.131(F))
- (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
 - (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; A.O.)
- (g) Penalty:
 - (1) Whoever violates subsections (b) or (c) 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. (ORC 959.99 (E)(1)(3))
 - (2) Whoever violates subsection (d) hereof is guilty of a misdemeanor of the first degree. (ORC 959.99 (E)(5))
 - (3) 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.
 - (4) 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 may order the offender to pay the costs of the evaluation or counseling. (Ord. 115-2017. Passed 11-14-17.)

505.072 NEGLECT OF ANIMALS.

- (a) No owner or keeper of a dog, cat, or other domestic animal shall cause any condition that may lead to permanent injury, death, or harm to such animal.
- (b) No person shall keep any animal in a place that is unsanitary, including any place where there is an accumulation of feces or other waste, or foul odor, or insect or rodent infestation, or mud saturated.
- (c) Animals shall be allowed to exercise and have freedom of movement as necessary to reduce stress and maintain good physical condition. Said space shall be kept free of standing water, mud, accumulated waste and debris.
- (d) No person who owns or keeps an animal shall fail to provide the animal all of the following needs:
 - (1) Clean, potable drinking water at all times, and suitable food, of sufficient quality and quantity as to ensure normal growth and the maintenance of normal body weight;
 - (2) Food and water receptacles that are kept clean and disinfected, and located so as to avoid contamination by feces or other wastes;
 - (3) Necessary veterinary care;
 - (4) Adequate shelter from the elements, including, but not limited to, wind, rain, snow, heat, sunlight and cold temperatures.
 (Ord. 68-2016. Passed 8-23-16.)
- (e) Unlawful restraint of animals. The owner of an animal may restrain an animal on a tether for a reasonable period, provided adequate food, water and shelter from the elements is provided. Except pursuant to Section 505.17, tethering is prohibited:
 - (1) Between the hours of 10:00 p.m. and 6:00 a.m.;
 - (2) If a heat advisory has been issued by a local or state authority or jurisdiction;
 - (3) If a tornado warning has been issued for the jurisdiction by the National Weather Service;
 - (4) If the tether is less than 20 feet, provided the tether does not allow the animal to touch the fence or cross the property line or cross onto a public easement;
 - (5) If the tether is attached by means of a pinchtype, prongtype, or choke-type collar or if the collar is unsafe or is not properly fitted;
 - (6) If the tether inhibits the animal's free movement or causes injury or entanglement;
 - (7) If the animal does not have access to shade, dry shelter, and a tip-proof water supply. (Ord. 115-2017. Passed 11-15-17.)
- (f) Confinement. Except as set forth elsewhere in this Chapter:
 - (1) Dogs shall not be continuously confined to a garage as their primary residence.
 - (2) Any dogs confined within a fenced yard must have adequate space for exercise based on a dimension of at least 100 square feet for one dog, plus an additional 30 square feet for each additional dog.
 - (3) For owners or persons having custody of a dog kept in an outside dog run or dog kennel, the enclosure shall meet the 100 square foot requirement for the first dog with an additional 30 square feet for every additional dog in the same enclosure.
 - (4) When outdoor temperatures reach freezing levels, all dogs, cats and small animals shall be provided adequate shelter, protected from the elements.
 - (5) All enclosures shall be of sufficient height to prevent the dog from escaping.
- (g) No person who shelters an animal from the elements by means of an animal shelter, a cage, or a pen shall fail to conform it to the following requirements:
 - (1) The shelter, cage or pen shall be appropriate to the animal's size, weight and other characteristics, with sufficient space to allow the animal to turn about freely;
 - (2) The shelter, cage or pen shall provide sufficient shade to allow the animal to escape the direct rays of the sun at all times;
 - (3) The shelter, cage or pen shall be regularly cleaned and sanitized;
 - (4) The shelter, cage or pen shall be waterproof;
 - (5) The shelter, cage or pen shall be insulated from the cold weather or heated to keep the animal warm and free from frostbite.
 (Ord. 68-2016. Passed 8-23-16.)
- (h) Whoever violates this section is guilty of a misdemeanor of the first degree. The court may order the offender to forfeit the animal and may provide for its disposition, including, but not limited to, relinquishment of the animal to the society or association for the prevention of cruelty to and/or humane treatment of animals. (Ord. 115-2017. Passed 11-15-17.)
- (i) All fines collected for violations of this section shall be first paid to cover expenses incurred with regard to the care of the animal from the time it was taken into custody. The balance of the fine, if any, or such part thereof as determined by the court, may be paid to the society or association for the prevention of cruelty to and/or humane treatment of animals, if there is one in the City; otherwise, at all times shall be paid to the general fund.
- (j) Whoever violates this section is guilty of a felony of the fifth degree. The court may order the offender to forfeit the animal and may provide for its disposition, including, but not limited to, relinquishment of the animal to the society or association for the prevention of cruelty to and/or humane treatment of animals. (Ord. 68-2016. Passed 8-23-16.)

505.08 NUISANCE CONDITIONS PROHIBITED.

- (a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious and offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.
- (b) Subject to the requirements of Section 505.09 as to loud dogs, any animal, including dogs, which by biting, excessive barking, whining or howling or in any other way or manner, injures or disturbs the quiet of any person or persons or attacks or otherwise injures any person or any other domestic animal or destroys or damages any lawn, tree, shrub, plant, building or other property (other than the property of the owner or person in charge or control of such animal) by scratching, digging, running, defecating, urinating or otherwise, is hereby declared a nuisance. No person, being the owner or in charge or control of any animal, shall permit such animal to be or create such nuisance.
- (c) No person, being the owner or in charge or control of any animal, shall continue to keep or harbor within the City any animal which is or creates a nuisance as described in subsection (b) hereof, unless such animal is confined or otherwise kept under such strict control as to abate the nuisance. Where the owner or person in charge or control of such animal immediately removes all feces deposited by such animal and disposes of same in a sanitary manner, that such nuisance shall be considered vacated. (Ord. 94-90. Passed 9-25-90.)
- (d) No person shall allow an animal under their control to be upon public property or upon the property of another, absent the consent of the owner or occupant of the property, without some device designed or intended for the removal or containment of such animal's excrement; nor shall any person fail to immediately remove any excrement deposited upon public property or upon the property of another by any animal under their control. (Ord. 82-2002. Passed 9-10-02.)
- (e) Whoever violates any of the provisions of this section is guilty of a minor misdemeanor.

(Ord. 94-90. Passed 9-25-90.)

505.09 LOUD ANIMALS.

- (a) No person shall keep or harbor any dog or other animal within the Municipality which emits sounds which are unreasonably loud and of such intensity and duration as to disturb and annoy an inhabitant of a residence within the Municipality. Any person who allows any dog or other animal to remain or to be lodged or fed within any dwelling, building, yard or enclosure which they occupy or owns, shall be considered to be harboring such dog or animal.
- (b) Whoever violates this section is guilty of a minor misdemeanor and each subsequent violation of this section within a period of three years of the first violation shall be a misdemeanor of the fourth degree. (Ord. 81-98. Passed 9-22-98.)

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. The dog or other animal inflicting a bite shall immediately be examined by a qualified veterinarian and results of such examination shall be reported to the Health Commissioner within twenty-four hours. At the direction of the Health Commissioner, the dog or other animal shall either be confined by its owner or harbored to their premises away from the public at large, or be placed under supervision of a veterinarian at the owner's or harbored's expense. The isolation or observation period shall not be less than ten days from the date the person was bitten at which time report of the condition of the animal shall be made to the Health Commissioner.

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 symptom 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 three. 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 HOUSING OF ANIMALS RESTRICTED.

(a) No domestic animals or fowl, excepting household pets, shall be kept or housed at any time in a run, yard, pen, building or other structure located closer than 150 feet from any street or seventy-five feet from any inhabited dwelling or any cistern, spring, well or other source of water supply.

(Ord. 30-61. Passed 11-21-61.)

(b) Whoever violates this section is guilty of a minor misdemeanor.

505.14 STEEL JAWED TRAPS PROHIBITED.

(a) No person shall use, employ or set a leghold steel trap within the City.

(b) Whoever violates this section is guilty of a minor misdemeanor.

(Ord. 32-76. Passed 3-23-76.)

505.15 CERTAIN ANIMALS PROHIBITED.

(a) No person shall harbor, maintain or control a wild, dangerous or undomesticated animal within the City.

(b) "Wild, dangerous or undomesticated animal" means an animal whose natural habitat is the wilderness and which, when maintained in human society, is usually confined to a zoological park or exotic animal farm and which:

- (1) Is a venomous snake or is a snake that is a constrictor; or
- (2) Is an omnivorous or carnivorous animal that weighs more than twenty-five pounds and which is a predator in its natural habitat; or
- (3) Is an animal which, by reason of its size, strength, or appetite, would, if unrestrained and free in the City, cause peril to persons, household pets, buildings, landscape or shrubbery; or
- (4) Is an animal that makes noises with sufficient frequency and volume as to constitute a nuisance to person in the immediate vicinity of the animal; or
- (5) Is an animal that emits offensive odors as to constitute a nuisance to persons in the vicinity of the animal; or
- (6) Is, by illustration, and without limitation to the following: a lion, tiger, lynx, mountain lion, jaguar, cheetah, leopard, panther, bear, wolverine, elk, moose, caribou, elephant, giraffe, rhinoceros, hippopotamus, wolf, wild ox, boar, crocodile, alligator, caiman or gavia.

(Ord. 17-84. Passed 3-5-84.)

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

505.16 REPORT OF ESCAPE OF EXOTIC OR DANGEROUS ANIMAL.

(a) The owner or keeper of any member of a species of the animal kingdom that escapes from his/her custody or control and that is not indigenous to this State or presents a risk of serious physical harm to persons or property, or both, shall, within one hour after he/she discovers or reasonably should have discovered the escape, report it to:

- (1) A law enforcement officer of the Municipality and the sheriff of the county where the escape occurred; and
- (2) The Clerk of the Municipal Legislative Authority.

(b) If the office of the Clerk of the Legislative Authority is closed to the public at the time a report is required by subsection (a) hereof, then it is sufficient compliance with subsection (a) hereof if the owner or keeper makes the report within one hour after the office is next open to the public.

(c) Whoever violates this section is guilty of a misdemeanor of the first degree.

(ORC 2927.21)

505.17 NUISANCE, DANGEROUS AND VICIOUS DOGS; PENALTIES.

(a) As used in this section:

(1) A. "Dangerous dog" means a dog that, without provocation, and subject to subsection (B), has done any of the following:

1. Caused injury, other than killing or serious injury, to any person;
2. Killed another dog;

Been the subject of a third or subsequent violation of Section 505.17(b).

B. "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.

(2) "Menacing fashion" means a dog that would cause any person being chased or approached to reasonably believe that the dog will cause physical injury to that person.

(3) A. "Nuisance dog" means, subject to subsection (B), a dog that without provocation and while off the premises of its owner, keeper, or harbored 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.

B. "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.

(4) "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.

(5) "Serious injury" means any of the following:

- A. Any physical harm that carries a substantial risk of death;
- B. Any physical harm that involves a permanent incapacity, whether partial or total, or a temporary, substantial incapacity;
- C. Any physical harm that involves a permanent disfigurement or a temporary, serious disfigurement;
- D. Any physical harm that involves acute pain of a duration that results in substantial suffering or any degree of prolonged or intractable pain.

(6) A. "Vicious dog" means a dog that, without provocation and subject to subsection (B), has killed or caused serious injury to any person. "Vicious dog" does not include either of the following:

1. 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;
2. 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 harbored of the dog.

(7) "Without provocation." A dog acts "without provocation" when it was not teased, tormented or abused by a person, or it 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. (Ord. 115-2017. Passed 11-15-17.)

(b) Dogs at Large.

(1) Except when a dog is lawfully engaged in hunting and accompanied by the owner, keeper, harbored, or handler of the dog, no owner, keeper, or harbored of any dog shall fail at any time to do either of the following:

- A. Keep the dog physically confined or restrained upon the premises of the owner, keeper, or harbored by a leash, tether, adequate fence, supervision, or secure enclosure to prevent escape;
- B. Keep the dog under the reasonable control of some person.

(c) Dangerous Dogs Regulations. Except when a dangerous dog is lawfully engaged in hunting or training for the purpose of hunting and is accompanied by the owner, keeper, harbored, or handler of the dog, no owner, keeper, or harbored of a dangerous dog shall fail to do the following:

- (1) While the dog is on the premises of the owner, keeper, or harbored, securely confine it at all times in a locked pen that has a top.
- (2) While the dog is off the premises of the owner, keeper, or harbored, 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: keep the dog in a locked pen that has a top, locked fenced yard, or other locked enclosure that has a top; 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 a 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; or muzzle that dog.

(d) Prohibited Acts. No person who has been convicted of or pleaded guilty to three or more violations of Section 505.17(b) involving the same dog and no owner, keeper, or harbored 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 Section 505.17(h), 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.

(e) Debarking. No person shall do any of the following:

- (1) Debark or surgically silence a dog that the person knows or has reason to believe is a dangerous dog;

- (2) Possess a dangerous dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;
 - (3) Falsely attest on a waiver form provided by the veterinarian under Section 505.17(f) that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form.
- (f) Veterinarian Waiver. Before a veterinarian debarks or surgically silences a dog, the veterinarian may give the owner of the dog a written waiver form that attests that the dog is not a dangerous dog. The written waiver form shall include all of the following:
- (1) The veterinarian's license number and current business address;
 - (2) The number of the license of the dog if the dog is licensed;
 - (3) A reasonable description of the age, coloring, and gender of the dog as well as any notable markings on the dog;
 - (4) The signature of the owner of the dog attesting that the owner's dog is not a dangerous dog;
 - (5) A statement that Ohio R.C. 955.22(F) prohibits any person from doing any of the following:
 - A. Debarking or surgically silencing a dog that the person knows or has reason to believe is a dangerous dog;
 - B. Possessing a dangerous dog if the person knows or has reason to believe that the dog has been debarked or surgically silenced;
 - C. Falsely attesting on a waiver form provided by the veterinarian under Ohio R.C. 955.22(G) that the person's dog is not a dangerous dog or otherwise provide false information on that written waiver form.
- (g) Defense to Debarking. It is an affirmative defense to a charge of a violation of Section 505.17(e) that the veterinarian who is charged with the violation obtained, prior to debarking or surgically silencing the dog, a written waiver that complies with Section 505.17(f) and that attests that the dog is not a dangerous dog.
- (h) (1) Dangerous Dog Registration. The County Auditor shall issue a dangerous dog registration certificate to a person who is the owner of a dog, who is 18 years of age or older, and who provides the following to the County Auditor:
- A. A fee of \$50;
 - B. The person's address, phone number, and other appropriate means for the local Dog Warden or County Auditor to contact the person;
 - C. With respect to the person and the dog for which the registration is sought, all of the following:
 - (i) Either satisfactory evidence of the dog's current rabies vaccination or a statement from a licensed veterinarian that a rabies vaccination is medically contraindicated for the dog;
 - (ii) Either satisfactory evidence of the fact that the dog has been neutered or spayed or a statement from a licensed veterinarian that neutering or spaying of the dog is medically contraindicated;
 - (iii) Satisfactory evidence of the fact that the dog has been permanently identified by means of a microchip and the dog's microchip number.
 - (2) Upon the issuance of the dangerous dog registration certificate to the owner of a dog, the County Auditor shall provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall renew the certificate annually for the same fee and in the same manner as the initial certificate was obtained. If a certificate holder relocates to a new county, the certificate holder shall follow the procedure in Section 505.17(h)(3)B. and, upon the expiration of the certificate issued in the original county, shall renew the certificate in the new county.
- (3) Obligations Upon Relocation.
- A. If the owner of a dangerous dog for whom a registration certificate has previously been obtained relocates to a new address within the same county, the owner shall provide notice of the new address to the County Auditor within ten days of relocating to the new address.
 - B. If the owner of a dangerous dog for whom a registration certificate has previously been obtained relocates to a new address within another county, the owner shall do both of the following within ten days of relocating to the new address:
 - i. Provide written notice of the new address and a copy of the original dangerous dog registration certificate to the County Auditor of the new county;
 - ii. Provide written notice of the new address to the County Auditor of the county where the owner previously resided.
 - (4) The owner of a dangerous dog shall present the dangerous dog registration certificate upon being requested to do so by any law enforcement officer, dog warden, or public health official charged with enforcing this section.
- (i) Sales and Transfers.
- (1) Upon the transfer of ownership of any dog, the seller of the dog shall give the buyer a transfer of ownership certificate that shall be signed by the seller. The certificate shall contain the registration number of the dog, the name of the seller, and a brief description of the dog. Blank forms of the certificate may be obtained from the County Auditor. A transfer of ownership shall be recorded by the Auditor upon presentation of a transfer of ownership certificate that is signed by the former owner of a dog and that is accompanied by a fee of five dollars.
 - (2) Prior to the transfer of ownership or possession of any dog, upon the buyer's or other transferee's request, the seller or other transferor of the dog shall give to the person a written notice relative to the behavior and propensities of the dog.
 - (3) Within ten days after the transfer of ownership or possession of any dog, if the seller or other transferor of the dog has knowledge that the dog is a dangerous dog, the seller or other transferor shall give to the buyer or other transferee, the board of health for the district in which the buyer or other transferee resides, and the dog warden of the county in which the buyer or other transferee resides, a completed copy of a written form on which the seller shall furnish the following information:
 - A. The name and address of the buyer or other transferee of the dog;
 - B. The age, sex, color, breed, and current registration number of the dog. In addition, the seller shall answer the following questions, which shall be specifically stated on the form as follows:
 - i. "Has the dog ever chased or attempted to attack or bite a person? If yes, describe the incident(s) in which the behavior occurred."
 - ii. "Has the dog ever bitten a person? If yes, describe the incident(s) in which the behavior occurred."
 - iii. "Has the dog ever seriously injured or killed a person? If yes, describe the incident(s) in which the behavior occurred."
 - (4) No seller or other transferor of a dog shall fail to comply with the applicable requirements of Sections 505.17(i)(1) to (3).
- (j) Penalties.
- (1) Whoever violates Section 505.17(i)(4) because of a failure to comply with Section 505.17 (i)(1) is guilty of a minor misdemeanor.
 - (2) Whoever violates Section 505.17 (i)(4) because of a failure to comply with Section 505.17(i)(2) or (3) is guilty of a minor misdemeanor on a first offense and of a misdemeanor of the fourth degree on each subsequent offense.
 - (3) A. Whoever violates Ohio R.C. 955.21, Ohio R.C. 955.22(B), or commits a violation of Section 505.17(b) that involves a dog that is not a nuisance dog, dangerous dog, or vicious dog shall be fined not less than twenty-five dollars or more than one hundred dollars on a first offense, and on each subsequent offense shall be fined not less than seventy-five dollars or more than two hundred fifty dollars and may be imprisoned for not more than thirty days.
 - B. In addition to the penalties prescribed in Section 505.17(j)(3)(A), if the offender is guilty of a violation of R.C. 955.22(B) or a violation of Section 505.17(b) 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.
 - (4) A. Whoever commits a violation of Section 505.17(b) 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 Section 505.17(b) involving the same dog, the court shall require the offender to register the involved dog as a dangerous dog.
 - B. In addition to the penalties prescribed in Section 505.17(j)(4)A., if a violation of Section 505.17(b) 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 dog obedience training, or to do both.
 - C. Whoever commits a violation of Section 505.17(b) that involves a dangerous dog or a violation of Section 505.17(c) 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 Section 505.17(d)(1). 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 Section 505.17(b) 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 Section 505.17(c) or at the County Dog Pound at the owner's expense.
 - (5) A. Whoever commits a violation of Section 505.17(b) that involves a vicious dog is guilty of one of the following:
 - 1. A felony of the fourth degree if the dog kills a person. 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.
 - 2. 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 at the owner's expense.
 - B. If the court does not order the vicious dog to be destroyed under Section 505.17(j)(5)A.2., the court shall issue an order that specifies that Section 505.17(c) and Sections 505.17(c) to (i) 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 Section 505.17(d)(1) 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 Section 505.17(b) and at the discretion of the dog warden, the dog shall be confined or restrained in accordance with the provisions described in Section 505.17(c) or at the County Dog Pound at the owner's expense.
 - (6) Whoever violates Ohio R.C. 955.01(A)(2) is guilty of a misdemeanor of the first degree.
 - (7) Whoever violates Section 505.17(d)(2) is guilty of a misdemeanor of the fourth degree.
 - (8) Whoever violates Sections 505.17(e) is guilty of a felony of the fourth degree. Additionally, the court shall order that the dog involved in the violation be humanely destroyed by a licensed veterinarian, the County Dog Warden, or the County Humane Society. Until the court makes a final determination and during the pendency of any appeal of a violation of Section 505.17(e) and at the discretion of the Dog Warden, the dog shall be confined or restrained in accordance with the provisions of Section 505.17(c) or at the County Dog Pound at the owner's expense.
 - (9) Whoever violates Sections 505.17(d)(1), (3), or (4) is guilty of a minor misdemeanor.
 - (10) Whoever violates Section 505.17(h)(4) is guilty of a minor misdemeanor.

(Ord. 74-2015. Passed 9-8-15.)

505.171 IMPOUNDMENT OF DOGS INVOLVED IN BITING/ATTACKING INCIDENTS.

- (a) A law enforcement officer may take up and impound any dog which is alleged to have bitten or attacked a human being or other domestic animal in violation of this chapter, pending the completion of criminal proceedings arising from such incident. Such dog shall be boarded and housed in an animal shelter, animal hospital, kennel or other place which the law enforcement officer deems equally secure until such time as the owner, harbinger, or other person having custody or control of such dog shall be tried or enter a guilty or no contest plea to any and all charges arising out of the biting/attack incident, and until such further time as the court enters sentence, unless otherwise ordered by the court.
- (b) Any dog impounded shall be released at the earlier of the following times, unless a longer period of impoundment is authorized or permitted by this chapter:
 - (1) At least ten working days have passed since the biting or attack incident and no charges are pending against the owner, harbinger or person caring for or in control of such dog;
 - (2) The owner, harbinger or person caring for or in control of the dog has been acquitted of all criminal charges arising out of the attack/biting incident.
- (c) Any person aggrieved by an order of the Animal Warden pursuant to subsection (a) herein may appeal such order to the Director of Public Safety by filing such appeal in writing at the Office of the Mayor. Any such appeal shall be heard within five working days of the date the notice of appeal is filed. Notice of such hearing shall be given to the person(s) who has allegedly been bitten or attacked by the dog, the parent(s) or guardian(s) of any minor(s) who has allegedly been the victim of such an attack, and the owner(s) of any domestic animal(s) which has allegedly been bitten or attacked by the dog.

(d) The costs of the boarding and lodging of the dog shall be charged to the owner, harborer, and/or person caring for or in control of the dog, unless the dog has been released pursuant to the provisions of subsection (b) hereof.

(e) The provisions of this section shall be in addition to any other procedures, penalties and/or remedies provided in this chapter or otherwise available at law.
(Ord. 27-97. Passed 6-24-97.)

505.18 MAXIMUM NUMBER OF DOGS OR CATS PERMITTED.

(a) On and after June 1, 1994, no person shall own, harbor, keep or have the care of more than five dogs and/or cats, excluding puppies and/or kittens less than six months old, in any single-family dwelling, or in any separate dwelling unit in a two-family dwelling or multiple dwelling within the City unless the animals shall have been registered prior to June 1, 1994 as stated in subsection (b) hereof. "Dwelling" and "dwelling unit" as used in this section, shall include the lot or parcel of land on which the house or building containing the suite is located, and all outbuildings located on the lot or parcel.

(b) Any person owning, harboring, keeping or having the care of more than five dogs and/or cats, excluding puppies and/or kittens less than six months old, in any single-family dwelling, or in any separate dwelling unit in a two-family dwelling or multiple dwelling within the City on the effective date of this section must register all said animals with the Building Commissioner by June 1, 1994 on forms to be prescribed by the Building Department. There shall be no fee for such registration. The persons registering said animals shall be allowed to keep the animals so registered but shall not be permitted to replace said animals so kept over the maximum permitted five.

(c) 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. Each day during which a violation of this section exists shall constitute a separate offense.

(Ord. 23-94. Passed 4-26-94.)

505.19 HARBORING OF STRAY DOGS, CATS OR OTHER DOMESTIC ANIMALS.

Any person harboring or feeding stray dogs, cats or other domestic animals shall be deemed and held responsible under this chapter as the owner of such stray.

(Ord. 23-94. Passed 4-26-94.)

505.20 DESIGNATION OF DOG AS NUISANCE, DANGEROUS, OR VICIOUS; HEARING AND APPEAL.

(a) (1) The municipal court that has territorial jurisdiction over the residence of the owner, keeper, or harborer of a dog shall conduct any hearing concerning the designation of the dog as a nuisance dog, dangerous dog, or vicious dog.

(2) If the Chief of Police or his/her designee has reasonable cause to believe that a dog in the City of Richmond Heights is a nuisance dog, dangerous dog, or vicious dog, the Chief or his/her designee shall notify the owner, keeper, or harborer of that dog, by certified mail or in person, of both of the following:

A. That he/she has designated the dog a nuisance dog, dangerous dog, or vicious dog, as applicable;

B. That the owner, keeper, or harborer of the dog may request a hearing regarding the designation in accordance with this section. The notice shall include instructions for filing a request for a hearing in the county in which the dog's owner, keeper, or harborer resides.

(3) If the owner, keeper, or harborer of the dog disagrees with the designation of the dog as a nuisance dog, dangerous dog, or vicious dog, as applicable, the owner, keeper, or harborer, not later than ten days after receiving notification of the designation, may request a hearing regarding the determination. The request for a hearing shall be in writing and shall be filed with the municipal court that has territorial jurisdiction over the residence of the dog's owner, keeper, or harborer. At the hearing, the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog has the burden of proving, by clear and convincing evidence, that the dog is a nuisance dog, dangerous dog, or vicious dog. The owner, keeper, or harborer of the dog or the person who designated the dog as a nuisance dog, dangerous dog, or vicious dog may appeal the court's final determination as in any other case filed in that court.

(4) A court, upon motion of an owner, keeper, or harborer or an attorney representing the owner, keeper, or harborer, may order that the dog designated as a nuisance dog, dangerous dog, or vicious dog be held in the possession of the owner, keeper, or harborer until the court makes a final determination under this section or during the pendency of an appeal, as applicable. Until the court makes a final determination and during the pendency of any appeal, the dog shall be confined or restrained in accordance with Section 505.17(c) that applies to dangerous dogs regardless of whether the dog has been designated as a vicious dog or a nuisance dog rather than a dangerous dog. The owner, keeper, or harborer of the dog shall not be required to comply with any other requirements established in this Code or the Ohio Revised Code that concern a nuisance dog, dangerous dog, or vicious dog, as applicable, until the court makes a final determination and during the pendency of any appeal.

(5) If a dog is finally determined under this section, or on appeal as described in this section, to be a vicious dog, Section 505.17(i) and Section 505.17(c) to (i) apply with respect to the dog and the owner, keeper, or harborer of the dog as if the dog were a dangerous dog, and Ohio R.C. 955.54 applies with respect to the dog as if it were a dangerous dog, and the court shall issue an order that specifies that those provisions apply with respect to the dog and the owner, keeper, or harborer in that manner. As part of the order, the court shall require the owner, keeper, or harborer to obtain the liability insurance required under Section 505.17(d)(1) in an amount described in Section 505.17(j)(5)B.

(6) As used in this section, "nuisance dog", "dangerous dog", and "vicious dog" have the same meanings as in R.C. § 955.11 and Section 505.17.

(Ord. 74-2015. Passed 9-8-15.)

505.21 FEEDING OF NUISANCE ANIMALS PROHIBITED; EXEMPTIONS; SECURE OUTDOOR STORAGE OF REFUSE OR WASTE.

(a) No person shall, with the intent to attract common pigeons; crows; blackbirds; other large flocking, wild birds; nuisance animals, including but not limited to, squirrels, raccoons, groundhogs, and deer; wild animals; domestic pets; or vermin; place any edible item in any manner or position where such edible item shall be accessible to attract such birds, animals and vermin.

(b) The placing of any edible item in such a manner as to attract common pigeons; crows; blackbirds; other large, flocking, wild birds; nuisance animals, including, but not limited to, squirrels, raccoons, groundhogs, and deer; wild animals; domestic pets; or vermin; shall be deemed prima-facie evidence of the intent to attract such birds, animals and vermin.

(c) Nothing herein shall be construed to in any manner limit or restrict the feeding of small birds, with the exception of common pigeons, crows, blackbirds, and other large, flocking wild birds from suitable containers for food, elevated at least 48 inches above the ground level and of such design and construction as to minimize any potential for food and/or seed from spilling and/or dropping to the ground.

(d) No person maintaining a bird feeder in accordance with this section shall allow spilled food or seed to remain under and around the stationary feeder. Such feeding shall be allowed so long as it does not create a nuisance or interfere with another's property. Such activity shall include, but not be limited to: excessive animal noise; excessive amount of animal droppings or attracting animals that burden neighboring properties.

(e) Any and all refuse or waste kept outdoors shall be stored in such a manner as to render the same inaccessible to any and all animals, birds, domestic pets, and vermin.

(f) Whoever violates this section is guilty of a minor misdemeanor for a first offense. A second conviction under this section is a misdemeanor of the fourth degree. A third conviction under this section is a misdemeanor of the third degree. The penalties shall be provided in accordance with Section 501.99(a)(2)B.1. Each day that such violation continues shall be deemed a separate offense.

(Ord. 22-2012. Passed 4-10-12.)

505.22 ASSAULTING POLICE DOG OR ASSISTANCE DOG.

(a) No person shall knowingly cause, or attempt to cause, physical harm to a police dog when either:

(1) The police dog 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 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 is a police dog.

(b) No person shall recklessly do any of the following:

(1) Taunt, torment, or strike a police dog;

(2) Throw an object or substance at a police dog;

(3) Interfere with or obstruct a police dog, or interfere with or obstruct a law enforcement officer who is being assisted by a police dog, in a manner that does any of the following:

A. Inhibits or restricts the law enforcement officer's control of the police dog;

B. Deprives the law enforcement officer of control of the police dog;

C. Releases the police dog from its area of control;

D. Enters the area of control of the police dog 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 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;

(5) If the person is the owner, keeper, or harborer 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 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.

(c) No person shall knowingly cause, or attempt to cause, physical harm to an assistance dog when either:

(1) The dog is assisting or serving a blind, deaf, 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, 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 harborer 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, hearing impaired, or mobility impaired person or that the person knows is an assistance dog.

(e) Penalty:

(1) Whoever violates this section is guilty of a misdemeanor in the first degree. If the violation results in the death of the police or assistance dog then such person is guilty of a felony and shall be prosecuted under appropriate State law. (ORC 2921.321(F))

(2) In addition to any other sanction or penalty imposed for the offense under this section, Ohio R.C. 2929, et seq., or any other provision of the Revised Code or this Chapter, whoever violates subsection (a), (b), (c), or (d) hereof 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 Municipality regarding a violation of subsection (a) or (b) hereof or by the blind, deaf, hearing impaired, or mobility impaired person assisted or served by the assistance dog regarding a violation of subsection (c) or (d) hereof;

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 the assistance dog that was the subject of the violation and if, as a result of that dog being the subject of the violation, the dog needs further training or retraining to be able to continue in the capacity of a police dog or an assistance dog, the cost of any further training or retraining of that dog by a law enforcement officer or by the blind, deaf, 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 the assistance dog that was the subject of the violation to the extent that the dog needs to be replaced on either a temporary or a permanent basis, the cost of replacing that dog and of any further training of a new police dog or a new assistance dog by a law enforcement officer or by the blind, deaf, 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 that was the subject of the violation.

(Ord. 115-2017. Passed 11-15-17.)

- (f) This section does not apply to a licensed veterinarian whose conduct is in accordance with Ohio R.C. 4741, et seq.
- (g) This section only applies to an offender who knows or should know at the time of the violation that the police dog or assistance dog that is the subject of a violation under this section is a police dog or an assistance dog.
- (h) **Definitions.** 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" means a dog that has been trained, and may be used, to assist the City's Division of Police or any other 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."Serious physical harm," as used in this section, does not have the same meaning as used in Section 505.071.
 - (4) "Assistance dog," "blind," and "mobility impaired person" have the same meanings as in Ohio R.C. 955.011." (Ord. 68-2016. Passed 8-23-16.)

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 Unlawful congregation on sidewalks, public grounds.

509.09 Vagrants. (Repealed)

509.10 Loitering.

509.11 Disorderly conduct in shopping centers.

509.12 Curfew.

509.13 Illegal picketing.

509.14 Impeding public passage of an emergency service responder.

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. Except as otherwise provided in this section, disturbing a lawful meeting is a misdemeanor of the fourth degree. Disturbing a lawful meeting is a misdemeanor of the first degree if either of the following applies:

- (1) The violation is committed with the intent to disturb or disquiet any assemblage of people met for religious worship at a tax-exempt place of worship, regardless of whether the conduct is within the place at which the assemblage is held or is on the property on which that place is located and disturbs the order and solemnity of the assemblage.
- (2) The violation is committed with the intent to prevent, disrupt, or interfere with a virtual meeting or gathering of people for religious worship, through use of a computer, computer system, telecommunications device, or other electronic device or system, or in any other manner.
- (c) As used in this section:
 - (1) "Computer" has the same meaning as in Ohio R.C. 2913.01.
 - (2) "Computer system" has the same meaning as in Ohio R.C. 2913.01.
 - (3) "Telecommunications device" has the same meaning as in Ohio R.C. 2913.01.
 - (4) "Virtual meeting or gathering" means a meeting or gathering by interactive video conference or teleconference, or by a combination thereof.

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) 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) "Emergency medical services person" is the singular of "emergency medical services personnel" as defined in Ohio R.C. 2133.21.

(ORC 2917.13)

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 (\$1,000.00) 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 (\$1,000.00) 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 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.

(Ord. 82-70. Passed 7-8-70.)

- (b) Whoever violates this section is guilty of a minor misdemeanor.

509.09 VAGRANTS. (REPEALED)

(EDITOR'S NOTE: Former Section 509.09 was repealed by Ordinance 104-2018.)

509.10 LOITERING.

- (a) No two or more persons, having no occupation or business at the places herein with named, shall stand upon or occupy the sidewalks or stand at the corners of any street of the City or in such manner as to occupy the sidewalks in front of any dwelling or place of business in the City or in such manner as to occupy the sidewalks in public parks of the City or in front of any place of worship or amusement, dwelling or place of business, so as to obstruct, impede or interfere with the free passage of pedestrians. Any person or persons so standing shall move on immediately after a request to do so has been made by the Chief of Police, any police officer or watchman.

- (b) No person or persons, having no occupation or business at or upon any public or private parking area, shall park and occupy a motor vehicle at or upon such public or private parking area or vacate such motor vehicle and loiter in or about the immediate vicinity thereof. Any person or persons so occupying any motor vehicle or loitering in or about the immediate vicinity thereof, shall move such motor vehicle from the private or public parking area immediately after a request to do so has been made by the Chief of Police, any police officer, whether such officer is on duty for the Municipality or serving in his individual capacity as a special policeman, or any watchman. Any person or persons who have been requested to move a motor vehicle from any public or private parking area shall not return thereto unless the person or persons have an occupation or business at or upon the public or private parking area.

(Ord. 94-66. Passed 10-11-66.)

- (c) Whoever violates this section is guilty of a minor misdemeanor.

509.11 DISORDERLY CONDUCT IN SHOPPING CENTERS.

- (a) No person within the Municipality shall:
 - (1) Race the motor of any motor vehicle, needlessly bring to a sudden start or stop any motor vehicle, blow any horn of any motor vehicle needlessly, engage in any race with another vehicle so as to create a nuisance or a disturbance so as to annoy or endanger any person or persons or any other vehicle or vehicles lawfully on the public portions of a shopping center or retail district including the ingress and egress, the areas designated by the property owner for off-street parking of automotive or other vehicles, driveways, sidewalks, malls, arcades, service areas and entrance ways into stores and buildings.
 - (2) Assemble or congregate with one or more other persons on the public portion of the shopping center or retail district for the purpose of lingering or loitering in any manner which will obstruct, impede or interfere with the free passage of other pedestrians using the public area.
 - (3) In the presence or hearing of another person curse or abuse such person or use violently abusive language to such person concerning him or her or any of his male or female relatives under circumstances reasonably calculated or provoke a breach of the peace.
 - (4) Use loud or vociferous language or obscene, vulgar or indecent language, swear or curse or yell or shriek in a manner calculated to disturb another person or persons present upon the public portions of a shopping center or retail business district.
 - (5) Harass by any means, bother or injure any other person or persons on the public portions of the shopping center or retail area by making loud or indecent suggestions either by oral expressions or by a physical act.

(Ord. 71-68. Passed 6-25-68.)

- (b) Whoever violates this section is guilty of a minor misdemeanor.

509.12 CURFEW.

- (a) No child under the age of twelve years shall loiter, idle, wander, stroll, play or be present in or upon the public streets, sidewalks, highways, roads, alleys, parks, playgrounds or other public grounds, public places, and public buildings, places of amusement, recreation and entertainment, vacant lots, business establishments, whether open for business or not, or other unsupervised places, between the hours of darkness to dawn.
- (b) No child twelve to fifteen years of age shall loiter, idle, wander, stroll, play or be present in or upon the public streets, sidewalks, highways, roads, alleys, parks, playgrounds, or other public grounds, public places and public buildings, places of amusement, recreation and entertainment, vacant lots, business establishments, whether open for business or not, or other unsupervised places, between the hours of 11:00 p.m. and 6:00 a.m.
- (c) No child sixteen or seventeen years of age shall loiter, idle, wander, stroll, play or be present in or upon the public streets, sidewalks, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, and public buildings, places of amusement, recreation and entertainment, vacant lots, business establishments, whether open for business or not, or other unsupervised places, between the hours of midnight and 6:00 a.m.
- (d) The provisions hereof shall not apply to a minor accompanied by a parent, guardian or some responsible person twenty-one years of age or over, or a member of his family eighteen years of age or older, or if he or she has a legitimate excuse therefor.
- (e) No parent or guardian of any child described in this section, shall allow such child to loiter, idle, wander, stroll, play or be present in or upon the public streets, sidewalks, highways, roads, alleys, parks, playgrounds, or other public grounds, public places, and public buildings, places of amusement, recreation and entertainment, vacant lots, business establishments, whether open for business or not, or other unsupervised places, between the hours so specified.
- (f) Any parent, guardian or person in loco parentis who allows any minor to violate any of the provisions of this section shall be deemed guilty of a minor misdemeanor, and shall be fined not more than one hundred dollars (\$100.00). Any minor violating any of the provisions of this section shall be dealt with in accordance with Juvenile Court law and procedure.

(Ord. 72-74. Passed 6-25-74.)

509.13 ILLEGAL PICKETING.

- (a) As used in this section, certain words and terms are defined as follows:
- (1) "Picketing" includes, but is not limited to, marching, parading or demonstrating.
- (2) "Illegal picketing" includes, but is not limited to, picketing as defined in Section 509.13(a)(1) that:
- A. Is directed at or conducted primarily before, or about or in the immediate vicinity of the land upon which the dwelling of any individual is situated; or
- B. Involves blocking or interfering with ingress or egress to any walkway or driveway leading to or from the dwelling of any individual; or
- C. Involves blocking or interfering with the flow of pedestrian or vehicular traffic, or involves the display of signs of a size or at a location otherwise prohibited by ordinance; or
- D. Involves trespassing on any residential property within the meaning of Section 541.05 of the Codified Ordinances; or
- E. Involves the violation of any other provision of Chapter 509 of the Codified Ordinances, including but not limited to, prohibitions against disturbing the peace and/or disorderly conduct.
- (b) It is unlawful for any person to engage in illegal picketing before or about the residence or dwelling owned or occupied by any individual in the City of Richmond Heights.
- (c) Whoever violates this section is guilty of illegal picketing, a misdemeanor of the first degree.

(Ord. 88-93. Passed 7-13-93.)

509.14 IMPEDING PUBLIC PASSAGE OF AN EMERGENCY SERVICE RESPONDER.

- (a) No person, without privilege to do so, shall recklessly obstruct any highway, street, sidewalk, or any other public passage in such a manner as to render the highway, street, sidewalk, or passage impassable without unreasonable inconvenience or hazard if both of the following apply:
- (1) The obstruction prevents an emergency vehicle from accessing a highway or street, prevents an emergency service responder from responding to an emergency, or prevents an emergency vehicle or an emergency service responder from having access to an exit from an emergency.
- (2) Upon receipt of a request or order from an emergency service responder to remove or cease the obstruction, the person refuses to remove or cease the obstruction.
- (b) Subsection (a) of this section does not limit or affect the application of Ohio R.C. 2921.31 or any other section of the Ohio Revised Code. Any conduct that is a violation of subsection (a) of this section and that also is a violation of Ohio R.C. 2921.31 or any other section of the Ohio Revised Code may be prosecuted under this section, the other section of the Ohio Revised Code or both sections.
- (c) Whoever violates this section is guilty of unlawfully impeding public passage of an emergency service responder, a misdemeanor of the first degree.
- (d) As used in this section, "emergency service responder" has the same meaning as in Ohio R.C. 2921.01. (ORC 2917.14)

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.

513.07 Possessing or using harmful intoxicants.

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.

513.15 Sale of dextromethorphan.

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) "Alcohol and Drug Addiction Services". Has the same meaning as in Ohio R.C. 5119.01.
- (d) "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.
- (e) "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.
- (f) "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.
- (g) "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.
- (h) "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.
- (i) "Committed in the vicinity of a substance addiction services provider or a recovering addict". An offense is "committed in the vicinity of a substance addiction services provider or a recovering addict" if either of the following apply:
- (1) The offender commits the offense on the premises of a substance addiction services provider's facility, including a facility licensed prior to June 29, 2019, under Ohio R.C. 5119.391 to provide methadone

- treatment or an opioid treatment program licensed on or after that date under Ohio R.C. 5119.37, or within 500 feet of the premises of a substance addiction services provider's facility and the offender knows or should know that the offense is being committed within the vicinity of the substance addiction services provider's facility.
- (2) The offender sells, offers to sell, delivers, or distributes the controlled substance or controlled substance analog to a person who is receiving treatment at the time of the commission of the offense, or received treatment within 30 days prior to the commission of the offense, from a substance addiction services provider and the offender knows that the person is receiving or received that treatment.
- (j) "Controlled substance." Has the same meaning as in Ohio R.C. 3719.01.
- (k) "Controlled substance analog." Has the same meaning as in Ohio R.C. 3719.01.
- (l) "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.
- (m) "Cultivate." Includes planting, watering, fertilizing or tilling.
- (n) "Dangerous drug." Has the same meaning as in Ohio R.C. 4729.01.
- (o) "Deception." Has the same meaning as in Ohio R.C. 2913.01.
- (p) "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.
- (q) "Dispense." Has the same meaning as in Ohio R.C. 3719.01.
- (r) "Distribute." Has the same meaning as in Ohio R.C. 3719.01.
- (s) "Drug." Has the same meaning as in Ohio R.C. 4729.01.
- (t) "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.
- (u) "Drug of abuse." Has the same meaning as in Ohio R.C. 3719.01.
- (v) "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.
- (w) "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-piperidyl]-N-phenylpropanamide);
 - (4) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide);
 - (5) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidyl]-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-piperidyl]-N-phenylpropanamide);
 - (8) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidyl]propanamide);
 - (9) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidyl]-propanamide);
 - (10) Alfentanil;
 - (11) Carfentanil;
 - (12) Remifentanil;
 - (13) Sufentanil;
 - (14) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidyl]-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 acetyl fentanyl, 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.
- (x) "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.
- (y) "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.
- (z) "Hypodermic." Has the same meaning as in Ohio R.C. 3719.01.
- (aa) "Juvenile." A person under eighteen years of age.
- (bb) "Licensed health professional authorized to prescribe drugs." Has the same meaning as in Ohio R.C. 4729.01.
- (cc) "L.S.D." Lysergic acid diethylamide.
- (dd) "Major drug offender." Has the same meaning as in Ohio R.C. 2929.01.
- (ee) "Mandatory prison term." Has the same meaning as in Ohio R.C. 2929.01.
- (ff) "Manufacturer." 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.
- (gg) "Manufacturer." Has the same meaning as in Ohio R.C. 3719.01.
- (hh) "Marihuana." Has the same meaning as in Ohio R.C. 3719.01, except that it does not include hashish.
- (ii) "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.
- (jj) "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.
- (kk) "Official written order." Has the same meaning as in Ohio R.C. 3719.01.
- (ll) "Person." Has the same meaning as in Ohio R.C. 3719.01.
- (mm) "Person with a drug dependency" has the same meaning as in Ohio R.C. 3719.011.
- (nn) "Pharmacist." Has the same meaning as in Ohio R.C. 3719.01.
- (oo) "Pharmacy." Has the same meaning as in Ohio R.C. 3719.01.
- (pp) "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.
- (qq) "Premises of a substance addiction services provider's facility." Means the parcel of real property on which any substance addiction service provider's facility is situated.
- (rr) "Prescription." Has the same meaning as in Ohio R.C. 4729.01.
- (ss) "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.
- (tt) "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.
- (uu) "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, independent school 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.
- (vv) "Public premises." Any hotel, restaurant, tavern, store, arena, hall or other place of public accommodation, business, amusement or resort.
- (ww) "Sale." Has the same meaning as in Ohio R.C. 3719.01.
- (xx) "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.
- (yy) "Schedule I", "Schedule II", "Schedule III", "Schedule IV" or "Schedule V." Have the same meaning as in Ohio R.C. 3719.01.
- (zz) "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.
- (aaa) "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.
- (bbb) "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.
- (ccc) "Standard Pharmaceutical Reference Manual." The current edition, with cumulative changes if any, of references that are approved by the State Board of Pharmacy.
- (ddd) "Substance Addiction Services Provider." Means an agency, association, corporation or other legal entity, individual, or program that provides one or more of the following at a facility:
 - (1) Either alcohol addiction services, or drug addiction services, or both such services that are certified by the Ohio Director of Mental Health and Addiction Services under Ohio R.C. 5119.36;
 - (2) Recovery supports that are related to either alcohol addiction services, or drug addiction services, or both such services and paid for with federal, state, or local funds administered by the Ohio Department of Mental Health and Addiction Services or a board of alcohol, drug addiction, and mental health services.
- (eee) "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.
- (fff) "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 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)E. 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 or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1) or Ohio R.C. 2925.141 if all of the following apply:
 - 1. The evidence of the obtaining, possession or use of the controlled substance or controlled substance analog, drug abuse instruments, or drug paraphernalia 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)F. 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)F. of this section, the qualified individual who obtains a screening and receives a referral for treatment under subsection (b)(2)B.2. 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 who is serving a community control sanction or is under a sanction on post-release control acts pursuant to subsection (b)(2)B. of this section, then Ohio R.C. 2929.141(B), Ohio R.C. 2929.15(B)(2), Ohio R.C. 2929.25(D)(3) or Ohio R.C. 2967.28(F)(3) applies to the person with respect to any violation of the sanction or post-release control sanction based on a minor drug possession offense, as defined in Ohio R.C. 2925.11, or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1), or Ohio R.C. 2925.141.
- D. 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 or a violation of Ohio R.C. 2925.12, Ohio R.C. 2925.14(C)(1) or Ohio R.C. 2925.141 committed by a person who qualifies for protection pursuant to subsection (b)(2)B. of this section;
 - 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 September 13, 2016, to any public agency or to an employee of any public agency.
- E. 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 more than two times.
- F. 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) (1) 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.

- (2) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.

(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 marihuana, 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, except for those exempted in subsection (d)(4) of this section;
 - (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; miniatur 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), (d)(3) and (d)(4) 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.
- (3) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of subsection (c)(1) of this section when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.
- (4) Subsection (c)(1) of this section does not apply to a person's use, or possession with purpose to use, any drug testing strips to determine the presence of fentanyl or a fentanyl-related compound.
- (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) (1) Subsection (e) of Section 513.12 applies with respect to any drug paraphernalia that was used or possessed in violation of this section.
- (2) Division (B)(2) of Ohio R.C. 2925.11 applies with respect to a violation of this subsection when a person seeks or obtains medical assistance for another person who is experiencing a drug overdose, a person experiences a drug overdose and seeks medical assistance for that overdose, or a person is the subject of another person seeking or obtaining medical assistance for that overdose.
- (f) (1) Whoever violates subsection (c) of this section is guilty of illegal use or possession of marihuana drug paraphernalia, a minor misdemeanor.
- (2) Arrest or conviction for a violation of subsection (c) 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.
- (g) (1) In addition to any other sanction imposed upon an offender for a violation of this section, the court shall do the following if applicable:
- A. 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.
- B. If the offender is a professionally licensed person, 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)

513.15 SALE OF DEXTROMETHORPHAN.

- (a) As used in this section:
- (1) "Dextromethorphan" means the dextrorotatory isomer of 3-methoxy-N-methylmorphinan, including its salts, but not including its racemic or levorotatory forms.
 - (2) "Evidence of majority and identity" means a document issued by the federal government or a state, county, or municipal government, or a subdivision or agency of any of the foregoing, including a driver's or commercial driver's license, an identification card issued under Ohio R.C. 4507.50 to 4507.52, a military identification card, or any other form of identification that bears the name, date of birth, description and picture of the person identified.
 - (3) "Retailer" means a place of business that offers consumer products for sale to the general public, including a terminal distributor of dangerous drugs that is licensed under Ohio R.C. Chapter 4729 and operated as a pharmacy.
- (b) No retailer or employee of a retailer shall knowingly supply, deliver, give or otherwise provide a drug, material, compound, mixture, preparation or substance containing any quantity of dextromethorphan through the sale of any product to a person under eighteen years of age, unless the person has been issued a prescription for the product being purchased.
- (c) For purposes of subsection (b) of this section, the person making the sale of a product containing dextromethorphan shall require and obtain evidence of majority and identity from the purchaser, unless from the purchaser's outward appearance the person making the sale would reasonably presume the purchaser to be twenty-five years of age or older. Proof that the person making the sale demanded, was shown, and acted in reasonable reliance on the purchaser's evidence of majority and identity is a defense to any charge of a violation of subsection (b) of this section.
- (d) A retailer or employee of a retailer is not liable for damages in a civil action for injury, death or loss to person or property that allegedly arises from an act or omission associated with a failure to prevent the sale of a product containing dextromethorphan to a person under eighteen years of age, unless the act or omission constitutes willful or wanton misconduct.
- (e) Whoever violates subsection (b) of this section is guilty of illegally selling dextromethorphan, a minor misdemeanor. (ORC 2925.62)

513.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

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.
- 517.16 Electronic instant bingo; prohibited conduct.
- 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.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) "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.
- (b) "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 (25) spaces arranged in five (5) horizontal and five (5) 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 spaces 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 (75) 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 (75) 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 (b)(1)C. hereof, that a predetermined and pre-announced pattern of spaces has been covered on a bingo card or sheet being used by the participant.
 - (2) Instant bingo, electronic instant bingo, and raffles.
- (c) "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, selling or redeeming electronic instant bingo tickets, credits, or vouchers, accessing an electronic instant bingo system other than as a participant, 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. "Bingo game operator" does not include a person who is installing, maintaining, updating, or repairing an electronic instant bingo system.
- (d) "Bingo session" means a period that includes both of the following:
 - (1) Not to exceed five (5) continuous hours for the conduct of one or more games described in subsection (d)(1) hereof the definition of "bingo" in this section, instant bingo, and electronic instant bingo;
 - (2) A period for the conduct of instant bingo and electronic instant bingo for not more than two (2) hours before and not more than two (2) hours after the period described in subsection (d)(1) hereof.
- (e) "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; electronic instant bingo systems; 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 or Ohio R.C. Chapter 2915. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.
- (f) "Bookmaking" means the business of receiving or paying off bets.
- (g) "Charitable bingo game" means any bingo game described in subsections (b)(1) or (2) hereof 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.
- (h) "Charitable instant bingo organization" means an organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) and is a charitable organization as defined in this section. The term does not include a charitable organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3) 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 Section 517.14.
- (i) "Charitable organization" means:
 - (1) Except as otherwise provided in this chapter, "charitable organization" means either of the following:
 - A. An organization that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3);
 - B. 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 IRC 501(c)(4), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).
 - (2) To qualify as a charitable organization, an organization shall have been in continuous existence as such in this state for a period of two (2) 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 Section 517.02(d).
- (j) "Charitable purpose" means that the net profit of bingo, other than instant bingo or electronic instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:
 - (1) Any organization that is described in IRC 509(a)(1), 509(a)(2), or 509(a)(3) and is either a governmental unit or an organization that is tax exempt under IRC 501(a) and described in IRC 501(c)(3);
 - (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 (75%) 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 Ohio R.C. 5739.02(B)(12), is used for awarding scholarships to or for attendance at an institution mentioned in that division of the Ohio Revised Code, 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 (15) 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 IRC 170;
 - (4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in the definition of "volunteer firefighter's organization" in this section.
- (k) "Community action agency" has the same meaning as in Ohio R.C. 122.66.
- (l) "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.
- (m) "Deal" means a single game of instant bingo tickets, or a single game of electronic instant bingo tickets, all with the same serial number.
- (n) "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.
- (o) "Electronic bingo aid" means:
 - (1) 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) The term does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.
- (p) "Electronic instant bingo" means:
 - (1) A form of bingo that consists of an electronic or digital representation of instant bingo in which a participant wins a prize if the participant's electronic instant bingo ticket contains a combination of numbers or symbols that was designated in advance as a winning combination, and to which all of the following apply:
 - A. Each deal has a predetermined, finite number of winning and losing tickets and a predetermined prize amount and deal structure, provided that there may be multiple winning combinations in each deal and multiple winning tickets.
 - B. Each electronic instant bingo ticket within a deal has a unique serial number that is not regenerated.
 - C. Each electronic instant bingo ticket within a deal is sold for the same price.
 - D. After a participant purchases an electronic instant bingo ticket, the combination of numbers or symbols on the ticket is revealed to the participant.
 - E. The reveal of numbers or symbols on the ticket may incorporate an entertainment or bonus theme, provided that the reveal does not include spinning reels that resemble a slot machine.
 - F. The reveal theme, if any, does not require additional consideration or award any prize other than any predetermined prize associated with the electronic instant bingo ticket.
 - (2) The term shall not include any of the following:
 - A. Any game, entertainment, or bonus theme that replicates or simulates any of the following:
 - 1. The gambling games of keno, blackjack, roulette, poker, craps, other casino-style table games;
 - 2. Horse racing;
 - 3. Gambling games offered in this state on slot machines or video lottery terminals. As used in this division, "video lottery terminal" has the same meaning as in Ohio R.C. 3770.21.
 - B. Any device operated by dropping one or more coins or tokens into a slot and pulling a handle or pushing a button or touchpoint on a touchscreen to activate one to three or more rotating reels marked into horizontal segments by varying symbols, where the predetermined prize amount depends on how and how many of the symbols line up when the rotating reels come to a rest;
 - C. Any device that includes a coin or token slot, tray, or hopper and the ability to dispense coins, cash, tokens, or anything of value other than a credit ticket voucher.
- (q) "Electronic instant bingo system" means both of the following:
 - (1) A mechanical, electronic, digital, or video device and associated software to which all of the following apply:
 - A. It is used by not more than one player at a time to play electronic instant bingo on a single screen that is physically connected to the device;
 - B. It is located on the premises of the principal place of business of a veteran's or fraternal organization that holds a type II or type III bingo license to conduct electronic instant bingo at that location issued under Ohio R.C. 2915.08.
 - (2) Any associated equipment or software used to manage, monitor, or document any aspect of electronic instant bingo.
- (r) "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 Ohio R.C. 2915.08(F)(1).
- (s) "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 or sodality of its members.
- (t) "Gambling device" means any of the following:
 - (1) A book, totalizer, or other equipment used 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 or Ohio R.C. Chapter 2915.
- (u) "Gambling offense" means any of the following:
 - (1) A violation of Ohio R.C. Chapter 2915;
 - (2) A violation of an existing or former municipal ordinance or law of this or any other state or of the United States substantially equivalent to any provision of this chapter or Ohio R.C. Chapter 2915 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 of the United States, of which gambling is an element;
 - (4) A conspiracy or attempt to commit, or complicity in committing, any offense under subsections (v)(1), (2), or (3) hereof.
 - (v) "Game flare" means the board or placard, or electronic representation of a board or placard, that accompanies each deal of instant bingo or electronic instant bingo tickets and that includes the following information for the game:
 - (1) The name of the game;
 - (2) The manufacture's name or distinctive logo;
 - (3) The form number;
 - (4) The ticket count;
 - (5) The prize structure, including the number of winning tickets by denomination and the respective winning symbol or number combinations for the winning tickets;
 - (6) The cost per play;
 - (7) The serial number of the game.
 - (w) "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.
 - (x) "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.
 - (y) "Gross annual revenues" means the annual gross receipts derived from the conduct of bingo described in subsection (b)(1) hereof plus the annual net profit derived from the conduct of bingo described subsection (b)(2) hereof.
 - (z) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.
 - (aa) "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. The term 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 (2) 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.
 - (bb) "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. "Instant bingo" also includes a punch board game. In all "instant bingo" the prize amount and structure shall be predetermined. The term does not include electronic instant bingo or 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.
 - (cc) "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 non-winning 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.
 - (dd) "Internal Revenue Code (IRC)" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1 et seq., as now or hereafter amended.
 - (ee) "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.
 - (ff) "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, or bingo;
 - (3) Firearms, tobacco, or alcoholic beverages; or
 - (4) A redeemable voucher that is redeemable for any of the items listed in subsections (hh)(1), (2) or (3) hereof.
 - (gg) "Net profit" means gross profit minus expenses.
 - (hh) "Net profit from the proceeds of the sale of instant bingo or electronic instant bingo" means gross profit minus the ordinary, necessary, and reasonable expense expended for the purchase of bingo supplies for the purpose of conducting instant bingo or electronic instant bingo, and, in the case of instant bingo or electronic 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 or electronic instant bingo is conducted.
 - (ii) "Participant" means any person who plays bingo.
 - (jj) "Person" has the same meaning as in Ohio R.C. 1.59 and includes any firm or any other legal entity, however organized.
 - (kk) "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.
 - (ll) "Punch board" means a form of instant bingo that uses 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. 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.
 - (mm) "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. The term 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.
 - (nn) "Redeemable voucher" means any ticket, token, coupon, receipt, or other noncash representation of value.
 - (oo) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.
 - (pp) "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.
 - (qq) "Scheme of chance" means:
 - (1) 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:
 - A. Less than fifty percent (50%) 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;
 - B. Less than fifty percent (50%) 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;
 - C. More than fifty percent (50%) 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;
 - D. 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;
 - E. 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;
 - F. A participant may use the electronic device to purchase additional game entries;
 - G. A participant may purchase additional game entries by using points or credits won as prizes while using the electronic device;
 - H. A scheme of chance operator pays out in prize money more than twenty percent (20%) of the gross revenue received at one location; or
 - I. 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.
 - (2) 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. "Electronic device" does not include an electronic instant bingo system.
 - (rr) "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.
 - (ss) "Security personnel" includes any person who either is a Sheriff, deputy sheriff, Marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course pursuant to Ohio R.C. 109.71 through 109.79 and who is hired to provide security for the premises on which bingo is conducted.
 - (tt) "Skill-based amusement machine" means:
 - (1) A. A 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:
 - 1. The wholesale value of a merchandise prize awarded as a result of the single play of a machine does not exceed ten dollars (\$10.00);
 - 2. 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 (\$10.00);
 - 3. Redeemable vouchers are not redeemable for a merchandise prize that has a wholesale value of more than ten dollars (\$10.00) times the fewest number of single plays necessary to accrue the redeemable vouchers required to obtain that prize; and
 - 4. Any redeemable vouchers or merchandise prizes are distributed at the site of the skill-based amusement machine at the time of play.
 - B. A card for the purchase of gasoline is a redeemable voucher for purposes of subsection (vv)(1) hereof 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 (vv)(1) hereof:
 - A. As used in this definition of "skill-based amusement machine", "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 non-contest, 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 (vv)(1) hereof, the mere presence of a device, such as a pinsetting, 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.
- (uu) "Slot machine" means:
 - (1) 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) The term does not include a skill-based amusement machine, an instant bingo ticket dispenser, or an electronic instant bingo system.
- (vv) "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 (3) years.
- (ww) "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.
- (xx) "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 Ohio R.C. Chapter 2915, 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.
- (yy) "Sweepstakes terminal device" means:
 - (1) 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 definition 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 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.
- (zz) "Sweepstakes terminal facility" means any location in this state where a sweepstakes terminal device is provided to a sweepstakes participant, except as provided in Ohio R.C. 2915.02(G).
- (aaa) "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 definition, "National Veterans' Association" means any veteran's association that has been in continuous existence as such for a period of at least five (5) years and either is incorporated by an act of the United States Congress or has a national dues-paying membership of at least 5,000 persons.
- (bbb) "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.
- (ccc) "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.
- (ddd) "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 (21) years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.
- (eee) "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 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 (18) 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 subsection (ggg)(1) hereof.

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 (ff)(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 (\$10.00) 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 (\$10.00).
 - (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 lease, 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) Except as otherwise provided in subsection (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct bingo, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in the definition for "expenses" in Section 517.01(r), provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, advertising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in the definition of "bingo" in Section 517.01(b)(1), the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars (\$600.00) or forty-five percent (45%) of the gross receipts from the bingo described in that division as consideration for the use of the premises;
 - (3) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo described in Section 517.01(b)(1), for a charitable purpose listed in its license application and described in Section 517.02(j), or distribute all of the net profit from the proceeds of the sale of instant bingo or electronic instant bingo as stated in its license application and in accordance with Ohio R.C. 2915.101, as applicable.
- (b) No charitable organization that conducts a bingo game described in Section 517.01(b)(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 (45%) 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 (3) 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 (3) charitable organizations per calendar week for conducting bingo sessions on the premises. In no case shall more than nine (9) 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(b)(1).
- (c) No charitable organization that conducts a bingo game described in Section 517.01(b)(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 (5) bingo sessions in a calendar year may conduct more than three (3) 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(b)(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 2:00 a.m. and 10:00 a.m., at any time during, or within ten (10) 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 9:00 a.m. for a bingo session that begins at 10:00 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 (J) 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 (18) 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 (90) 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 (18) years of age to play bingo described in Section 517.01(b)(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) of this section, 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, electronic instant bingo, or both other than at a bingo session at the site of instant bingo, electronic instant bingo, or both 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 (2) 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 (2) 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 (18) years of age;
- (8) Fail to keep unsold instant bingo tickets or cards for less than three (3) 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 (2) 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 person or entity may conduct a raffle to raise money for the person or entity and does not need a license to conduct bingo in order to conduct a raffle drawing that is not for profit if the person or entity is any of the following:
 - A. Exempt from federal income taxation under IRC §501(a) and described in IRC §501(c)(3);
 - B. A school district, community school established under Ohio R.C. Chapter 3314, STEM school established under Ohio R.C. Chapter 3326, college-preparatory boarding school established under Ohio R.C. Chapter 3328, or chartered nonpublic school;
 - C. Exempt from federal income taxation under IRC §501(a) and described in IRC §501(c)(4), 501(c)(6), 501(c)(7), 501(c)(8), 501(c)(10) or 501(c)(19).
- (2) If a person or entity that is described in subsection (a)(1)C. of this section conducts a raffle, the person or entity shall distribute at least fifty percent (50%) of the net profit from the raffle to a charitable purpose described in Section 517.01(f) 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 under a type III license issued under Ohio R.C. 2915.08, 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 under a type III license issued under Ohio R.C. 2915.08 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 (5) days per calendar year and not more than ten (10) 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 per cent 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 (r)(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 (6%) 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 electronic instant bingo game 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 and each electronic instant bingo game by serial number;
- (2) An itemized list of all expenses, other than prizes, that are incurred in conducting 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 each electronic instant bingo game 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(j), 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(aa);
- (7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo or electronic 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(b)(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 (3) 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 (3) 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) (1) The Attorney General, or any law enforcement agency, may do all of the following:
- A. Investigate any charitable organization, distributor, or manufacturer or any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
- B. Examine the accounts and records of the charitable organization, distributor, or manufacturer or of any officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer;
- C. Conduct inspections, audits, and observations of bingo or games of chance;
- D. Conduct inspections of the premises where bingo or games of chance are conducted or where bingo supplies are manufactured or distributed;
- E. Take any other necessary and reasonable action to determine if a violation of any provision of this chapter or Ohio R.C. Chapter 2915 has occurred and to determine whether Section 517.12 has been complied with.
- (2) If any law enforcement agency has reasonable grounds to believe that a charitable organization, distributor, or manufacturer or an officer, agent, trustee, member, or employee of the organization, distributor, or manufacturer has violated any provision of this chapter or Ohio R.C. Chapter 2915, the law enforcement agency may proceed by action in the proper court to enforce this chapter or Ohio R.C. Chapter 2915, provided that the law enforcement agency shall give written notice to the Attorney General when commencing an action as described in this division.
- (i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization, distributor, or manufacturer that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance, of premises where bingo or a game of chance is conducted, or of premises where bingo supplies are manufactured or distributed, 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) hereof.
- (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 (18) 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 and 2915.14 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 (10) 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(b)(2).
- E. The number of players participating in the bingo game does not exceed fifty (50).
- (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 (10) 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 2915.15 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(b)(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) Subject to the requirements of Ohio R.C. 2915.14 and 2915.15 concerning electronic instant bingo, a veteran's organization, a fraternal organization, or a sporting organization authorized to conduct a bingo session pursuant to Ohio R.C. Chapter 2915 may conduct instant bingo, electronic instant bingo, or both other than at a bingo session under a type III license issued under Ohio R.C. 2915.08 if all of the following apply:
- (1) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo or electronic instant bingo to twelve (12) hours during any day, provided that the sale does not begin earlier than 10:00 a.m. and ends not later than 2:00 a.m.
- (2) The veteran's organization, fraternal organization, or sporting organization limits the sale of instant bingo or electronic 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 IRC 509(a)(1), (a)(2), or (a)(3) 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 IRC 501(a) and described in IRC 501(c), and that is in good standing in this state, that is exempt from federal income taxation under IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state and executes a written contract with that organization as required in subsection (b) hereof.
- (b) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (a) hereof is raising money for another organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) 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 IRC 501(a) and described in IRC 501(c), 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 IRC 509(a)(1), (a)(2), or (a)(3) 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 IRC 501(a) and described in IRC 501(c), and that is in good standing in this state in order to conduct instant bingo or electronic instant bingo. That contract shall include a statement of the percentage of the net proceeds that the veterans, fraternal, or sporting organization will be distributing to the organization that is described in IRC 509(a)(1), (a)(2), or (a)(3) 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 IRC 501(a) and described in IRC 501(c)(3), and that is in good standing in this state.
- (c) (1) If a veteran's organization, fraternal organization, or sporting organization authorized to conduct instant bingo or electronic instant bingo pursuant to subsection (b) hereof 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 sporting organization violates a provision of this chapter or Ohio R.C. Chapter 2915.
- (2) No veteran's organization, fraternal organization, or sporting organization that enters into a written contract pursuant to subsection (b) hereof 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 sporting organization shall give all required proceeds earned from the conduct of instant bingo or electronic instant bingo to the organization with which the veteran's organization, fraternal organization, or sporting organization has entered into a written contract.
- (e) Whoever violates this section is guilty of illegal instant bingo or electronic instant bingo conduct. Except as otherwise provided in this division, illegal instant bingo or electronic 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 or electronic instant bingo conduct is a felony to 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(ff)(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)

517.16 ELECTRONIC INSTANT BINGO; PROHIBITED CONDUCT.

- (a) No charitable organization shall conduct electronic instant bingo unless all of the following are true:
- (1) The organization is a veteran's organization described in Ohio R.C. 2915.01(J), or is a fraternal organization described in Ohio R.C. 2915.01(L), and the organization qualified as a veteran's organization or fraternal organization, as applicable, on or before June 30, 2021.
- (2) The organization is a veteran's organization described in IRC 501(c)(4) or 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 IRC 501(a), and is described in IRC 501(c)(7), 501(c)(8), 501(c)(10), or 501(c)(19).
- (3) The organization has not conducted a raffle in violation of Ohio R.C. 2915.092(B) using an electronic raffle machine, as described in Ohio Veterans and Fraternal Charitable Coalition v. DeWine, Case No. 13-CV-13610 (C.P. Franklin Co. February 23, 2018), at any time on or after January 1, 2022.
- (b) No charitable organization that conducts electronic instant bingo shall do any of the following:
- (1) Possess an electronic instant bingo system that was not obtained in accordance with Ohio R.C. Chapter 2915 or with any rule adopted under Ohio R.C. Chapter 2915;
- (2) Conduct electronic instant bingo on any day, at any time, or on any premises not specified on the organization's type II or type III license issued under Ohio R.C. 2915.08;
- (3) Hold more than one valid license to conduct electronic instant bingo at any one time;
- (4) Conduct electronic instant bingo on more than one premises or on any premises other than the charitable organization's principal place of business;
- (5) Operate more than ten electronic bingo systems at the premises on which the charitable organization conducts electronic instant bingo under its license;
- (6) Fail to display both of the following conspicuously at the premises on which the charitable organization conducts electronic instant bingo:
- A. The charitable organization's bingo license;
- B. The serial number of each deal of electronic instant bingo tickets being sold.
- (7) Permit any person the charitable organization knows, or should have known, to be under eighteen (18) years of age to play electronic instant bingo;
- (8) Sell or provide to any person an electronic instant bingo ticket for a price different from the price displayed on the game flare for that deal, except that the charitable organization may give a participant who wins an electronic instant bingo game an electronic instant bingo ticket as a prize in place of a cash prize;
- (9) Fail, once an electronic instant bingo deal is begun, to continue to sell tickets in that deal until all prizes have been awarded;
- (10) 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 electronic instant bingo;
- (11) Permit a bingo game operator to play electronic instant bingo;
- (12) A. Except as otherwise provided in subsection (b)(12)B, hereof, pay compensation to a bingo game operator for conducting electronic instant bingo.
- B. Subsection (b)(12)A, hereof does not prohibit an employee of a veteran's organization or fraternal organization from redeeming electronic instant bingo tickets or vouchers for the organization's members or invited guests, so long as no portion of the employee's compensation is paid from any bingo receipts.
- (13) Pay consulting fees to any person in relation to electronic instant bingo.
- (c) No person shall sell, offer to sell, or otherwise provide or offer to provide an electronic instant bingo system to any person for use in this municipality unless the electronic instant bingo system has been approved under Ohio R.C. 2915.15.
- (d) Whoever knowingly violates subsection (a), (b) or (c) hereof or a rule adopted under Ohio R.C. 2915.14(D) is guilty of illegal electronic instant bingo conduct. Illegal electronic instant bingo conduct is a misdemeanor of the first degree, except that if the offender previously has been convicted of a violation of subsection (a) or (b) hereof, or any substantially equivalent municipal ordinance or state law, or of a rule adopted under Ohio R.C. 2915.14(D), illegal instant bingo conduct is a felony to be prosecuted under appropriate state law.
- (ORC 2915.14)

517.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 519

Clean Indoor Air

519.01 Short title.

519.02 Findings; intent.

519.03 Definitions.

519.04 Smoking in public places.

519.05 Smoking in places of employment.

519.06 Exceptions to chapter.

519.07 Designation of smoking areas.

519.08 Violations.

519.09 Enforcement by Fire Department.

519.10 Education.

519.11 Cooperation by governmental and educational agencies.

519.12 Interpretation of chapter.

519.01 SHORT TITLE.

This chapter may be cited as the Richmond Heights Clean Indoor Air Ordinance.

(Ord. 143-93. Passed 3-8-94.)

519.02 FINDINGS; INTENT.

(a) Council finds that tobacco smoke is a major contributor to indoor air pollution and that smoking in enclosed areas is detrimental to the health, welfare, comfort and environment of nonsmokers; that exposure to secondhand smoke is acutely harmful to nonsmokers with cardiovascular or respiratory disease; that the United States Surgeon General has determined that involuntary smoking is a cause of disease, including lung cancer, in healthy nonsmokers; that smoking in certain enclosed areas is a public nuisance and a cause of material annoyance, discomfort and physical irritation to nonsmokers; that nonsmokers who suffer ill effects of breathing secondhand smoke may experience a loss of job productivity and may be prevented from using commercial establishments and other public places; that smoking is a major cause of fires, as well as burns and ash stains on merchandise and fixtures that cause losses to businesses in the City; that courtesy and voluntary smoking restrictions are not sufficient in all cases to adequately resolve concerns relating to secondhand smoke; and that nonsmokers presently have no adequate means to protect themselves from the damage inflicted upon them when they involuntarily inhale smoke emitted from cigarettes, cigars, pipes and other smoking materials.

(b) Council intends that the restrictions and limitations of this chapter be viewed as minimum standards and should not be construed as limiting in any way the authority of the persons in charge of public places or places of employment from entirely prohibiting smoking within their establishments or any part thereof. It is not the intent of Council to prohibit smoking or the sale of tobacco products, but rather to affirm the right of nonsmokers to breathe clean air.

(Ord. 143-93. Passed 3-8-94.)

519.03 DEFINITIONS.

As used in this chapter:

- (a) "Bar" means any establishment licensed by the Ohio Department of Liquor Control to sell intoxicating beverages for consumption on the premises and in which the service of food is only incidental to the consumption of such beverages.
- (b) "Eating establishment" means any restaurant, coffee shop, cafeteria, luncheonette, tavern, cocktail lounge, sandwich stand, soda fountain or other establishment (excluding bars) where cooked or otherwise prepared food is sold to members of the general public for consumption on the premises.
- (c) "Employee" means any person who is employed by any employer in consideration of direct or indirect monetary wages or profit or as a volunteer.
- (d) "Employer" means any person who employs the service of an individual person or any person in charge of a place of employment. Such term excludes building owners and managers in areas leased, rented or otherwise controlled by tenants.
- (e) "Enclosed indoor area" means closed in by a roof and walls on at least three sides with appropriate openings for ingress and egress.
- (f) "Establishment" means any physical facility operated by a commercial enterprise, nonprofit entity, government agency or any other person.
- (g) "Grocery store" means any supermarket, convenience store or other retail food production and marketing establishment.
- (h) "Health care facility" means a laboratory associated with the rendition of health care treatment or any hospital, rest home, nursing home, doctor's office, dentist's office or other establishment involved in the provision of health care.
- (i) "Indoor places of entertainment and recreation" means enclosed indoor areas used for play, amusement, diversion, relaxation or social activities, including, but not limited to, bowling alleys, rollers and ice skating rinks, dance halls, swimming pools and bingo halls.
- (j) "Members of the general public" means shoppers, customers, patrons, patients, students, clients and other similar invitees of any establishment, and excludes employees thereof, sales representatives, service repair persons and persons delivering goods, merchandise or services to such establishment.
- (k) "Person" means any individual, firm, partnership, association, corporation, company, organization or legal entity of any kind.
- (l) "Place of employment" means that portion of any enclosed, indoor area under the control of a public or private employer, which area employees normally frequent during the course of employment, but to which members of the general public are not normally invited including, but not limited to, such areas in office work places, factories, warehouses and laboratories. The dining area of an eating establishment is not a place of employment.
- (m) "Polling place" means the entire room, hall, garage or other facility in which persons cast ballots in an election, but only during such time as election business is being conducted.
- (n) "Proprietor" means the owner, manager, operator or other person in charge of a public place. Such term excludes building owners and managers in areas leased, rented or otherwise controlled by tenants.
- (o) "Public place" means that portion of any enclosed, indoor area to which members of the general public are invited or in which members of the general public are permitted.
- (p) "Retail stores and service establishments" means establishments that sell goods or services directly to members of the general public, including, but not limited to, grocery stores, specialty stores, department stores, pharmacies, automobile dealerships, showrooms, banks, professional offices, service stations, repair or maintenance stores, barber or beauty shops, cleaners and laundromats.
- (q) "Retail tobacco store" means a retail store used primarily for the sale of smoking materials and smoking accessories and in which the sale of other products is incidental. "Retail tobacco store" does not include a tobacco department of a larger retail store, such as a department store or a discount store.
- (r) "Service line" means any indoor line at which one or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- (s) "Sign" means legible, English lettering on a contrasting background to clearly indicate where smoking is permitted or not permitted and to provide related information. The international "NO SMOKING" symbol (consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it) may be used on, or substituted for, a sign indicating that smoking is prohibited. A sign shall be of sufficient size to be clearly legible to a person of normal vision throughout the area it is intended to mark.
- (t) "Smoking material" means any cigar, cigarette, pipe, weed, plant or other smoking equipment in any form.
- (u) "Vehicles of public transportation" means trains, buses, trolleys, limousines for hire, taxicabs, courtesy vehicles, ferries and similar conveyances, as well as their associated terminals.
- (v) "Work area" means any room, desk, station or other area normally occupied by an employee while carrying out his or her primary work functions.
- (Ord. 143-93. Passed 3-8-94.)

519.04 SMOKING IN PUBLIC PLACES.

- (a) **Smoking Prohibited.** Except as provided in Section 519.06, the possession of lighted smoking materials in any form is prohibited in any of the following enclosed public places, excluding portions to which members of the general public are not normally invited:

- (1) Retail stores and service establishments;
- (2) Vehicles of public transportation;
- (3) Enclosed theaters, auditoriums, concert halls, arenas and public meeting rooms, except portions of the lobby associated with such establishments if a smoking area is designated therein pursuant to subsection (b) hereof;
- (4) Elevators, elevator lobbies, stairwells, escalators and hallways;
- (5) Indoor service lines;
- (6) Public restrooms;
- (7) Courtrooms, jury waiting rooms and deliberations rooms;
- (8) Educational facilities;
- (9) Polling places;
- (10) Health care facilities;
- (11) Gymnasiums, exercise rooms and health spas;
- (12) Libraries;
- (13) Places of exhibition, including, but not limited to, museums, aquariums and galleries; and
- (14) Areas of food preparation.

(b) Smoking Prohibited Except in Designated Section. Except as provided in Sections 519.06 and 519.07, the possession of lighted smoking materials in any form is prohibited in any public place or portion thereof not identified in subsection (a) hereof, excluding portions to which members of the general public are not normally invited, including, but not limited to:

- (1) Eating establishments;
 - (2) Hotels and motels, including rooms rented to guests;
 - (3) Indoor places of entertainment and recreation;
 - (4) Enclosed shopping centers and malls, except retail stores and service establishments therein listed in paragraph (a)(1) hereof;
 - (5) Waiting areas and lobbies, except elevator lobbies listed in paragraphs (a)(1) and (7) through (13) hereof;
 - (6) Buildings and enclosed structures (or any portion thereof) owned, leased or operated by the City; and
 - (7) Any other enclosed indoor area used by members of the general public.
- (c) Responsibilities of Proprietors. The proprietor of a place set forth in subsection (a) or (b) hereof shall utilize his or her best efforts to ensure that the following provisions are met with regard to such place:
- (1) Signs. Signs indicating whether or not smoking is permitted shall be clearly, sufficiently and conspicuously posted in every room, building or other place where smoking is regulated by this chapter, and as follows:
 - A. In grocery stores, signs indicating that smoking is prohibited shall be visible to people entering the store, to people at meat and produce counters and to people in all checkout lines.
 - B. In theaters, auditoriums, concert halls and public meeting rooms, signs stating that smoking is prohibited shall be conspicuously posted within such areas and in associated lobbies. In the case of motion picture theaters, such information shall be shown upon the screen for at least five seconds prior to the showing of each feature motion picture.
 - C. At indoor service lines, signs indicating that smoking is prohibited shall be visible to people in such lines.
 - D. In an eating establishment, a sign shall be posted at the entrance clearly stating that a no-smoking section is available, and individual table signs indicating that smoking is prohibited shall be placed on all tables in the no-smoking section of the dining room.
 - E. In hotels and motels, signs indicating that no-smoking rooms are available shall be posted at registration areas.
 - F. Signs indicating that smoking is prohibited in elevators, elevator lobbies, stairwells, escalators and hallways shall be posted in elevators, in elevator lobbies on each floor and in stairwell and escalator entrances on each floor.
 - (2) Public seating. Where seating is provided for the public and a smoking area has been designated under Section 519.07, seating shall be arranged to provide a contiguous no-smoking area of sufficient size to meet customer demand. A seat in a no-smoking area shall be provided for each person requesting such a seat, and, in the case of controlled seating, each customer shall be asked as to his or her preference for smoking or no-smoking seating.
 - (3) Ashtrays. Ashtrays shall be removed from areas where smoking is prohibited, except that an ashtray may be placed by the entrance of a no-smoking area, provided that such area is clearly marked as a no-smoking area.
 - (4) Enforcement. Smokers shall be affirmatively directed to designated smoking areas and persons smoking in violation of this chapter shall be requested to stop.
 - (5) Resolution of disputes. In any dispute arising under this chapter, the rights of the nonsmokers shall be given preference over consideration of the smoker.
- (Ord. 143-93. Passed 3-8-94.)

519.05 SMOKING IN PLACES OF EMPLOYMENT.

(a) Smoking Prohibited. Except as provided in Section 519.06, the possession of lighted smoking materials in any form is prohibited in any of the following areas within a place of employment:

- (1) Employee stationary work areas;
- (2) Elevators, elevator lobbies, stairwells, escalators and hallways;
- (3) Indoor service lines;
- (4) Employee restrooms;
- (5) Vehicles used to transport employees in the scope of their employment;
- (6) Conference rooms, meeting rooms, classrooms and auditoriums; and
- (7) Medical facilities.

(b) Smoking Prohibited Except in Designated Sections. Except as provided in Sections 519.06 and 519.07, the possession of lighted smoking materials in any form is prohibited in any area within a place of employment not identified in subsection (a) hereof, including, but not limited to:

- (1) Cafeterias, lunchrooms and employee lounges;
- (2) Waiting areas and lobbies, except elevator lobbies listed in paragraph (a)(2) hereof; and
- (3) Any other enclosed indoor area used by employees.

(c) Responsibilities of Employers. The employer in charge of a place set forth in subsection (a) or (b) hereof shall utilize his or her best efforts to ensure that the following provisions are met with regard to such places:

- (1) Smoking policy. Within one week of the effective date of this section, each employer of ten or more employees shall adopt, implement and maintain a written smoking policy which contains, at a minimum, the restrictions in this section, the rights and responsibilities of employees and actions that will be taken to ensure that the policy is effective. The policy shall be communicated to all employees within three weeks of its adoption and at least yearly thereafter. All employers shall supply a written copy of the smoking policy to any prospective employee who so requests and to all new employees within one week of commencing their employment. This paragraph shall not be interpreted or construed to exempt employers of fewer than ten employees from any other requirement of this chapter.
 - (2) Signs. Signs indicating whether or not smoking is permitted shall be clearly, sufficiently and conspicuously posted in every room, building or other place managed by the employer and regulated by this chapter. The employer shall provide signs indicating that smoking is prohibited to any employee requesting such signs for the purpose of identifying his or her work area as a no-smoking area. Signs indicating that smoking is prohibited in elevators, elevator lobbies, stairwells, escalators and hallways shall be posted in elevators, in elevator lobbies on each floor and in stairwell and escalator entrances on each floor.
 - (3) Ashtrays. Ashtrays shall be removed from areas where smoking is prohibited, except that an ashtray may be placed by the entrance of a no-smoking area, provided that such area is clearly marked as a no-smoking area.
 - (4) Enforcement. Persons smoking in violation of the employer's smoking policy of this chapter shall be requested to stop.
 - (5) Resolution of disputes. In any dispute arising under the employer's smoking policy or this chapter, the rights of the nonsmoker shall be given preference over consideration of the smoker.
 - (6) Work areas. If, due to the proximity of smokers, size of the work area, poor ventilation or other factors, the restrictions in this section do not reduce the effects of smoke in an employee's work area to the satisfaction of the employee, the employer shall make additional accommodation by reassigning the employee to a different work area, by further restricting smoking in the place of employment or by implementing other measures reasonably designed to minimize or eliminate the effects of smoke on the employee.
 - (7) Nondiscrimination. No employer shall discharge, refuse to hire or in any manner discriminate against any employee or applicant for employment because such employee or applicant exercises on behalf of himself, herself or others any rights afforded him or her by the employer's smoking policy or by this chapter.
- (Ord. 143-93. Passed 3-8-94.)

519.06 EXCEPTIONS TO CHAPTER.

The restrictions in Sections 519.04 shall not apply to:

- (a) An entire room or hall which is being used for a private social function, provided that the seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place;
 - (b) A limousine for hire or a taxicab, where the driver and all passengers affirmatively consent to smoking in such vehicle;
 - (c) Retail tobacco stores;
 - (d) Any private room in a health care facility, or any semiprivate room in a health care facility if both occupants have requested, in writing, to be placed in a room where smoking is permitted;
 - (e) Bars;
 - (f) An eating establishment that seats fewer than thirty people, provided that:
 - (1) Such establishment comprises a single room.
 - (2) Such establishment was open to the public prior to the effective date of this chapter.
 - (3) A sign stating that a no-smoking area is not available is conspicuously posted on all public entrances or in a position clearly visible on entry into the establishment.
 - (g) Hotel and motel rooms needed for smoking guests during conventions, while such conventions are in progress;
 - (h) A single room in a business establishment, provided that:
 - (1) Such room is not normally used by members of the general public for the primary purpose of the establishment.
 - (2) Such room is enclosed by walls on all sides and openings adjacent to no-smoking areas are generally kept closed.
 - (3) Such room occupies less than twenty percent (20%) of the total floor space of the establishment.
 - (i) A private work area, enclosed by floor-to-ceiling walls with appropriate openings for ingress and egress, which is occupied exclusively by smokers, even though such office may be visited by nonsmokers, provided that:
 - (1) This exemption shall not be permitted where it conflicts with the requirements in Section 519.05(c)(6).
 - (2) This exemption shall not be construed to permit smoking in the reception areas or lobbies of offices.
 - (j) Private residences, except those portions of a private residence used as a child care or health care facility or serving as a place of employment;
 - (k) Bowling centers; and
 - (l) Areas of public lobbies located on the ground floor of multi-tenant establishments where no seating is made available.
- This section shall not be interpreted or construed to require proprietors or employers in charge of places set forth in subsections (a) through (i) hereof to permit smoking therein.
- (Ord. 143-93. Passed 3-8-94.)

519.07 DESIGNATION OF SMOKING AREAS.

Smoking areas may be designated in accordance with this Section by proprietors or employers in charge of places set forth in Sections 519.04(b) and 519.05(b), except in places in which smoking is otherwise prohibited by law. Where smoking areas are designated, signs indicating that smoking is permitted shall be posted pursuant to Sections 519.04(c)(1) and 519.05(c)(2).

- (a) Number and Size. Not more than fifty percent (50%) of the total floor space of any establishment, or portion thereof, within Section 519.04(b) or 519.05(b) may be designated as a smoking area. In the case of establishments consisting of a single room, not more than fifty percent (50%) of the room may be designated as a smoking area. In the case of establishments consisting of more than one room, not more than fifty percent (50%) of the rooms may be designated as smoking areas. Rooms with a total floor space of fewer than 2,500 square feet may not be separated into smoking and no-smoking areas, except

that this restriction does not apply to eating establishments.

- (b) **Barriers and Ventilation.** Smoking areas may be designated using existing barriers and ventilation systems to the maximum extent practicable, consistent with good engineering practices, to minimize the migration of smoke to adjacent no-smoking areas. Where modifications are made to existing establishments for other reasons, barriers shall be consistent with good engineering practices to further minimize the migration of smoke to adjacent no-smoking areas, provided that persons undertaking such modification shall not be required to incur any expense to meet the requirements of this subsection. Where new establishments are constructed, barriers and ventilation systems shall be designed and operated to the maximum extent practicable, consistent with good engineering practices, to minimize the migration and recirculation of smoke to no-smoking areas.
- (c) **Placement.** A smoking area may not be designated adjacent to an indoor service line or between a no-smoking area and the source of fresh air. Where practicable, smoking areas shall not be designated such that nonsmokers would be required to pass through such areas on a routine basis in order to perform job duties, to patronize an establishment or to reach a no-smoking area. Special consideration shall be given to individuals with a hypersensitivity to tobacco smoke.
- (d) **Prohibition Permitted.** This section shall not be interpreted or construed to require persons in charge of places set forth in Section 519.04(b) or 519.05(b) to provide smoking areas. Notwithstanding any other provision of this chapter, any proprietor or employer in charge of an establishment may declare the entire establishment as a no-smoking area.

(Ord. 143-93. Passed 3-8-94.)

519.08 VIOLATIONS.

(a) No person who owns, manages, operates or otherwise controls the use of any establishment subject to the restrictions of this chapter shall fail to comply with its provisions, except that no violation of this subsection shall be presumed solely on the basis of a violation of subsection (b) hereof.

(b) No person shall smoke in any area restricted by this chapter.

(c) Whoever violates any provisions of this section is guilty of a minor misdemeanor. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. Punishment shall be as provided in Section 501.99.

(Ord. 143-93. Passed 3-8-94.)

519.09 ENFORCEMENT BY FIRE DEPARTMENT.

Enforcement of this chapter shall be implemented by the Fire Department which shall:

(a) Establish a telephone number through which all complaints by citizens relating to violations of this chapter may be directed or referred;

(b) Require, while an establishment is undergoing otherwise mandated inspections, a "self-certification" from the owner, manager, operator or other person having control of such establishment that all requirements of this chapter have been complied with. Other Municipal departments conducting otherwise mandated inspections shall cooperate with the Fire Department in obtaining such self-certifications.

(c) For establishments found out of compliance with this chapter or receiving repeated citizen complaints:

(1) Provide to the proprietor or employer a copy of this chapter and such advisory assistance to rectify future violations as may be necessary to achieve compliance with this chapter;

(2) Follow up such investigation and advice with a written directive explaining, in detail, the steps required in order to achieve future compliance with this chapter; and

(3) If the violations do not cease within thirty days after issuing such directive, request commencement of a civil and/or criminal proceeding by the Department of Law, as may be appropriate pursuant to Section 519.08.

(Ord. 143-93. Passed 3-8-94.)

519.10 EDUCATION.

The Fire Department shall engage in a continuing program to inform and clarify the purposes of this chapter to citizens affected by it, and to guide proprietors and employers in their compliance. The Fire Department shall prepare guidelines for the designation of smoking areas, including, but not limited to, the number, size, barriers, ventilation and placement of such areas, and shall encourage proprietors and employers to utilize the guidelines in designating such areas.

(Ord. 143-93. Passed 3-8-94.)

519.11 COOPERATION BY GOVERNMENTAL AND EDUCATIONAL AGENCIES.

The Mayor shall annually request such governmental and educational agencies not under the jurisdiction of the City, having offices within the City, to establish local operating procedures to cooperate and comply with this chapter, and shall urge enforcement of their existing smoking restrictions.

(Ord. 143-93. Passed 3-8-94.)

519.12 INTERPRETATION OF CHAPTER.

This chapter shall not be interpreted or construed to permit smoking where it is otherwise restricted by law, or to relieve any proprietor, employer or other responsible party from any liability arising from exposure to tobacco smoke.

(Ord. 143-93. Passed 3-8-94.)

CHAPTER 521

Health, Safety and Sanitation

521.01 Abandoned refrigerators and airtight containers.

521.02 Venting of heaters and burners.

521.03 Barricades and warning lights; abandoned excavations.

521.04 Placement of material on public sidewalks and treelawns prohibited.

521.05 Notice to fill lots, remove putrid substances.

521.06 Duty to keep sidewalks in repair and clean.

521.07 Fences.

521.08 Littering and deposit of garbage, rubbish, junk, etc.

521.09 Noxious or offensive odors.

521.10 Removal of trash, noxious weeds, tall grasses and overgrown bushes and hedges.

521.11 Outdoor grills.

521.12 Disinfectant measures required for business establishments with walk-in customers.

521.13 Spreading contagion.

521.99 Penalty.

CROSS REFERENCES

See sectional histories for similar State law

Excavation liability - see Ohio R.C. 723.49 et seq.

Removal of noxious weeds - see Ohio R.C. 731.51 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 their 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, warehouseperson or repairperson.

(ORC 3767.29)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

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 them 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 BARRICADES AND WARNING LIGHTS; ABANDONED EXCAVATIONS.

- (a) No person shall abandon or knowingly permit to remain on public or private property, any excavation, well, cesspool or structure which is in the process of construction, reconstruction, repair or alteration unless the same is adequately protected by suitable barricades and guarded by warning devices or lights at night so that the condition will not reasonably prove dangerous to life or limb.
- (b) No person shall destroy, remove, damage or extinguish any barricade or warning light that is placed for the protection of the public so as to prevent injury to life or limb.
- (c) Any owner or agent in control of a premises upon which a basement, cellar, well or cistern has been abandoned due to demolition, failure to build or any other reason shall cause the same to be filled to the ground surface with rock, gravel, earth or other suitable material. (A.O.)
- (d) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (Ord. 76-2003. Passed 9-23-03.)

521.04 PLACEMENT OF MATERIAL ON PUBLIC SIDEWALKS AND TREELAWNS PROHIBITED.

- (a) No person shall place or knowingly drop upon any part of a sidewalk, playground or other public place any tacks, bottles, wire, glass, nails or other articles which may damage property of another or injure any person or animal traveling along or upon such sidewalk, playground or other public place.
- (b) No person shall walk on, or allow any animal upon, or injure or deface in any way, any soft or newly laid sidewalk pavement.
- (Ord. 05-96, Passed 1-23-96.)
- (c) No person shall place, deposit or maintain any merchandise, goods, items, signs, equipment, or material of any kind upon any public sidewalk or treelawn area, except for such reasonable time as may be actually necessary for the delivery or pick-up of articles. In no case, however, shall an article remain on such sidewalk for more than one hour for delivery or pick-up purposes. For purposes of this section, "treelawn" means the area, whether or not it is paved, located between the curb of the public street and the edge of the public sidewalk or, in the event the public sidewalk does not exist, to the edge of the public right-of-way which has been dedicated to the City for public purposes. The placement of items and materials by the City, the State, other political subdivisions of the State, or public utilities with the permission of the City, which are necessary for the furtherance of the functions of such governmental entities or public utilities, is exempt from this section.
- (Ord. 24-01. Passed 3-27-01.)
- (d) No person shall unload upon, or transport any heavy merchandise, goods, items, signs, equipment or material of any kind over or across any sidewalk or curb without first placing some sufficient protection over the pavement to protect against damage or injury. The affected area shall be rendered safe and free from danger.
- (e) No person shall allow any cellar or trap door, coal chute or elevator or lift opening in any sidewalk to remain open without providing suitable safeguards to protect and warn pedestrian traffic of the dangerous condition.
- (f) Whoever violates any provision of this section or participates in such violation is guilty of a misdemeanor of the first degree. In the event the person responsible for the placement, deposit or maintenance of such merchandise, goods, material, items, signs or equipment refuses to remove any such article after having been given notice to do so by the City, the City is hereby empowered to remove such item. The offender shall, in addition to any fine or other penalty imposed, be required as part of his sentence to pay the costs of removal and storage of such merchandise, goods, items, signs, equipment or material.
- (Ord. 05-96, Passed 1-23-96; Ord. 76-2003, Passed 9-23-03.)

521.05 NOTICE TO FILL LOTS, REMOVE PUTRID SUBSTANCES.

- (a) No person shall fail to comply with the following requirements within the lawful time after service or publication of the notice or resolution is made as required by law:
To fill or drain any lot or land or remove all putrid substances therefrom, or remove all obstructions from culverts, covered drains or natural watercourses as provided in Ohio R.C. 715.47. (A.O.)
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (Ord. 76-2003. Passed 9-23-03.)

521.06 DUTY TO KEEP SIDEWALKS IN REPAIR AND CLEAN.

- (a) No owner or occupant of abutting lands shall fail to keep the sidewalks, curbs or gutters in repair and free from snow, ice or any nuisance.

(ORC 723.011)

- (b) Every owner, occupant or person in control of any lot or land within the City along the front or side of which any sidewalk is located or upon which is located any sidewalk forming a continuation of a sidewalk upon a public highway and designed for use by the public as such a continuation, shall keep the sidewalk and continuation thereof free from snow, ice, slush, dirt, mud and any foreign substance. No owner, occupant or person in control shall place any merchandise or other object of any sort upon the sidewalk or continuation thereof, or knowingly permit such merchandise or object to remain thereon. A separate offense shall be deemed to have occurred on each day on which the sidewalks or continuations thereof are permitted to remain in a condition hereinbefore forbidden, or on which merchandise or other objects are placed or knowingly permitted to remain on the sidewalks or continuations thereof. However, no sidewalk or continuation thereof shall be required to be cleaned oftener than once in any one day, nor before the hour of 11:00 a.m. next following the fall of any snow. A continuation of a sidewalk within the meaning of this section shall not include any sidewalk or portion thereof located upon private property used only for single, two-family or multiple-family residences, as defined in the Zoning Code.
- (c) No person removing snow from any driveway or sidewalk within this City shall deposit the same on the pavement or sidewalk of any public street or any tree lawn in any public street, except the tree lawn immediately in front of the premises from which the snow is removed.

(Ord. 19-66. Passed 2-8-66.)

- (d) Whoever violates this section is guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

521.07 FENCES.

- (a) No person shall erect or maintain any fence charged with electrical current.
- (b) No person shall erect or maintain a barbed wire fence which abuts or is adjacent to any public street or sidewalk. Barbed wire partition fences may be erected and maintained as provided in Ohio R.C. 971.03. This subsection (b) does not prevent the placement and use of not more than three strands of barbed wire on top of a fence other than a barbed wire fence, provided such strands are not less than sixty inches from the ground.
- (Ord. 82-70. Passed 7-8-70.)
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (Ord. 76-2003. Passed 9-23-03.)

521.08 LITTERING AND DEPOSIT OF GARBAGE, RUBBISH, JUNK, ETC.

- (a) No person shall, without lawful authority, place or dispose of in any manner, upon any public property or upon the premises of another, any paper, trash, garbage, waste, rubbish, refuse, junk or any substance or material which is or may become noxious, offensive, injurious or dangerous to the public health, comfort or safety.
- (b) No person shall cause or allow trash, garbage, waste, rubbish, refuse or any other noxious or offensive materials or substances to be collected or remain in any place to the damage or prejudice of others or of the public, or unlawfully obstruct, impede, divert, corrupt or render unwholesome or impure, any natural watercourse.
- (Ord. 84-82. Passed 9-28-82.)
- (c) No person or entity shall cause or allow a receptacle for the collection and/or storage of items, donated or otherwise, to be located in the front yard or a side yard facing a public street, as these yards are defined in the Zoning Code, and the person or entity in control of the receptacle, the person or entity in control of the property the receptacle is located on, and the owner of the property the receptacle is located on shall be responsible for maintaining all items within a completely enclosed receptacle and not exposed to rain, snow, wind or other elements. All such receptacles shall be maintained in a manner so as to be free of rust, peeling paint, dirt or other unsightly condition.
- (d) A receptacle as described in (c) of this section that is used solely for the purpose of depositing construction and demolition debris or similar materials, commonly known as a "dumpster," may be placed in a front yard or in a side yard of a lot facing a public street for a period of up to five days or if being used in conjunction with construction taking place at the premises, for the time of active construction but only upon the advance registration of the use of the receptacle with the Commissioner of Building, Zoning and Housing along with the payment of any fee established by the Commissioner for the registration. A receptacle that is used to store personal property to transport such property to a different location, commonly known as a "PODS" – Portable On-Demand Storage -- may be placed in a front yard or in a side yard of a lot facing a public street for a period of up to five days but only upon the advance registration of the use of the receptacle with the Commissioner of Building, Zoning and Housing along with payment of any fee established by said Commissioner for the registration. For good cause shown, the Commissioner may extend the five-day period of time in this subsection (d) for one additional period of time of up to five days. A receptacle described in this subsection (d) may only be placed in a front yard or in a side yard facing a public street pursuant to the requirements of this subsection (d) if it cannot be placed in a rear yard or side yard not facing a public street because of the location of permanent structures on the property. (Ord. 32-2008. Passed 6-10-08.)

521.09 NOXIOUS OR OFFENSIVE ODORS.

- (a) No person shall erect, continue, use or maintain a dwelling, building, structure or place for a residence or for the exercise of a trade, employment or business, or for the keeping or feeding of an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort or property of individuals or of the public.
- (ORC 3767.13)
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree.
- (Ord. 76-2003. Passed 9-23-03.)

521.10 REMOVAL OF TRASH, NOXIOUS WEEDS, TALL GRASSES AND OVERGROWN BUSHES AND HEDGES.

- (a) Every owner, lessee, agent, or tenant having charge of the following described lot or lands within the Municipality is required to remove miscellaneous tree debris, trash, household items and any other obstructions that prevent the performance of necessary yard maintenance, and to cut, trim or remove overgrown bushes or noxious weeds and tall grasses on lots and lands as hereinafter described:
- (1) All sublots in a recorded subdivision in their entirety;
 - (2) All land which lies within twenty feet of a lot line which is adjacent to a lot or lands upon which a residential or commercial building exists; and
 - (3) All land which lies within 200 feet of a dedicated public street.
- (b) Every owner, lessee, agent or tenant having charge of any lot or lands described in this section, shall cause the lot or lands to be kept free from trash, overgrown bushes, noxious weeds and/or grasses which exceed six inches in height. Noxious weeds shall include but not be limited to rag weed, golden rod, poison ivy, poison oak, broadleaf weeds, crabgrass, goosegrass or any type of wild grass or wild flower whose seed or root is invasive to neighboring properties, or other similar vegetation generally considered to be weeds and not cultivated plants. Trash shall include fallen tree debris, excessive leaves, grass clippings, abandoned or obsolete above-ground pools, lawn toys or playground equipment, obsolete lawn furniture, household items, mattresses, tires, new or used construction materials or equipment, excess landscaping materials, firewood, furniture not designed for outdoor use, or any other items, discarded or otherwise, that prevent the necessary and proper maintenance of the yards and exterior property areas. Overgrown bushes or hedges shall include those bushes that, by their size or height, adversely impact the safety or appearance of a primary structure, that grow over the property line of the bush's owner, that grow over the edges of a public sidewalk or street, or that obstruct, by virtue of their size, height or location, the safe line-of-sight of either drivers or pedestrians at a driveway or intersection. Such trash, weeds, bushes, hedges or grasses, are hereby declared to be nuisance.
- (c) Notwithstanding any penalty provided for in this Code, when the Commissioner of Building, Zoning and Housing, the Director of Public Service and Properties, or any other person designated by the Mayor ascertains that trash, noxious weeds, overgrown bushes or hedges, or tall grasses described in this section are placed on or are growing on lands within the Municipality, the Commissioner, Director of Public Service and Properties or any other person designated by the Mayor, shall cause written notice to be served upon the owner, lessee, agent or tenant having charge of any lot or lands within the Municipality that trash, noxious weeds, overgrown bushes or hedges, and/or tall grasses have been placed or are growing upon and that they must be removed, cut and/or destroyed and that such remediation must be commenced within three days after the service of the notice. Such notice shall be delivered either personally, to the owner of the property or a person of suitable age and residing or performing business at the subject property, by regular, first-class mail, or by posting the notice at a conspicuous place upon the subject property. In addition to the notice provisions of this subsection, if the owner or other person having charge of the lands is a nonresident whose address is known, the notice shall be sent to the nonresident's most recent address of record by regular, first-class mail. If the address of the owner is unknown, it shall be sufficient to post the notice in a conspicuous location on the property. Only one such notice of violation shall be sent to the owner of a property per calendar year and shall contain language to the effect that subsequent notices will not be issued in that calendar year for remediation of the nuisance(s) set forth in this section. Subsequent violations may be immediately abated using resources assigned by the Municipality with no additional notice required.
- (d) The Commissioner of Building, Zoning and Housing, the Assistant Commissioner of Building, Zoning and Housing, Director of Public Service and Properties, any sworn police officer of the City, or other person designated by the Mayor, may make service and return of the notice provided for in subsection (c) hereof.
- (e) Cost Recovery.
- (1) If the owner, lessee, agent or tenant having charge of the lands mentioned in subsection (a) fails to comply with the notice, the Commissioner of Building, Zoning and Housing, Director of Public Service and Properties, or any other person designated by the Mayor, shall thereupon cause the trash to be removed and the noxious weeds, overgrown bushes or hedges and/or tall grasses to be cut and/or destroyed and for such purpose, the Commissioner, Director of Public Service and Properties, or any other person designated by the Mayor may assign the necessary resources to carry out the provisions of this section. The Commissioner of Building, Zoning and Housing or the Director of Public Service and Properties shall cause an invoice for services rendered to be served on a monthly basis to the owner of record via regular, first-class mail in the amount of one hundred dollars (\$100.00) per hour for each City employee, with a two-hour minimum charge, plus the amount of seventy-five dollars (\$75.00) per invoice for the administrative costs of the Department of Public Service and Properties, Division of Building, Zoning and Housing, Department of Finance and/or legal costs, and all other expenses incurred in the removal of trash or cutting of noxious weeds, overgrown bushes or hedges and/or tall grasses, including the service of third parties. The

Commissioner or Director of Public Service and Properties shall also report all the expenses and unpaid invoices to Council at an appropriate time.

- (2) Upon the receipt of the statement of costs incurred, Council shall make written return to the Fiscal Officer of Cuyahoga County of the City's action under the preceding subsections hereof with a statement of the charges for its services, the amount paid for the performing of the labor and a proper description of the premises for the purpose of making same a lien upon the lands and to be collected as other taxes and returned to the Municipality with the General Fund.

(f) The remedy set forth in subsection (e) hereof shall be in addition to the penalty provided in subsection (g) of this section.

(g) Whoever violates this section is guilty of a misdemeanor of the first degree.
(Ord. 46-2019. Passed 5-14-19.)

521.11 OUTDOOR GRILLS.

(a) No person shall kindle or maintain a fire to be used for the preparation of food in any type of outdoor or portable grill in any apartment or on any apartment house balcony or within fifteen feet of any structure housing more than one family.

(Ord. 86-68. Passed 7-23-68.)

(b) Whoever violates this section is guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

521.12 DISINFECTANT MEASURES REQUIRED FOR BUSINESS ESTABLISHMENTS WITH WALK-IN CUSTOMERS.

(a) **Definitions.** As used in this section:

- (1) "Business Establishment" means any entity providing services or products of any nature or kind whatsoever to the public, including, but not limited to, professional services, medical and dental services, personal services, entertainment, retail sales, wholesale clubs, grocery stores, convenience stores, outdoor markets, restaurants, bars and any other type of establishment that provides any service or any tangible thing to the public, whether for profit or not for profit.

- (2) "Walk-in Customer" means any person that physically enters upon the premises of any Business Establishment, whether or not the person purchases any services or products, and whether or not the person is present by pre-arranged appointment.

(b) All Business Establishments with Walk-in Customers shall provide hand sanitizer with a composition of at least seventy percent (70%) alcohol content to all Walk-in Customers for their use at the entrance to any Business Establishment.

(c) Business establishments that provide shopping carts and/or baskets shall provide disinfectant wipes with a composition of at least seventy percent (70%) alcohol content to all Walk-in Customers at a location inside the Business Establishment and immediately near the entrance to any Business Establishment for their use to wipe the surface of shopping carts and baskets, unless the Business Establishment elects to provide personnel to perform disinfection of carts and baskets before their use by each Walk-in Customer.

(d) Whoever violates this section after being given one (1) warning by the Municipal enforcement officer shall be fined five hundred dollars (\$500.00) for a first offense and one thousand dollars (\$1,000) for each subsequent offense. Each day that a violation of this section exists may be prosecuted as a separate violation.

(Ord. 46-2020. Passed 5-26-20.)

521.13 SPREADING CONTAGION.

(a) No person, knowing or having reasonable cause to believe that the person has a dangerous, contagious disease, shall knowingly fail to take reasonable measures to prevent exposing self to other persons, except when seeking medical aid.

(b) No person, having charge or care of a person whom the person having charge or care knows or has reasonable cause to believe has a dangerous, contagious disease, shall recklessly fail to take reasonable measures to protect others from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(c) No person, having charge of a public conveyance or place of public accommodation, amusement, resort or trade, and knowing or having reasonable cause to believe that persons using such conveyance or place have been or are being exposed to a dangerous, contagious disease, shall negligently fail to take reasonable measures to protect the public from exposure to the contagion, and to inform health authorities of the existence of the contagion.

(ORC 3701.81)

(d) Whoever violates this section is guilty of a misdemeanor of the second degree.

(ORC 3701.99(C))

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.

525.12 Dereliction of duty.

525.13 Interfering with civil rights.

525.14 Contempt of Council subpoena.

525.15 Presenting false name or information to law enforcement officer preparing or issuing a criminal complaint.

525.16 Assaulting police dog or horse or an assistance dog.

525.17 False allegation of peace officer misconduct.

525.18 Refusal to disclose personal information in 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, 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 persons with drug dependencies 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.

(a) No public servant shall knowingly solicit or accept or no person shall knowingly promise or give to a public servant either of the following:

- (1) Any compensation, other than is allowed by Ohio R.C. 102.03(G), (H), and (I) or other provisions of law, to perform the public servant's official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;
- (2) Additional or greater fees or costs than are allowed by law to perform the public servant's official duties.

(b) No public servant for the public servant's own personal or business use and no person for the person's own personal or business use or for the personal or business use of a public servant or party official, shall solicit or accept anything of value in consideration of either of the following:

- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
- (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity shall coerce any contribution in consideration of either of the following:

- (1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;
- (2) Preferring, or maintaining the status of, any public employee with respect to compensation, duties, placement, location, promotion or other material aspects of employment.

(d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this Municipality for a period of seven years from the date of conviction.

(f) Subsections (a), (b) and (c) hereof do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity or prohibit a political party, campaign committee, legislative campaign fund, political action committee or political contributing entity from accepting voluntary contributions.

(ORC 2921.43)

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 his 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 CONTEMPT OF COUNCIL SUBPOENA.**
- (a) Any person who fails to respond to or comply with any subpoena or process issued by Council or any authorized Committee of Council properly served upon them shall be held in contempt of Council or such Committee and, upon a finding by Council, shall be imprisoned in the City jail for not more than sixty days, or, in the event that the contempt lies in a refusal to testify or produce documents, papers, until the contempt is purged.
 - (b) Council, after it has ordered the imprisonment, shall have the power to order the release of any person either at such time as it is satisfied that the contempt has been purged or for good cause shown.
 - (c) It shall be prima-facie evidence that a subpoena or process has been properly served if the same shows a return thereon evidencing personal service upon the person or persons named therein by the person serving the same.
- (Ord. 44-74. Passed 3-26-74.)

- 525.15 PRESENTING FALSE NAME OR INFORMATION TO LAW ENFORCEMENT OFFICER PREPARING OR ISSUING A CRIMINAL COMPLAINT.**
- (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 preparing or issuing to the person a criminal complaint.
 - (b) Whoever violates this section is guilty of presenting false name or information to law enforcement officer, a misdemeanor of the first degree.
- (Ord. 183-91. Passed 12-23-91.)

- 525.16 ASSAULTING POLICE DOG OR HORSE OR AN ASSISTANCES DOG.**
(EDITOR'S NOTE: See Section 505.22.)

- 525.17 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)

- 525.18 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) "Club". A corporation or association of individuals organized in good faith for social, recreational, benevolent, charitable, fraternal, political, patriotic, or athletic purposes, which is the owner, lessor, or occupant of a permanent building or part of a permanent building operated solely for such purposes, membership in which entails the prepayment of regular dues, and includes the place so operated.
 - (f) "Community Facility". Means either of the following:
 - (1) Any convention, sports or entertainment facility or complex, or any combination of these, that is used by or accessible to the general public and that is owned or operated in whole or in part by the state, a state agency, or a political subdivision of the state or that is leased from, or located on property owned by or leased from, the state, a state agency, a political subdivision of the state, or a convention facilities authority created pursuant to Ohio R.C. 351.02;
 - (2) An area designated as a community entertainment district pursuant to Ohio R.C. 4301.80.
 - (g) "Controlled Access Alcohol and Beverage Cabinet". A closed container, either refrigerated, in whole or in part, or nonrefrigerated, access to the interior of which is restricted by means of a device that requires the use of a key, magnetic card, or similar device and from which beer, intoxicating liquor, other beverages or food may be sold.
 - (h) "Hotel". The same meaning as in Ohio R.C. 3731.01, subject to the exceptions mentioned in Ohio R.C. 3731.03.
 - (i) "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.
 - (j) "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.
 - (k) "Manufacture". All processes by which beer or intoxicating liquor is produced, whether by distillation, rectifying, fortifying, blending, fermentation, brewing, or in any other manner.
 - (l) "Manufacturer". Any person engaged in the business of manufacturing beer or intoxicating liquor.
 - (m) "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.
 - (n) "Nightclub". A place habitually operated for profit, where food is served for consumption on the premises, and one or more forms of amusement are provided or permitted for a consideration that may be in the form of a cover charge or may be included in the price of the food and beverages, or both, purchased by patrons.
 - (o) "Person". Includes firms and corporations.
 - (p) "Pharmacy". An establishment as defined in Ohio R.C. 4729.01, that is under the management or control of a licensed pharmacist in accordance with Ohio R.C. 4729.27.
 - (q) "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.
 - (r) "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.
 - (s) "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.
 - (t) "Sales Area or Territory". An exclusive geographic area or territory that is assigned to a particular A or B permit holder and that either has one or more political subdivisions as its boundaries or consists of an area of land with readily identifiable geographic boundaries. The term does not include, however, any particular retail location in an exclusive geographic area or territory that had been assigned to another A or B permit holder before April 9, 2001.

- (u) "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.
 - (v) "Spiritous 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.
 - (w) "Vehicle". All means of transportation by land, by water, or by air, and everything made use of in any way for such transportation.
 - (x) "Wholesale Distributor" and "Distributor". A person engaged in the business of selling to retail dealers for purposes of resale.
 - (y) "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, that is made from the fermented juices of grapes, fruits, or other agricultural products. The term includes cider, except as used in Ohio R.C. 4301.13, 4301.421, 4301.422, 4301.432, and 4301.44, and, for purposes of determining the rate of the tax that applies, Ohio R.C. 4301.43(B), 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 his 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 he is 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 his 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) Except as provided in subsection (c)(1)E. hereof, in an agency store;
 - (2) Except as provided in subsection (c) or (i) 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, D-9, 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, A-2f, S-1, or S-2 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 of 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) This section does not apply to a person that has in the person's possession an opened container of homemade beer or wine that is served in accordance with Ohio R.C. 4301.201(E). (ORC 4301.62)
- (j) 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 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.

533.07 Public indecency.

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 exposure by waiters, waitresses and entertainers.

533.15 Exposure of performers in public prohibited.

533.16 Exemption of theatrical establishments.

533.17 Counseling or assisting unlawful exposure prohibited.

533.18 Unlawful advertising of massage.

533.19 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.
 - (q) "Place where a person has a reasonable expectation of privacy" means a place where a reasonable person would believe that the person could fully disrobe in private.
 - (r) "Private area" means the genitals, pubic area, buttocks, or female breast below the top of the areola, where nude or covered by an under-garment.
(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 shall knowingly commit trespass or otherwise secretly or surreptitiously videotape, film, photograph, broadcast, stream, or otherwise record another person, in a place where a person has a reasonable expectation of privacy, for the purpose of viewing the private areas of that person.
- (c) No person shall secretly or surreptitiously videotape, film, photograph, or otherwise record another person above, 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) Whoever violates this section is guilty of voyeurism.
- (1) A violation of subsection (a) hereof is a misdemeanor of the third degree.
 - (2) A violation of subsection (b) hereof is a misdemeanor of the second degree.
 - (3) 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) **Procuring.** No person, knowingly and for gain, shall do either of the following:
- (1) A. Entice or solicit another to patronize a prostitute or brothel;
 - B. 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.
- (2) 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.
- (3) Whoever violates subsection (a)(1)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)(1)B. of this section is under eighteen years of age at the time of the violation, regardless of whether the offender who violates subsection (a)(1)B. 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 (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, procuring is a felony and shall be prosecuted under appropriate state law.
- (b) **Engagement in Sexual Activity for Hire.**
- (1) As used in this subsection (b) of this section:
 - A. "Person with a developmental disability" has the same meaning as in Ohio R.C. 2905.32.
 - B. "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.
 - (2) 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.
 - (3) 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 if the other person is a person with a developmental disability and the offender knows or has reasonable cause to believe that the other person is a person with a developmental disability.
 - (4) Whoever violates subsection (b)(2) of this section is guilty of engaging in prostitution, a misdemeanor of the first degree. Whoever violates subsection (b)(3) of this section is guilty of engaging in prostitution with a person with a developmental disability, a felony to be prosecuted under appropriate state law. In sentencing the offender under this division, 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, clergyperson, 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 they are 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 they are eighteen years of age or over or married;
 - (2) Exhibit any identification or document purporting to show that they are 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 EXPOSURE BY WAITERS, WAITRESSES AND ENTERTAINERS.

- (a) No person shall, while acting as a waiter, waitress or entertainer, in an establishment which serves either food alone, beverage alone or food and beverages (the term "beverages" as used herein shall include, but shall not be limited to, alcoholic beverages) for consumption on the premises of the establishment:
 - (1) Expose their genitals, pubic hair, buttocks, perineum, anal region or pubic hair region; or
 - (2) Expose 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) Expose any portion of the female breast at or below the areola thereof.
- (b) A person shall be deemed to be a waiter, waitress or entertainer if such person acts in that capacity without regard to whether or not such person is paid any compensation by the management of the establishment in which the activity is performed.
- (c) Whoever violates this section is guilty of a misdemeanor of the first degree. (Ord. 104-92. Passed 9-22-92.)

533.15 EXPOSURE OF PERFORMERS IN PUBLIC PROHIBITED.

- (a) No person shall, while participating in any live act, demonstration, or exhibition, in any public place, place open to the public or place open to public view:
 - (1) Expose their genitals, pubic hair, buttocks, perineum, anal region, or pubic region; or
 - (2) Expose 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) Expose any portion of the female breast at or below the areola thereof; or
 - (4) Commit actual or simulated touching, caressing or fondling on the breast, buttocks, anus or genitals; or
 - (5) Display films or pictures depicting acts, a live performance of which would be prohibited by this section.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree. (Ord. 123-92. Passed 11-24-92.)

533.16 EXEMPTION OF THEATRICAL ESTABLISHMENTS.

The provisions of Section 533.15 shall not apply to a theater, which is primarily devoted to theatrical performances.

(Ord. 123-92. Passed 11-24-92.)

533.17 COUNSELING OR ASSISTING UNLAWFUL EXPOSURE PROHIBITED.

- (a) No person shall cause, permit, procure, counsel or assist any person to expose or simulate exposure as prohibited in Sections 533.14 and 533.15.
- (b) Whoever violates this section is guilty of a misdemeanor of the first degree.

533.18 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)

533.19 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.**
- 537.07 Endangering children.**
- 537.08 Unlawful restraint.**
- 537.09 Coercion.**
- 537.10 Telecommunication harassment.**
- 537.11 Threatening or harassing telephone calls.**
- 537.12 Misuse of 9-1-1 system.**
- 537.13 Adulterating of or furnishing adulterated food or confection.**
- 537.14 Domestic violence.**
- 537.15 Temporary protection order.**
- 537.16 Illegal distribution of cigarettes, other tobacco products, or alternate nicotine products; transaction scans.**
- 537.161 Good faith compliance in cigarette and tobacco product sales.**
- 537.17 Reserved.**
- 537.18 Contributing to unruliness or delinquency of a child.**
- 537.19 Prohibiting juvenile from possessing, using, purchasing or receiving an electronic smoking device.**
- 537.20 Hazing prohibited.**
- 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 ordnance 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, the assault is a felony and shall be prosecuted under appropriate State law.

(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, 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.

(11) A prosecution for a violation of subsections (a) or (b) of this section does not preclude a prosecution for a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under subsections (a) or (b) of this section or any other section of the Ohio Revised Code may be prosecuted under subsections (a) or (b) of this section, the other sections of the Ohio Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of subsections (a) or (b) of this section and also is convicted of or pleads guilty to a violation of Ohio R.C. 2903.22, or any substantially equivalent municipal ordinance, based on the same conduct involving the same victim that was the basis of the violation of subsections (a) or (b) of this section, the offenses are allied offenses of similar import under Ohio R.C. 2941.25.

(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 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.
 - 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:
- 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.
 - 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;
 - The victim was engaged in the performance of the victim's duties.
 - 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.
- "Hospital" does not include any of the following:
 - 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;
 - 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.
- (21) "Emergency service responder" means any law enforcement officer, first responder, emergency medical technician-basic, emergency medical technician-intermediate, emergency medical technician-paramedic, firefighter, or volunteer firefighter.
- (22) "Family or household member" means any of the following:
- Any of the following who is residing or has resided with a person who is employed as an emergency service responder:
 - A spouse, a person living as a spouse, or a former spouse of a person who is employed as an emergency service responder;
 - A parent, a foster parent, or a child of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a person who is employed as an emergency service responder;
 - A parent or a child of a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder, or another person related by consanguinity or affinity to a spouse, person living as a spouse, or former spouse of a person who is employed as an emergency service responder.
 - The natural parent of any child of whom a person who is employed as an emergency service responder is the other natural parent or is the putative other natural parent.
- (23) "First responder", "emergency medical technician-basic", "emergency medical technician-intermediate" and "emergency medical technician-paramedic" have the same meanings as in Ohio R.C. 4765.01.
- (24) "Volunteer firefighter" has the same meaning as in Ohio R.C. 146.01.
- (25) "Person living as a spouse" means a person who is living or has lived with a person who is employed as an emergency service responder in a common law marital relationship, who otherwise is cohabiting with a person who is employed as an emergency service responder, or who otherwise has cohabited with a person who is employed as an emergency service responder within five years prior to the date of the alleged commission of the act in question.
- (26) "Co-worker" means a person who is employed by the organization or entity that is served by a person who is employed as an emergency service responder. (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:
- Violate subsection (a)(1) of this section;
 - 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:
- The offender previously has been convicted of or pleaded guilty to a violation of this section or a violation of Section 541.051.
 - 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.
 - 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.
 - The victim of the offense is a minor.
 - 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.
 - 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.
 - 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.
 - 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.
 - 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:
- Any mental illness or condition that involves some temporary substantial incapacity;
 - 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 communicate, 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:
- 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:
 - A spouse, a person living as a spouse, or a former spouse of the person;
 - A parent, a foster parent, or a child of the person, or another person related by consanguinity or affinity to the person;
 - 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.
 - 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) (1) 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 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.
- (2) No person shall knowingly place or attempt to place another in reasonable fear of physical harm or death by displaying a deadly weapon, regardless of whether the deadly weapon displayed is operable or inoperable, if either of the following applies:
- The other person is an emergency service responder, the person knows or reasonably should know that the other person is an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against an emergency service responder.
 - The other person is a family or household member or co-worker of an emergency service responder, the person knows or reasonably should know that the other person is a family or household member or co-worker of an emergency service responder, and it is the person's specific purpose to engage in the specified conduct against a family or household member or co-worker of an emergency service responder.
- (b) Whoever violates this section is guilty of menacing. Except as otherwise provided in this division, 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 victim of the offense is an emergency service responder in the performance of the responder's official duties, menacing is one of the following:
- Except as otherwise provided in subsection (a)(2)B. of this section, a misdemeanor of the first degree;
 - 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 or an emergency service responder, and that prior offense related to the officer's or employee's performance or anticipated performance of official responsibilities or duties or to the responder's performance of the responder's official duties, a felony to be prosecuted under appropriate state law.
- (c) A prosecution for a violation of subsection (a) of this section does not preclude a prosecution of a violation of any other section of the Ohio Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under subsection (a) of this section or any other section of the Ohio Revised Code may be prosecuted under subsection (a) of this section, the other section of the Ohio Revised Code, or both sections. However, if an offender is convicted of or pleads guilty to a violation of subsection (a) of this section and also is convicted of or pleads guilty to a violation of Ohio R.C. 2903.13, or any substantially similar municipal ordinance, based on the same conduct involving the same victim that was the basis of the violation of subsection (a) of this section, the offenses are allied offenses of similar import under Ohio R.C. 2941.25.
- (d) As used in this section:
- "Co-worker" has the same meaning as in Ohio R.C. 2903.13.
 - "Emergency service responder" has the same meaning as in Ohio R.C. 2903.13.
 - "Family or household member" have the same meanings as in Ohio R.C. 2903.13.
 - "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 child with a mental or physical disability 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 disability 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 child with a mental or physical disability 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:
- "Controlled substance" has the same meaning as in Ohio R.C. 3719.01.
 - "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:
- 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.
 - 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:
- 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.
 - 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:
- 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 telecommunications 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, 2911.21, 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) If the offender previously has been convicted of, pleaded guilty to or been adjudicated a delinquent child for a violation of a protection order issued pursuant to Ohio R.C. 2151.34, 2903.213 or 2903.214, two or more violations of Ohio R.C. 2903.21, 2903.211, 2903.22, or 2911.21 that involved the same person who is the subject of the protection order or consent agreement, or one or more violations of this section, violating a protection order is a felony and shall be prosecuted under appropriate state law.
- (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.
- (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) 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 pendent 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:
- 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.
 - The vending machine is inaccessible to the public when the place is closed.
 - 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:
- 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;
 - 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:
- Licensed as a cigarette wholesale dealer under Ohio R.C. 5743.15;
 - Licensed as a retail dealer as long as the person purchases cigarettes with the appropriate tax stamp affixed;
 - An export warehouse proprietor as defined in Section 5702 of the Internal Revenue Code;
 - An operator of a customs bonded warehouse under 19 U.S.C. 1311 or 19 U.S.C. 1555;
 - An officer, employee, or agent of the federal government or of this state acting in the person's official capacity;
 - A department, agency, instrumentality, or political subdivision of the federal government or of this state;
 - 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)

537.161 GOOD FAITH COMPLIANCE IN CIGARETTE AND TOBACCO PRODUCT SALES.

- (a) No person may be found guilty of a violation of Codified Ordinance Section 537.16 if any court of competent jurisdiction finds all of the following:
- That the person receiving or buying cigarettes or other tobacco products, at the time of so doing, exhibited to the donor, seller or distributor, or an agent or employee thereof, a driver's or commercial driver's license or an identification card issued under Sections 4507.50 to 4507.52 of the Revised Code showing that the person receiving or buying was then at least eighteen years of age;
 - That the donor, seller or distributor, or the agent or employee thereof, made a bona fide effort to ascertain the true age of the person buying or receiving cigarettes or other tobacco products by checking the identification presented, at the time of the purchase, to ascertain that the description on the identification related to the appearance of the buyer or receiver and that the identification presented had not been altered in any way; and
 - That the donor, seller or distributor, or the agent or employee thereof, had reason to believe that the person buying or receiving cigarettes or other tobacco products was at least eighteen years of age.
- (b) It is an affirmative defense to a charge under Section 537.16(b) based upon an allegation that a vending machine failed to meet the condition that the vending machine is located within the control of the person who owns or operates the place, or an employee of such person, that such vending machine was equipped with a fully operating remote control device which did not permit the use or operation of the vending machine unless and until such device was activated by the person who owns or operates the place, or an employee of such person.

(Ord. 102-97. Passed 10-28-97.)

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)

537.19 PROHIBITING JUVENILE FROM POSSESSING, USING, PURCHASING OR RECEIVING AN ELECTRONIC SMOKING DEVICE.

(a) As used in this section:

- (1) "Juvenile" means a person who is under eighteen (18) years of age;
- (2) "Electronic Smoking Device" means any electronic delivery device and product containing or delivering nicotine, lobelia or any other substance intended for human consumption that can be used by a person to simulate smoking in the delivery of nicotine or any other substance through inhalation of vapor from the product. Electronic smoking device shall include 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. Electronic Smoking Device shall not include any product that has been approved or otherwise certified by the U.S. Food and Drug Administration for legal sales for use in tobacco cessation treatment or other medical purposes, and is being marketed and sold solely for that approved purpose.
- (3) "Detained" means the temporary care of a juvenile pending Juvenile Court adjudication or disposition, or execution of a Juvenile Court order, in a public or private facility designed to physically restrict the movement and activities of a juvenile.
- (4) "Youth Smoking Education Program" means a private or public agency that is related to tobacco use, prevention, and cessation, that is carried out or funded by the Ohio Department of Health pursuant to Section 3701.84 of the Ohio Revised Code, that utilizes educational methods focusing on the negative health effects of smoking and using tobacco products, and that is not more than twelve hours in duration.
- (b) No juvenile shall do any of the following unless accompanied by a parent, spouse who is eighteen years of age or older, or legal guardian of the juvenile:
 - (1) Use, consume or possess an Electronic Smoking Device;
 - (2) Purchase or attempt to purchase an Electronic Smoking Device;
 - (3) Order, pay for, or share the cost of an Electronic Smoking Device; or
 - (4) Except as provided in subsection (e) of this section, accept or receive an Electronic Smoking Device.
- (c) No juvenile shall knowingly furnish false information concerning that juvenile's name, age, or other identification for the purpose of obtaining an Electronic Smoking Device.
- (d) A Juvenile Court shall not adjudicate a juvenile a delinquent or unruly child for a violation of subsection (b)(1), (2), (3), or (4) of this Section.
- (e) (1) It is not a violation of subsection (b)(4) of this Section for a juvenile to accept or receive an Electronic Smoking Device if the juvenile is required to do so in the performance of the juvenile's duties as an employee of that juvenile's employer and the juvenile's acceptance or receipt of an Electronic Smoking Device occurs exclusively within the scope of the juvenile's employment.
- (2) It is not a violation of subsection (b)(1), (2), (3), or (4) of this Section if the juvenile possesses, purchases or attempts to purchase, orders, pays for, shares the cost of, or accepts or receives an Electronic Smoking Device, while participating in an inspection or compliance check conducted by a federal, state, local, or corporate entity at a location at which Electronic Smoking Devices are sold or distributed.
- (3) It is not a violation of subsection (b)(1) or (4) of this Section for a juvenile to accept, receive, use, consume, or possess an Electronic Smoking Device while participating in a research protocol if all of the following apply:
 - A. The parent or legal guardian of the juvenile has consented in writing to the juvenile participating in the research protocol.
 - B. A review board sanctioned by the appropriate federal or state agency, or an equivalent entity, has approved the research protocol.
 - C. The juvenile is participating in the research protocol at the facility or location specified in the research protocol.
- (f) If a Juvenile Court finds that a juvenile violated subsection (b)(1), (2), (3), (4) or (c) of this Section, the court may do any or all of the following:
 - (1) Require the juvenile to attend a youth smoking education program or other smoking treatment program approved by the court, if one is available;
 - (2) Require the juvenile to perform not more than ten (10) hours of community service; and/or
 - (3) Impose a fine of not more than one hundred dollars (\$100.00);
- (g) If a juvenile disobeys a Juvenile Court order issued pursuant to subsection (f) of this Section, the court may do any or all of the following:
 - (1) Increase the fine imposed upon the juvenile under subsection (f)(3) of this Section;
 - (2) Require the juvenile to perform an additional twenty (20) hours of community service; and/or
 - (3) Suspend for a period of thirty (30) days the temporary instruction permit, probationary driver's license, or driver's license issued to the juvenile.
- (h) A juvenile alleged or found to have violated subsection (b) or (c) of this Section shall not be detained under any provision of this Chapter or any other provision of the Revised Code.

(Ord. 15-2020. Passed 3-10-20.)

537.20 HAZING PROHIBITED.

(a) As used in this section:

- (1) "Hazing" means doing any act or coercing another, including the victim, to do any act of initiation into any student or other organization or any act to continue or reinstate membership in or affiliation with any student or other organization that causes or creates a substantial risk of causing mental or physical harm to any person, including coercing another to consume alcohol or a drug of abuse, as defined in Ohio R.C. 3719.011.
- (2) "Organization" includes a national or international organization with which a fraternity or sorority is affiliated.
- (b) (1) No person shall recklessly participate in the hazing of another.
- (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization.
- (c) (1) No person shall recklessly participate in the hazing of another when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to the other person.
- (2) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or other educational institution, public or private, shall recklessly permit the hazing of any person associated with the organization when the hazing includes coerced consumption of alcohol or drugs of abuse resulting in serious physical harm to that person.
- (d) Whoever violates subsections (b) or (c) of this section is guilty of hazing. A violation of subsections (b)(1) or (b)(2) of this section is a misdemeanor of the second degree. A violation of subsections (c)(1) or (c)(2) of this section is a felony to be prosecuted under appropriate state law. (ORC 2903.31)
- (e) Reckless failure to immediately report knowledge of hazing.
 - (1) No administrator, employee, faculty member, teacher, consultant, alumnus, or volunteer of any organization, including any primary, secondary, or post-secondary school or any other public or private educational institution, who is acting in an official and professional capacity shall recklessly fail to immediately report the knowledge of hazing to a law enforcement agency in the county in which the victim of hazing resides or in which the hazing is occurring or has occurred.
 - (2) A violation of subsection (e)(1) of this section is a misdemeanor of the fourth degree, except that the violation is a misdemeanor of the first degree if the hazing causes serious physical harm. (ORC 2903.311(B), (C))

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 Shopping carts.

541.09 Obstructing or tampering with fire hydrants.

541.10 Ethnic intimidation.

541.11 Vehicular vandalism.

541.12 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 impose 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 (c) 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 SHOPPING CARTS.

(a) Removal from Premises: Definition. No person shall remove any shopping cart from the premises of any shop, store, grocery or supermarket in the City, regardless of any intention to convert such cart to his own use. "Shopping cart", as used herein, means any rolling or nonrolling basket or container such as is used in shops, stores, groceries and supermarkets.

(Ord. 104-66. Passed 12-13-66.)

(b) Abandonment on Public Property. No person shall abandon any shopping cart from a shop, store, grocery or supermarket on any street, alley, sidewalk or other public place within the City. Carts found on adjacent public parking lots shall be considered on the premises and not abandoned.

(c) Reclamation Fee and Disposal. Any shopping cart found abandoned on any street, alley, sidewalk or other public place within the City, may be impounded by the police who shall then notify the owner thereof. Such carts may be reclaimed by the owner, upon payment of five dollars. Thirty days after notice to the owner, any unclaimed carts may be disposed of by the City. Carts that are unidentifiable as to ownership may be disposed of by the City, thirty days after they are impounded.

(Ord. 73-66. Passed 8-23-66.)

- (d) Whoever violates this section is guilty of a minor misdemeanor.

541.09 OBSTRUCTING OR TAMPERING WITH FIRE HYDRANTS.

(a) No person, without lawful authority, shall place or cause to be placed any building material, vehicle or obstruction of any kind within seven feet of any fire hydrant. No person shall, except in case of fire or unless duly authorized to do so by proper public authority, open, tamper with or use water from any fire hydrant.

(Ord. 60-66. Passed 6-28-66.)

- (b) No person shall damage or destroy any fire hydrant or part thereof, located within the City.

(Ord. 409. Passed 11-16-53.)

- (c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

541.10 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)

541.11 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)

541.12 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

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 Misdemeanor 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 Identity fraud.
 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 per cent nitrogen to eighteen per cent 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 545.10(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 their 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 their 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 their 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 they have probable cause to believe has committed any act described in subsection (b)(1) or (2) hereof or that they have 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 MISDEMEANOR 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 misdemeanor theft, a misdemeanor of the first degree. If any of the following criteria are met, then a violation of this section is a felony to be prosecuted under appropriate state law:
- (1) The value of the property or services stolen is one thousand dollars (\$1,000) or more; or
 - (2) If the property stolen is any of the property listed in Ohio R.C. 2913.71;
 - (3) The victim of the offense is an elderly person, disabled adult, active duty service member, or spouse of an active duty service member, or
 - (4) The property stolen is a firearm or dangerous ordnance, or
 - (5) The property stolen is a motor vehicle, or
 - (6) The property stolen is any dangerous drug, or
 - (7) 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
 - (8) The property stolen is anhydrous ammonia, or
 - (9) 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 (c) 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.
- (b) 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.
- (c) 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.
- (d) No person, with purpose to violate this section, shall receive, possess, control or dispose of a credit card.
- (e) 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 IDENTITY FRAUD.

(EDITOR'S NOTE: Former Section 545.21 has been deleted from the Codified Ordinances. Ohio R.C. 2913.49, from which Section 545.21 was derived, has been reclassified from a misdemeanor to a felony 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 Unlawful possession of dangerous ordnance. (Repealed)

549.06 Failure to secure dangerous ordnance, firearm or other deadly weapon.

549.07 Unlawful transactions in weapons.

549.08 Underage purchase of firearm.

549.09 Sale of explosives to minors.

549.10 Sale of fireworks.

549.11 Fireworks display permits.

549.12 Discharging firearms.

549.13 Blasting; permit and bond.

549.14 Registration to carry a handgun. (Repealed)

549.15 Possessing replica firearm in school.

549.16 Defacing identification marks of a firearm; possessing a defaced firearm.

549.17 Concealed handgun licenses; possession of revoked or suspended license; additional restrictions; posting signs prohibiting possession.

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, and does not include any knife, razor or cutting instrument if the instrument was not 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. (A.O.)
- (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, firearm, 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). (Ord. 67-2019. Passed 6-25-19.)
- (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 a military explosive, or for use in mining, quarrying, excavating or demolitions;
- (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) "Dangerous ordnance" means any of the following, except as provided in subsection (k) hereof:
- (1) Any automatic or sawed-off firearm, or zip-gun;
 - (2) Any explosive device or incendiary device;
 - (3) Nitroglycerin, nitrocellulose, nitrostarch, PETN, cyclonite, TNT, picric acid and other high explosives; amatol, tritonal, tetrytol, pentolite, peccretol, 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.
- (k) "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 (k)(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. (A.O.)
- (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, firearm, 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). (Ord. 67-2019. Passed 6-25-19.)
- (l) "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.
- (m) (1) "Concealed handgun license" or "license to carry a concealed handgun" means, subject to subsection (m)(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 license 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.
- (n) "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.
- (o) "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.
- (p) "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".
- (q) "Active duty" has the same meaning as defined in 10 U.S.C. 101. (ORC 2923.11; A.O.)
- (r) (1) "Law enforcement officer" means any of the following who is employed, commissioned, disposed, appointed, or elected in a capacity, a political subdivision of this state, or an agency, department, or instrumentality of this state or a political subdivision of this state:
- A. Any law enforcement officer, as defined in section 2901.01 of the Revised Code;
 - B. Any peace officer, as defined in section 2935.01 of the Revised Code;
 - C. Any person who is employed in this state, who is authorized to carry firearms, and who is subject to and in compliance with the requirements of section 109.801 of the Revised Code.
- (2) For purposes of the Revised Code, both of the following apply regarding a law enforcement officer who, by virtue of the officer's employment, commissioning, disposition, appointment, or election as that law enforcement officer, has a responsibility to enforce all or certain laws:
- A. The officer holds public office on a continuing basis and has a continuing duty to enforce those laws.
 - B. The officer is always on duty, regardless of whether the officer is, or is not, officially within work hours or officially on the clock. (ORC 9.69; Ord. 67-2019. Passed 6-25-19; Ord. 23-2021. Passed 4-27-21.)

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, before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then is carrying a concealed handgun, provided that it is not a violation of this section if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
 - (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 or 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 has been issued a concealed handgun license that is valid at the time of the alleged carrying or possession of a handgun or who, at the time of the alleged carrying or possession of a handgun, 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 Ohio R.C. 2923.125(G)(1), unless the person knowingly is in a place described in Ohio R.C. 2923.126(B).
- (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) (1) 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.
- (2) If a person is convicted of, was convicted of, pleads guilty to, or has pleaded guilty to a violation of subsection (b)(1) of this section as it existed prior to June 13, 2022, the person may file an application under Ohio R.C. 2953.35 requesting the expungement of the record of conviction.
- (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) A person shall not be arrested for a violation of subsection (a)(2) of this section solely because the person does not promptly produce a valid concealed handgun license. If a person is arrested for a violation of subsection (a)(2) of this section and is convicted of or pleads guilty to the violation, 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) Carrying concealed weapons in violation of subsection (b)(1) of this section is a misdemeanor of the second degree.
- (4) 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 subsection (b)(2) or (b)(3) hereof 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; A.O.)
- (i) Each person, board, or entity that owns or controls any place or premises identified in division (B) of section 2923.126 of the Revised Code as a place into which a valid license does not authorize the licensee to earn a concealed handgun, or a designee of such a person, board, or entity, shall post in the following one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises. (Ord. 67-2019. Passed 6-25-19.)

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) Before or at the time a law enforcement officer asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an officer during the stop and the person already has notified another officer of that fact during the same stop;
- (2) Before or at the time an employee of the motor carrier enforcement unit asks if the person is carrying a concealed handgun, knowingly fail to disclose that the person then possesses or has a loaded handgun in the commercial motor vehicle, provided that it is not a violation of this division if the person fails to disclose that fact to an employee of the unit during the stop and the person already has notified another employee of the unit of that fact during the same stop;
- (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 has been issued a concealed handgun license that is valid at the time in question or the person 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 Ohio R.C. 2923.125(G)(1).
- 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.
- (4) (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 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, or 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 June 13, 2022, the person may file an application under Ohio R.C. 2953.35 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. A violation of subsection (b)(1) or (b)(2) of this section is a misdemeanor of the second degree. 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) "Commercial motor vehicle" has the same meaning as in Ohio R.C. 4506.25(A).
- (2) "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.
- (3) "Motor vehicle", "street" and "highway" have the same meanings as in Ohio R.C. 4511.01.
- (4) A. "Unloaded" means:

- 1. With respect to a firearm other than a firearm described in subsection (h)(4)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)(4)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)(4)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.
- (i) Subsection (h)(4) of this section does not affect the authority of a person who has been issued a concealed handgun license that is valid at the time in question to have one or more magazines or speed loaders containing ammunition anywhere in a vehicle, without being transported as described in those divisions, so 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. A person who has been issued a concealed handgun license that is valid at the time in question 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.

(ORC 2923.16)

549.05 UNLAWFUL POSSESSION OF DANGEROUS ORDNANCE. (REPEALED)

(EDITOR'S NOTE: Ohio R.C. 2923.17 (Section 549.05 of these Codified Ordinances) was made a felony by the Ohio General Assembly by Amended House Bill 728, effective August 22, 1978. For this reason Section 549.05 was repealed as part of the 1980 revision and updating of these Codified Ordinances.)

549.06 FAILURE TO SECURE DANGEROUS ORDNANCE, FIREARM OR OTHER DEADLY WEAPON.

(a) No person, in acquiring, possessing, carrying or using any dangerous ordnance, firearm, or other deadly weapon shall negligently fail to take proper precautions:

- (1) To secure the dangerous ordnance, firearm, or other deadly weapon 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 a dangerous ordnance, firearm, or other deadly weapon, a misdemeanor of the second degree.

(Ord. 45-2020. Passed 5-12-20.)

549.07 UNLAWFUL TRANSACTIONS IN WEAPONS.

(a) No person shall do any of the following:

- (1) Recklessly sell, lend, give, or furnish any firearm to any person prohibited by section 2923.13 or 2923.15 of the Revised Code from acquiring or using any firearm, or recklessly sell, lend, give, or furnish any dangerous ordnance to any person prohibited by section 2923.13, 2923.15, or 2923.17 of the Revised Code from acquiring or using any dangerous ordnance;
- (2) Possess any firearm or dangerous ordnance with purpose to dispose of it in violation of division (a) of this section;
- (3) Except as otherwise provided in division (b) of this section, knowingly solicit, persuade, encourage, or entice a federally licensed firearms dealer or private seller to transfer a firearm or ammunition to any person in a manner prohibited by state or federal law;
- (4) Except as otherwise provided in division (b) of this section, with an intent to deceive, knowingly provide materially false information to a federally licensed firearms dealer or private seller;
- (5) Except as otherwise provided in division (b) of this section, knowingly procure, solicit, persuade, encourage, or entice a person to act in violation of division (a)(3) or (4) of this section;
- (6) Manufacture, possess for sale, sell, or furnish to any person other than a law enforcement agency for authorized use in police work, any brass knuckles, cestus, billy, blackjack or sandbag;
- (7) 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 section 2923.17 of the Revised Code, or negligently fail to take a complete record of the transaction and forthwith forward a copy of that record to the sheriff of the county or safety director or police chief of the municipality where the transaction takes place;
- (8) Knowingly fail to report to law enforcement authorities forthwith the loss or then of any firearm or dangerous ordnance in the person's possession or under the person's control.

(b) Divisions (a)(3), (4), and (5) of this section do not apply to any of the following:

- (1) A law enforcement officer who is acting within the scope of the officer's duties;
- (2) A person who is acting in accordance with directions given by a law enforcement officer described in division (b)(1) of this section.
- (c) Whoever violates this section is guilty of unlawful transactions in weapons. Violation of subsections (a)(1) or (2) hereof is a misdemeanor of the second degree. Violation of subsection (a)(3) hereof is a misdemeanor of the fourth degree. A violation of division (a)(1) or (2) of this section is a felony of the fourth degree. A violation of division (a)(3), (4), or (5) of this section is a felony of the third degree. A violation of division (a)(3), (6) or (4) (7) of this section is a misdemeanor of the second degree. A violation of division (a)(5) (8) of this section is a misdemeanor of the fourth degree.

(d) As used in this section:

- (1) "Ammunition" has the same meaning as in section 2305.401 of the Revised Code.
- (2) "Federally licensed firearms dealer" has the same meaning as in section 5502.63 of the Revised Code.
- (3) "Materially false information" means information regarding the transfer of a firearm or ammunition that portrays an illegal transaction as legal or a legal transaction as illegal.
- (4) "Private seller" means a person who sells, offers for sale, or transfers a firearm or ammunition and who is not a federally licensed firearms dealer.

(Ord. 23-2021. Passed 4-27-21.)

549.08 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)

549.09 SALE OF EXPLOSIVES TO MINORS.

(a) No person shall sell, give away or otherwise dispose of or deliver to any person under eighteen years of age any explosives, as defined in Ohio R.C. 3743.01(A), whether such person is acting for himself or for any other person.

(ORC 3743.02)

(b) Whoever violates this section is guilty of a misdemeanor of the third degree.

549.10 SALE OF FIREWORKS.

(EDITOR'S NOTE: See Section 1505.07)

549.11 FIREWORKS DISPLAY PERMITS.

(EDITOR'S NOTE: See Section 1505.07.)

549.12 DISCHARGING FIREARMS.

(a) No person shall discharge any air gun, rifle, shotgun, revolver, pistol or other firearm within the corporate limits of the Municipality. (A.O.)

(b) This section does not apply when firearms are used in self defense, in the discharge of official duty or when otherwise lawfully authorized.

(1) A person is allowed to act in self-defense, defense of another, or defense of that person's residence. If, at the trial of a person who is accused of an offense that involved the person's use of force against another, there is evidence presented that tends to support that the accused person used the force in self-defense, defense of another, or defense of that person's residence, the prosecution must prove beyond a reasonable doubt that the accused person did not use the force in self-defense, defense of another, or defense of that person's residence, as the case may be.

(Ord. 67-2019, Passed 6-25-19.)

(c) Whoever violates this section is guilty of a misdemeanor of the fourth degree.

549.13 BLASTING; PERMIT AND BOND.

(a) It is the purpose of this section to provide minimum standards for safety to life, limb and property, for the general public, welfare and for safe practices in the use of explosives for blasting purposes in the construction industry and related operations including drilling and preparation for blasting.

(b) The section shall apply to every construction project, including demolition, maintenance and repair work, where explosives are used for blasting purposes and compliance with the requirements herein contained shall be necessary on all such projects.

(c) No person shall blast or carry on any blasting operations within the City, without first having obtained a permit from the Director of Public Safety. The applicant for such permit shall file with the Director of Public Safety a bond deemed adequate in each case by the Director and approved by the Director of Law, which bond shall become available in the payment of any damages arising from the neglect of the contractor, his agent or employees.

(d) The Director of Public Safety shall make such rules and regulations, to have the force and effect of law, which may be required to facilitate the administration and enforcement of the provisions of this section to provide safety to life and limb of persons and the preservation of property. The rules and regulations formulated by the Director of Public Safety shall be published and a copy filed with the Clerk of Council and the same are hereby adopted and incorporated as fully as if set out at length herein, and from the date this section shall take effect, the provisions thereof shall be controlling within the limits of the City.

(Ord. 7-65, Passed 1-26-65.)

(e) Whoever violates this section is guilty of a misdemeanor of the third degree.

549.14 REGISTRATION TO CARRY HANDGUN. (REPEALED)

(EDITOR'S NOTE: Former Section 549.14 was repealed by Ordinance 67-2019, passed June 25, 2019.)

549.15 POSSESSING REPLICA 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) (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 who is authorized to carry deadly weapons or dangerous ordnance and is acting within the scope of the officer's, agent's, or employee's duties;

B. A law enforcement officer who is authorized to carry deadly weapons or dangerous ordnance;

C. A security officer employed by a board of education or governing body of a school during the time that the security officer is on duty pursuant to that contract of employment;

D. 1. Any person not described in subsections (b)(1)A. to (b)(1)C. of this section who has written authorization from the board of education or governing body of a school to convey deadly weapons or dangerous ordnance into a school safety zone or to possess a deadly weapon or dangerous ordnance in a school safety zone and who conveys or possesses the deadly weapon or dangerous ordnance in accordance with that authorization, provided both of the following apply:

a. Either the person has successfully completed the curriculum, instruction, and training established under Ohio R.C. 5502.703, or the person has received a certificate of having satisfactorily completed an approved basic peace officer training program or is a law enforcement officer;

b. The board or governing body has notified the public, by whatever means the affected school regularly communicates with the public, that the board or governing body has authorized one or more persons to go armed within a school operated by the board or governing authority;

2. A district board or school governing body that authorizes a person under subsection (b)(1)D. of this section shall require that person to submit to an annual criminal records check conducted in the same manner as Ohio R.C. 3319.39 or Ohio R.C. 3319.391.

E. Any person who is employed in this state, who is authorized to carry deadly weapons or dangerous ordnance, 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 (b)(1)E. of this section does not apply to the person.

(2) This section does not apply to premises upon which home schooling is conducted. This section 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, re-enactment or other dramatic presentation, school safety training, or a ROTC activity or another similar use of the object.

(3) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if, at the time of that conveyance, attempted conveyance, or possession of the handgun, all of the following apply:

A. The person does not enter into a school building or onto school premises and is not at a school activity.

B. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance, or possession or the person 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 Ohio R.C. 2923.125(G)(1).

C. The person is in the school safety zone in accordance with 18 U.S.C. § 922(q)(2)(B).

D. The person is not knowingly in a place described in Ohio R.C. 2923.126(B)(1) or (B)(3) to (8).

(4) This section does not apply to a person who conveys or attempts to convey a handgun into, or possesses a handgun in, a school safety zone if at the time of that conveyance, attempted conveyance, or possession of the handgun all of the following apply:

A. The person has been issued a concealed handgun license that is valid at the time of the conveyance, attempted conveyance or possession or the person 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 Ohio R.C. 2923.125(G)(1).

B. The person leaves the handgun in a motor vehicle.

C. The handgun does not leave the motor vehicle.

D. If the person exits the motor vehicle, the person locks the motor vehicle.

(c) Whoever violates this section is guilty of illegal possession of an object indistinguishable from a firearm in a school safety zone. Except as otherwise provided in this division, 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 this section, illegal possession of an object indistinguishable from a firearm in a school safety zone is a felony to 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, 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 Ohio R.C. 4510.02(A)(4).

(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 subsection (d)(1) of this section, the court in its discretion may choose not to impose the suspension, revocation or denial required in subsection (d)(1) of this section, 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(C) - (G))

549.16 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)

549.17 CONCEALED HANDGUN LICENSES; POSSESSION OF REVOKED OR SUSPENDED LICENSE; ADDITIONAL RESTRICTIONS; POSTING SIGNS PROHIBITING POSSESSION.

(a) Possession of a Revoked or Suspended Concealed Handgun License.

(1) No person, except in the performance of official duties, shall possess a concealed handgun license that was issued and that has been revoked or suspended.

(2) Whoever violates this subsection (a) is guilty of possessing a revoked or suspended concealed handgun license, a misdemeanor of the third degree.

(ORC 2923.121(B), (C))

(b) Additional Restrictions. Pursuant to Ohio R.C. 2923.126:

(1) A concealed handgun license that is issued under Ohio R.C. 2923.125 shall expire five years after the date of issuance. A licensee who has been issued a license under that section shall be granted a grace period of thirty days after the licensee's license expires during which the licensee's license remains valid. Except as provided in subsection (b)(2) and (b)(3) of this section, a licensee who has been issued a concealed handgun license under Ohio R.C. 2923.125 or 2923.1213 may carry a concealed handgun anywhere in this state if the license is valid when the licensee is in actual possession of a concealed handgun. The licensee shall give notice of any change in the licensee's residence address to the sheriff who issued the license within forty-five days after that change.

(2) A valid concealed handgun license does not authorize the licensee to carry a concealed handgun in any manner prohibited under Ohio R.C. 2923.12(B) or in any manner prohibited under Ohio R.C. 2923.16. A valid license does not authorize the licensee to carry a concealed handgun into any of the following places:

A. A police station, sheriff's office, or state highway patrol station, premises controlled by the bureau of criminal identification and investigation; a state correctional institution, jail, workhouse, or other detention facility; any area of an airport passenger terminal that is beyond a passenger or property screening checkpoint or to which access is restricted through security measures by the airport authority or a public agency; or an institution that is maintained, operated, managed, and governed pursuant to Ohio R.C. 5119.14(A) or Ohio R.C. 5123.03(A)(1);

B. A school safety zone if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.122;

C. A courthouse or another building or structure in which a courtroom is located if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.123;

- D. Any premises or open air arena for which a D permit has been issued under Ohio R.C. Chapter 4303 if the licensee's carrying the concealed handgun is in violation of Ohio R.C. 2923.121;
- E. Any premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle or unless the licensee is carrying the concealed handgun pursuant to a written policy, rule, or other authorization that is adopted by the institution's board of trustees or other governing body and that authorizes specific individuals or classes of individuals to carry a concealed handgun on the premises;
- F. Any church, synagogue, mosque, or other place of worship, unless the church, synagogue, mosque, or other place of worship posts or permits otherwise;
- G. Any building that is a government facility of this state or a political subdivision of this state and that is not a building that is used primarily as a shelter, restroom, parking facility for motor vehicles, or rest facility and is not a courthouse or other building or structure in which a courtroom is located that is subject to subsection (b)(2)C. of this section, unless the governing body with authority over the building has enacted a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building;
- H. A place in which federal law prohibits the carrying of handguns.
- (3) A. Nothing in this subsection (b) shall negate or restrict a rule, policy, or practice of a private employer that is not a private college, university, or other institution of higher education concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer. Nothing in this subsection (b) shall require a private employer of that nature to adopt a rule, policy, or practice concerning or prohibiting the presence of firearms on the private employer's premises or property, including motor vehicles owned by the private employer.
- B. 1. A private employer shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises or property of the private employer, including motor vehicles owned by the private employer, unless the private employer acted with malicious purpose. A private employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto the premises or property of the private employer.
2. A political subdivision shall be immune from liability in a civil action, to the extent and in the manner provided in Ohio R.C. Chapter 2744, for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto any premises or property owned, leased, or otherwise under the control of the political subdivision. As used in this division, "political subdivision" has the same meaning as in Ohio R.C. 2744.01.
3. An institution of higher education shall be immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a licensee bringing a handgun onto the premises of the institution, including motor vehicles owned by the institution, unless the institution acted with malicious purpose. An institution of higher education is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to the institution's decision to permit a licensee or class of licensees to bring a handgun onto the premises of the institution.
- C. 1. a. Except as provided in subsection (b)(3)C.2. of this section and Ohio R.C. 2923.1214, the owner or person in control of private land or premises, and a private person or entity leasing land or premises owned by the state, the United States, or a political subdivision of the state or the United States, may post a sign in a conspicuous location on that land or on those premises prohibiting persons from carrying firearms or concealed firearms on or onto that land or those premises. Except as otherwise provided in this division, a person who knowingly violates a posted prohibition of that nature is guilty of criminal trespass in violation of Ohio R.C. 2911.21(A)(4) and is guilty of a misdemeanor of the fourth degree. If a person knowingly violates a posted prohibition of that nature and the posted land or premises primarily was a parking lot or other parking facility, the person is not guilty of criminal trespass under Ohio R.C. 2911.21 or under any other criminal law of this State or criminal law, ordinance, or resolution of a political subdivision of this State, and instead is subject only to a civil cause of action for trespass based on the violation.
- b. If a person knowingly violates a posted prohibition of the nature described in this division and the posted land or premises is a child day-care center, type A family day-care home, or type B family day-care home, unless the person is a licensee who resides in a type A family day-care home or type B family day-care home, the person is guilty of aggravated trespass in violation of Ohio R.C. 2911.211. Except as otherwise provided in this division, the offender is guilty of a misdemeanor of the first degree. If the person previously has been convicted of a violation of this division or any substantially equivalent state law or municipal ordinance, 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, the offender is guilty of a felony to be prosecuted under appropriate state law.
2. A landlord may not prohibit or restrict a tenant who is a licensee and who on or after September 9, 2008 enters into a rental agreement with the landlord for the use of residential premises, and the tenant's guest while the tenant is present, from lawfully carrying or possessing a handgun on those residential premises.
3. As used in subsection (b)(3)C. of this section:
- a. "Residential premises" has the same meaning as in Ohio R.C. 5321.01, except "residential premises" does not include a dwelling unit that is owned or operated by a college or university.
- b. "Landlord", "tenant", and "rental agreement" have the same meanings as in Ohio R.C. 5321.01.
- (4) A person who holds a valid concealed handgun license issued by another state that is recognized by the Attorney General pursuant to a reciprocity agreement entered into pursuant to Ohio R.C. 109.69 or a person who holds a valid concealed handgun license under the circumstances described in Ohio R.C. 109.69(B) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license under that section that is valid at the time in question.
- (5) A. A peace officer has the same right to carry a concealed handgun in this State as a person who was issued a concealed handgun license under Ohio R.C. 2923.125, provided that the officer when carrying a concealed handgun under authority of this section is carrying validating identification. For purposes of reciprocity with other States, a peace officer shall be considered to be a licensee in this State.
- B. An active duty member of the armed forces of the United States who is carrying a valid military identification card and documentation of successful completion of firearms training that meets or exceeds the training requirements described in Ohio R.C. 2923.125(G)(1) has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions as specified in this subsection (b).
- C. A tactical medical professional who is qualified to carry firearms while on duty under Ohio R.C. 109.771 has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125.
- (6) A. A qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (b)(6)C. of this section has the same right to carry a concealed handgun in this state as a person who was issued a concealed handgun license under Ohio R.C. 2923.125 and is subject to the same restrictions that apply to a person who has been issued a license issued under that section that is valid at the time in question. For purposes of reciprocity with other states, a qualified retired peace officer who possesses a retired peace officer identification card issued pursuant to subsection (b)(6)B. of this section and a valid firearms requalification certification issued pursuant to subsection (b)(6)C. of this section shall be considered to be a licensee in this state.
- B. 1. Each public agency of this State or of a political subdivision of this State that is served by one or more peace officers shall issue a retired peace officer identification card to any person who retired from service as a peace officer with that agency, if the issuance is in accordance with the agency's policies and procedures and if the person, with respect to the person's service with that agency, satisfies all of the following:
- a. The person retired in good standing from service as a peace officer with the public agency, and the retirement was not for reasons of mental instability.
- b. Before retiring from service as a peace officer with that agency, the person was authorized to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law and the person had statutory powers of arrest.
- c. At the time of the person's retirement as a peace officer with that agency, the person was trained and qualified to carry firearms in the performance of the peace officer's duties.
- d. Before retiring from service as a peace officer with that agency, the person was regularly employed as a peace officer for an aggregate of 15 years or more, or, in the alternative, the person retired from service as a peace officer with that agency, after completing any applicable probationary period of that service, due to a service-connected disability, as determined by the agency.
2. A retired peace officer identification card issued to a person under subsection (b)(6)B.1. of this section shall identify the person by name, contain a photograph of the person, identify the public agency of this state or of the political subdivision of this State from which the person retired as a peace officer and that is issuing the identification card, and specify that the person retired in good standing from service as a peace officer with the issuing public agency and satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section. In addition to the required content specified in this subsection, a retired peace officer identification card issued to a person under subsection (b)(6)B.1. of this section may include the firearms requalification certification described in subsection (b)(6)C. of this section, and if the identification card includes that certification, the identification card shall serve as the firearms requalification certification for the retired peace officer. If the issuing public agency issues credentials to active law enforcement officers who serve the agency, the agency may comply with subsection (b)(6)B.1. of this section by issuing the same credentials to persons who retired from service as a peace officer with the agency and who satisfy the criteria set forth in subsection (b)(6)B.1.a. to (b)(6)B.1.d. of this section, provided that the credentials so issued to retired peace officers are stamped with the word "RETIRED".
3. A public agency of this state or of a political subdivision of this State may charge persons who retired from service as a peace officer with the agency a reasonable fee for issuing to the person a retired peace officer identification card pursuant to subsection (b)(6)B.1. of this section.
- C. 1. If a person retired from service as a peace officer with a public agency of this state or of a political subdivision of this state and the person satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section, the public agency may provide the retired peace officer with the opportunity to attend a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801. The retired peace officer may be required to pay the cost of the course.
2. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801, the retired peace officer's successful completion of the firearms requalification program requalifies the retired peace officer for purposes of subsection (b)(6) of this section for five years from the date on which the program was successfully completed, and the requalification is valid during that five-year period. If a retired peace officer who satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section satisfactorily completes such a firearms requalification program, the retired peace officer shall be issued a firearms requalification certification that identifies the retired peace officer by name, identifies the entity that taught the program, specifies that the retired peace officer successfully completed the program, specifies the date on which the course was successfully completed, and specifies that the requalification is valid for five years from that date of successful completion. The firearms requalification certification for a retired peace officer may be included in the retired peace officer identification card issued to the retired peace officer under subsection (b)(6)B. of this section.
3. A retired peace officer who attends a firearms requalification program that is approved for purposes of firearms requalification required under Ohio R.C. 109.801 may be required to pay the cost of the program.
- (7) As used in subsection (b)(6) of this section:
- A. "Governing body." Has the same meaning as in Ohio R.C. 154.01.
- B. "Government facility of this State or a political subdivision of this State" means any of the following:
1. A building or part of a building that is owned or leased by the government of this State or a political subdivision of this State and where employees of the government of this State or the political subdivision regularly are present for the purpose of performing their official duties as employees of the State or political subdivision;
2. The office of a deputy registrar serving pursuant to Ohio R.C. Chapter 4503 that is used to perform deputy registrar functions.
- C. "Qualified retired peace officer" means a person who satisfies all of the following:
1. The person satisfies the criteria set forth in subsections (b)(6)B.1.a. to (b)(6)B.1.d. of this section.
2. The person is not under the influence of alcohol or another intoxicating or hallucinatory drug or substance.
3. The person is not prohibited by Federal law from receiving firearms.
- D. "Retired peace officer identification card" means an identification card that is issued pursuant to subsection (b)(6)B. of this section to a person who is a retired peace officer.
- E. "Tactical medical professional." Has the same meaning as in Ohio R.C. 109.71.
- F. "Validating identification." Means photographic identification issued by the agency for which an individual serves as a peace officer that identifies the individual as a peace officer of the agency.
- (ORC 2923.126)
- (c) **Posting of Signs Prohibiting Possession.** Each person, board, or entity that owns or controls any place or premises identified in Ohio R.C. 2923.126(B) as a place into which a valid license does not authorize the licensee to carry a concealed handgun, or a designee of such a person, board, or entity, shall post in the following one or more conspicuous locations in the premises a sign that contains a statement in substantially the following form: "Unless otherwise authorized by law, pursuant to the Ohio Revised Code, no person shall knowingly possess, have under the person's control, convey, or attempt to convey a deadly weapon or dangerous ordnance onto these premises.
- (ORC 2923.1212)

549.99 PENALTY.
(EDITOR'S NOTE: See Section 501.99 for penalties applicable to any misdemeanor classification.)

CHAPTER 553

Noise Control

- 553.01 Definitions.**
- 553.02 General prohibition of noise emissions.**
- 553.03 Noise from persons or stationary noise sources in Residential Zoning Districts or affecting Residential or institutional property.**
- 553.04 Noise from persons or stationary noise sources in Commercial and Industrial Zoning Districts.**
- 553.05 Noise from mobile noise sources.**
- 553.06 Mufflers.**
- 553.07 Noise in places used for entertainment.**
- 553.08 Noise artificially amplified.**
- 553.09 Federal Noise Emission Standards.**
- 553.10 Conflict with other regulations.**
- 553.11 Variances.**
- 553.99 Penalty.**

CROSS REFERENCES

Squealing tires; exhaust noises - see TRAF. 331.36
Noise limits by zoning district - see P. & Z. 1171.05(c)
Disturbing the peace by unreasonable noise - see GEN. OFF. 509.03

553.01 DEFINITIONS.

Acoustical terminology used throughout these regulations is that most recently approved as American Standard Acoustical Terminology by the American National Standards Institute; except as may be specified otherwise herein.

- (a) "Person" means any individual, partnership, association, firm, syndicate company, trust, corporation, department, bureau or agency or any other entity recognized by law as the subject of rights and duties.
- (b) "Noise pollution" means the presence of that amount of acoustic energy for that period of time necessary:
- (1) To cause temporary or permanent hearing loss in persons exposed;
 - (2) To be otherwise injurious, or tend to be, on the basis of current information, injurious to the public health or welfare;
 - (3) To cause a nuisance;
 - (4) To interfere with domestic tranquility, that is, the comfortable enjoyment of life and property or the conduct of business; or
 - (5) To exceed standards or restrictions established herein or pursuant to the granting of any permit by Council.
- (c) "Noise level" or "sound-pressure level", in decibels, means 10 times the common logarithm of the ratio of the time-mean-square pressure of the sound to the reference mean-square sound pressure. The reference mean-square sound pressure shall be 4×10^{-8} microbars squared. (20 micropascal squared)
- (d) "dBA" mean the A-weighted sound-pressure level in decibels, as measured by a sound-level meter complying with the provisions of the American Standard for General Purpose Sound Level Meters, American National Standards Institute, properly calibrated, and operated on the "A" weighting network.
- (e) "Noise source" means any person or animal, or mechanical, electrical or thermal device which radiates acoustic energy.
- (f) "Mobile noise source" means any source, other than an individual, of acoustic energy in motion relative to a fixed position.
- (g) "Stationary noise source" means any source, other than an individual, of acoustic energy in a fixed position.

(Ord. 31-76. Passed 4-27-76.)

553.02 GENERAL PROHIBITION OF NOISE EMISSIONS.

No person or persons owning, leasing or controlling the operation of any source or sources of noise, including an animal or animals, shall willfully, negligently or through failure to take necessary precautions, permit the establishment or continuation of a condition of noise pollution.

(Ord. 31-76. Passed 4-27-76.)

553.03 NOISE FROM PERSONS OR STATIONARY NOISE SOURCES IN RESIDENTIAL ZONING DISTRICTS OR AFFECTING RESIDENTIAL OR INSTITUTIONAL PROPERTY.

- (a) No persons shall create or cause to be emitted from his person, or from any stationary noise source, any noise which causes or results in a noise level equal to, or exceeding, 55 dBA measured at any lot line of any lot located in any residential zoning district or in residential or institutional use elsewhere.
- (b) Notwithstanding the prohibition in subsection (a), no person shall cause unreasonable noise to be made which is audible in any residential zoning district or in residential or institutional use elsewhere. For purposes of this section, "unreasonable noise" shall be defined as follows, but such enumerations shall not be deemed to be exclusive:

- (1) Horns, signaling devices, etc. The sounding of any horn or signaling device on any motor vehicle, motorcycle or other vehicle except as a danger warning; the creation by means of any such sounding of any such device for an unnecessary and unreasonable period of time.
 - (2) Radios, phonographs, etc. The use or operation of any radio receiving set, musical instrument, phonograph or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet and comfort of a neighboring inhabitants, or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. Such operation between the hours of 9:00 p.m. and 7:30 a.m. in such manner as to be audible at a distance of fifty feet from the building, structure or vehicle in which it is located shall be prima facie evidence of violation of this section.
 - (3) Loudspeakers, amplifiers for advertising. The use of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the producing or reproducing of sound which is cast upon the public streets for the purpose of commercial advertising or attracting the attention of the public.
- (Ord. 135-97. Passed 12-9-97.)
- (4) Exhausts. The discharge into the open air of any steam engine, stationary internal combustion engine, motorboat, motor vehicle, motorcycle, motorized bicycle, all-terrain vehicle, or other such similar motorized device except through a muffler or other device which will effectively prevent loud or explosive noises therefrom.
- (Ord. 44-2003. Passed 8-12-03.)
- (5) Shouting. The shouting and crying of peddlers, hawkers, vendors and others which disturb the peace and quiet of the neighborhood.
 - (6) Heavy equipment. The use of heavy earth-moving and construction equipment in close proximity to residential dwellings during the hours of 7:00 p.m. to 7:30 a.m. The above regulations shall apply except in periods of emergency, as determined by the Director of Public Safety and upon permit issued by the Director of Public Safety.
 - (7) Lawn mowers, power-driven lawn and garden equipment and other tools. The operation of a lawn mower, power-driven lawn and garden equipment and power-driven tools and excessive hammering or pounding within 300 feet of any dwelling unit before 7:30 a.m. or after 9:00 p.m.

(Ord. 135-97. Passed 12-9-97.)

553.04 NOISE FROM PERSONS OR STATIONARY NOISE SOURCES IN COMMERCIAL AND INDUSTRIAL ZONING DISTRICTS.

No person shall create or cause to be emitted from his person, or from any stationary noise source, any noise which causes or results in a noise level equal to, or exceeding 60 dBA measured at any lot line of any lot located in any Commercial or Industrial Zoning District other than a lot in residential or institutional use.

(Ord. 31-76. Passed 4-27-76.)

553.05 NOISE FROM MOBILE NOISE SOURCES.

No person shall create or cause to be emitted from any mobile noise source, other than his person, any noise which causes or results in a maximum noise level equal to, or exceeding 85 dBA at a distance equal to, or greater than, 50 feet from the closest point of the source, except for trucks exceeding 10,000 pounds gross vehicle weight, for which the maximum allowable noise level shall be 90 dBA at a distance equal to, or greater than, 50 feet from the closest point of the source.

For other measurement distances the following table shall apply:

Measurement Distance in feet	50	40	30	20
Maximum Permissible Noise Level in dBA	85	87	90	93
For trucks exceeding 10,000 pounds gross vehicle weight, permissible noise levels in the preceding table shall be increased by 5 dBA.				

(Ord. 31-76. Passed 4-27-76.)

553.06 MUFFLERS.

No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle in a manner such that the noise, measured in dBA emitted by the motor vehicle is increased above that emitted by the vehicle as originally manufactured. No person shall operate a motor vehicle with an inoperative or defective muffler.

(Ord. 31-76. Passed 4-27-76.)

553.07 NOISE IN PLACES USED FOR ENTERTAINMENT.

No person or persons owning, leasing or controlling the operation of any place used for entertainment shall willfully, negligently or through failure to take necessary precautions, permit the imposition or continuation of a sound pressure (noise) level exceeding 85 dBA on any member of the audience by such person or by any person engaged or employed by such person.

(Ord. 31-76. Passed 4-27-76.)

553.08 NOISE ARTIFICIALLY AMPLIFIED.

Noise artificially amplified must be confined to the premises of origin and may be so amplified only within buildings.

(Ord. 31-76. Passed 4-27-76.)

553.09 FEDERAL NOISE EMISSION STANDARDS.

In those instances where Federal Noise Emission Standards are established for any noise source, then those Noise Emission Standards shall also be applicable to the same or similar noise sources existing under conditions, such as noninterstate commerce, where the Federal Standards would not otherwise apply. Federal Noise Emission Standards shall supersede in all conflicts with this chapter when the Federal Standards are less stringent.

(Ord. 31-76. Passed 4-27-76.)

553.10 CONFLICT WITH OTHER REGULATIONS.

These noise control regulations shall not relieve any person from complying with other laws, statutes, codes, regulations or ordinances of the City.

(Ord. 31-76. Passed 4-27-76.)

553.11 VARIANCES.

Council may grant variances after public hearing or may reject applications on review without a hearing. Variances thus granted may be effective for no longer than one year.

(Ord. 31-76. Passed 4-27-76.)

553.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a minor misdemeanor, provided the offender has not previously been convicted of a violation of this chapter. If the offender has previously been convicted of any violation of this chapter, then such subsequent violation shall be a misdemeanor of the second degree. (See Section 501.99 for penalties applicable to any misdemeanor classification.)

(Ord. 31-76. Passed 4-27-76.)

CODIFIED ORDINANCES OF RICHMOND HEIGHTS PART SEVEN - BUSINESS REGULATION CODE

Chap. 703. Amusement and Exhibitions.
Chap. 705. Detergents.
Chap. 709. Fortunetelling.
Chap. 713. Garage Sales.
Chap. 723. Sweepstakes/Internet Cafes.
Chap. 725. Mechanical Amusement Devices.

Chap. 726. Recovery of Costs of Emergency Actions.
 Chap. 729. Oil and Gas Wells.
 Chap. 732. Pawnbrokers.
 Chap. 741. Peddlers and Solicitors.
 Chap. 743. Ice Cream Trucks.
 Chap. 749. Fair Housing.
 Chap. 757. Picnics and Clambakes.
 Chap. 761. Landlord Tenant Relations.
 Chap. 763. Tenant's Right to Pay to Stay.
 Chap. 773. Roadside Stands.
 Chap. 783. Snow Plow Operators.
 Chap. 787. Video Surveillance Systems for Apartment Complexes.
 Chap. 791. Emergency Alarm Systems.
 Chap. 793. Automated External Defibrillators Required at Physical Fitness Facilities.
 Chap. 795. Video Service Providers.

CHAPTER 703

Amusements and Exhibitions

703.01 Exhibition defined.
703.02 License required.
703.03 License applications; bond.
703.04 License fee.
703.05 Insurance.
703.06 Exemption.
703.07 Nonissuance to past offenders authorized.
703.08 Compliance with operating regulations required.
703.09 License revocation.
703.10 Responsibility of property owner.
703.11 Permit issuance.
703.12 Additional protection charge.
703.13 Inspection.
703.14 Location of mechanical amusement device restricted.
703.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R. C. 715.63
 Parades and assemblages - see TRAF. 311.02
 Disorderly conduct and peace disturbances - see GEN. OFF. Ch. 509
 Gambling and bingo - see GEN. OFF. Ch. 517
 Obscenity and sex offenses - see GEN. OFF. Ch. 533

703.01 EXHIBITION DEFINED.

As used in this chapter, "exhibition" means and includes circuses, menageries, sideshows, animal shows, amusement shows, arts and crafts displays, antique shows and displays, and other similar amusement enterprises or enterprises directed toward the sale of such materials, including arts and crafts materials and antiques, which are open to the public, whether or not an admission fee is charged.

(Ord. 12-77. Passed 7-5-77.)

703.02 LICENSE REQUIRED.

No person shall conduct or operate any exhibition that is open to the public without first having obtained a license therefor in the manner set forth in this chapter.

(Ord. 12-77. Passed 7-5-77.)

703.03 LICENSE APPLICATIONS; BOND.

(a) Applications for the license required in Section 703.02 shall be made in writing to the Mayor. If the erection of tents, temporary buildings or structures is contemplated in conjunction with the operation of such amusement or exhibition, specifications, plat plans and such other data as may be required shall accompany such application in duplicate, and the same shall be approved by the Commissioner of Building and the Fire Chief before a license shall be issued. The application for a license shall contain the following:

- (1) The name of the person, firm or corporation or organization sponsoring or operating such amusement or exhibition.
 - (2) The permanent residence address of the applicant, the name and permanent address of the business and such additional information as may be needed for the proper guidance of City officials in the issuance of the license applied for, including a federal employer identification, state employer identification or social security number.
 - (3) The location to be used.
 - (4) The length of time for which such license is to be issued, including dates of use, which shall not exceed four days.
 - (5) The hours desired to be open, but limited to 11:00 p.m. on weekdays and Saturday and limited to 10:00 p.m. on Sunday for all activities, except those conducted within a permanent structure and enclosure, which activities may be conducted up to, but not later than 12:00 midnight.
 - (6) No public address system shall be used beyond 9:00 p.m. on any day except for use in connection with a main drawing, if any, in which such public address system may be used for no more than thirty minutes between the hours of 9:00 p.m. and 10:00 p.m. and in no event later than 10:00 p.m.
 - (7) A list of the concessions, games and mechanical and amusement devices.
 - (8) Provisions made for sanitary facilities shall be in compliance with the Building Code.
 - (9) Evidence of full compliance with Ohio State Workers' Compensation Law.
 - (10) Such other pertinent information as might enable the Mayor, or a person authorized by him, to determine that the assemblage for such amusement or exhibition is not against the public morals, convenience, safety, health or welfare of the community.
- (b) The application shall be accompanied by a bond of one thousand dollars (\$1,000) guaranteeing that no assembly or disassembly of booths, rides, stands or equipment will occur between the hours of 10:00 p.m. and 7:00 a.m. the following morning and further conditioned upon compliance by applicant with the terms and conditions contained in the application.
- (c) The bond shall be secured by cash or a surety company authorized to do business in the state and shall be subject to approval by the Director of Law. Such bond shall provide the forfeiture of the entire one thousand dollars (\$1,000) in the event of violation, or noncompliance.

(Ord. 72-88. Passed 9-21-88.)

703.04 LICENSE FEE.

The applicant shall pay a fee of one hundred dollars (\$100.00) for the license required in Section 703.02 at the time the application is filed. If the permit is not issued or if the application is withdrawn, the fee shall be refunded.

(Ord. 72-88. Passed 9-21-88.)

703.05 INSURANCE.

The license required in Section 703.02 shall not be issued for conducting an amusement or exhibition until the applicant therefor has placed on file with the Finance Director a certificate of insurance indicating that there is in effect public liability insurance covering any damages that may result from the use and operation of any and all devices and facilities in connection with such exhibition. Such insurance shall include the City as named insured and shall be in the minimum amount of one million dollars (\$1,000,000) for each person and five million dollars (\$5,000,000) for each accident. Such requirement shall not apply to exhibitions of inanimate objects for sale.

(Ord. 72-88. Passed 9-21-88.)

703.06 EXEMPTION.

The license required in Section 703.02 shall be required but no fee shall be charged for any amusement or exhibition sponsored by or given for the benefit of any organization referred to in Section 183.03 of these Codified Ordinances, provided that there is full compliance with the provisions of Chapter 183 of these Codified Ordinances.

(Ord. 12-77. Passed 7-5-77.)

703.07 NONISSUANCE TO PAST OFFENDERS AUTHORIZED.

It shall be cause for the refusal to issue the license required in Section 703.02 to any applicant when it appears that the location at which the amusement or exhibition is to be held has been the subject of three prior separate individual violations occurring upon such premises, whether brought about by the property owner or persons using the premises.

(Ord. 12-77. Passed 7-5-77.)

703.08 COMPLIANCE WITH OPERATING REGULATIONS REQUIRED.

In addition to the other requirements set forth in this chapter, the applicant shall furnish suitable evidence of his intention and ability to comply with the following conditions:

- (a) The operator and sponsor of the exhibition shall each be wholly responsible for maintaining order and for keeping the site clean and free of trash, papers and other debris. Trash containers, adequate in number, shall be placed in convenient locations for the use of the public.
- (b) No ride shall be placed in operation for public use until adequate safeguards have been placed to protect both operators and the general public from inadvertently coming into contact with moving parts, belts, motor gears, electrical switches and other possible or potential hazards.
- (c) Any vehicles, trailers or vans used for the housing of animals, materials, wares, merchandise or other belongings of the exhibitor shall be parked in such a location as to prohibit the conspicuous placement of such vehicle, van or trailer overnight and, when not in use for the particular exhibition, and in compliance with other provisions of these Codified Ordinances.
- (d) The license required in Section 703.02 to be issued for each exhibitor shall be prominently displayed on the outside of each vehicle, van, booth or trailer after such license has been issued by the City.

(Ord. 12-77. Passed 7-5-77.)

703.09 LICENSE REVOCATION.

The license required in Section 703.02 may be revoked by the Mayor at any time during the life of such license for any violation by the licensee of any of the provisions of these Codified Ordinances relating to such license, the subject matter of the license or any false information given upon the application for the license. Such revocation of the license may be in addition to any fine imposed for such violation and Section 741.19 of

these Codified Ordinances shall specifically apply in this instance.

(Ord. 12-77. Passed 7-5-77.)

703.10 RESPONSIBILITY OF PROPERTY OWNER.

In the event that any property owner within the City permits a violation to continue after notification of such violation, such property owner shall be deemed to have committed the violation which he permits to continue.

(Ord. 12-77. Passed 7-5-77.)

703.11 PERMIT ISSUANCE.

Applications for the license required in Section 703.02 shall be filed at least two weeks prior to the date of use, and the Mayor or his appointee shall cause the license to be issued immediately upon satisfying himself that all the conditions herein required have been complied with.

(Ord. 72-88 Passed 9-21-88.)

703.12 ADDITIONAL PROTECTION CHARGE.

When, in the opinion of the Mayor, the amusement or exhibition will attract sufficient pedestrian and vehicular traffic as to necessitate the employment of additional police and firemen, then the applicant shall deposit a sum, in addition to the fee herein charged which is estimated to be sufficient to pay for such additional expense. If the deposit is greater than the sum necessary to pay such expense, then the remainder shall be refunded. If the amount deposited is insufficient to pay the additional expense, then the applicant shall reimburse the City in an amount equal to the overage.

(Ord. 72-88. Passed 9-21-88.)

703.13 INSPECTION.

The Chief of the Department of Fire or other member thereof authorized by him shall make such inspections of the premises as he may deem necessary and shall make such orders with respect to removal of combustible materials or structures as are required for the protection of the persons attending such assemblage.

(Ord. 72-88. Passed 9-21-88.)

703.14 LOCATION OF MECHANICAL AMUSEMENT DEVICE RESTRICTED.

No amusement or exhibition shall be permitted to install or operate any mechanical amusement device within 1,000 feet of any residential building.

(Ord. 72-88. Passed 9-21-88.)

703.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 705

Detergents

705.01 Definitions.

705.02 Labeling.

705.03 Limitations.

705.99 Penalty.

CROSS REFERENCES

Water pollution - see Ohio R. C. 715.08, 743.24 et seq.

Labeling of hazardous substances - see Ohio R. C. Ch. 3716

Prohibited discharges into sewers - see S. & P. S. 931.03

705.01 DEFINITIONS.

As used in this chapter:

- (a) "Synthetic detergent" or "detergent" means any cleaning compound which is available for household use, laundry use, other personal uses or industrial use, which is composed of organic and inorganic compounds, including soaps, water softeners, surface active agents, dispersing agents, foaming agents, buffering agents, builders, fillers, dyes, enzymes and fabric softeners, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form.
- (b) "Polyphosphate builder" or "phosphorous" means a water softening and soil suspending agent made from condensed phosphates, including pyrophosphates, triphosphates, tripolyphosphates, metaphosphates and glassy phosphates, used as a detergent ingredient, but shall not include "polyphosphate builders" or "phosphorous" which is essential for medical, scientific or special engineering use under such conditions and regulations as may be prescribed, after hearing, by the Commissioner of Environmental Control.
- (c) "Recommended use level" means the amount of synthetic detergent or detergent which the manufacturer thereof recommends for use per wash load, at which level the synthetic detergent or detergent will effectively perform its intended function.
- (d) "Machine dishwasher" means equipment manufactured for the purpose of cleaning dishes, glassware and other utensils involved in food preparation, consumption or use, using a combination of water agitation and high temperature.
- (e) "Dairy equipment", "beverage equipment" and "food processing equipment" means that equipment used in the production of milk and dairy products, foods and beverages, including the processing, preparation or packaging thereof for consumption.
- (f) "Industrial cleaning equipment" means machinery and other tools used in cleaning processes during the course of industrial manufacturing, production and assembly.

(Ord. 82-71. Passed 1-25-72.)

705.02 LABELING.

No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form, in the City as of February 1, 1972, unless the container, wrapper or other packaging thereof is clearly labeled with respect to its polyphosphate builder or phosphorus ingredient content clearly and legibly set forth thereon in terms of percentage of phosphorus by weight, expressed as elemental phosphorus per container, wrapper or other packaging thereof, as well as grams of phosphorus, expressed as elemental phosphorus, per recommended use level.

(Ord. 82-71. Passed 1-25-72.)

705.03 LIMITATIONS.

(a) No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent containing more than eight and seven-tenths percent of phosphorus by weight, expressed as elemental phosphorus, within the City as of February 1, 1972. It shall also be unlawful for any person, firm or corporation to sell, offer or expose for sale, give or furnish any synthetic detergent or detergent which requires a recommended use level of such synthetic detergent or detergent which contains more than seven grams of phosphorus by weight expressed as elemental phosphorus, within the City as of February 1, 1972. Notwithstanding the foregoing provisions of this section, synthetic detergents or detergents manufactured for use in machine dishwashers, dairy equipment, beverage equipment, food processing equipment and industrial cleaning equipment shall not be subject to the limitations set forth herein.

(b) The concentration of phosphorus by weight, expressed as elemental phosphorus in any synthetic detergent or detergent shall be determined by the current applicable method prescribed by the American Society for Testing and Materials (A.S.T.M.)

(Ord. 82-71. Passed 1-25-72.)

705.99 PENALTY.

Whoever violates, disobeys, omits, neglects or refuses to comply with, or resists or opposes the enforcement of, any of the provisions of this chapter, except when otherwise specifically provided, is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which such person continues or permits any such violation, or fails to comply with the notification of such violation.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 709

Fortunetelling

709.01 License required.

709.99 Penalty.

CROSS REFERENCES

Power to regulate - see Ohio R. C. 2911.16

709.01 LICENSE REQUIRED.

No person, not legally licensed to do so, shall represent himself to be an astrologer, fortuneteller, clairvoyant or palmister.
(ORC 2911.16; Ord. 30-61. Passed 11-21-61.)

709.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 713

Garage Sales

713.01 Definitions.

713.02 License required.

713.03 License applications and issuance.

713.04 License fee; effective period; limitation on number of sales.

713.05 Traffic supervision during sale required.

713.06 Display of license upon demand.

713.07 Advertising upon the premises.

713.08 Sale hours; merchandise restriction.

713.09 License revocation; denial for previous conviction.

713.10 Exemption.

713.99 Penalty.

CROSS REFERENCES

Power to regulate advertising - see Ohio R. C. 715.65
Parking generally - see TRAF. Ch. 351
Disorderly conduct and peace disturbance - see GEN. OFF. Ch. 509
Sidewalk obstructions; damage or injury - see GEN. OFF. 521.04
Littering - see GEN. OFF. 521.08
Noise control - see GEN. OFF. Ch. 553

713.01 DEFINITIONS.

As used in this chapter:

- (a) "Person" means individuals, associations of individuals, partnerships or corporations, who or which conduct sales for a commission or other remuneration.
- (b) "Public sale" means any sale and delivery or offer of sale and delivery of any household furniture, furnishings, equipment, goods, wares or merchandise from, in, about or upon any premises, property or residence zoned for residential use within the City to which the general public is invited pursuant to any advertisement or notice by newspaper, mail or individual flyer or otherwise.
- (c) "Garage sale" means a sale of household goods, equipment, utensils, appliances, personal clothing or effects or other similar personal property, including such sales commonly termed "basement sales" or "house sales."

(Ord. 122-78. Passed 11-28-78.)

713.02 LICENSE REQUIRED.

No person shall conduct, hold or permit a public sale or garage sale within a residential district of the City without first having obtained a license therefor from the City pursuant to the provisions of this chapter.

(Ord. 122-78. Passed 11-28-78.)

713.03 LICENSE APPLICATIONS AND ISSUANCE.

The license required in Section 713.02 shall be issued by the Mayor or a person acting and authorized to act on his behalf upon the payment of the license fee and the submission of an application containing the following information:

- (a) The name and permanent address of the applicant;
- (b) A description of the property to be sold and an estimate of its sale value;
- (c) The name and address of all persons who will be associated or engaged in such public sale; and
- (d) The name and address of the party for whom the sale is being held.

(Ord. 122-78. Passed 11-28-78.)

713.04 LICENSE FEE; EFFECTIVE PERIOD; LIMITATION ON NUMBER OF SALES.

- (a) The fee for the license required in Section 713.02 shall be three dollars (\$3.00) for each sale, payable in advance.
- (b) Licenses shall be valid only for the period of the sale indicated thereon, not to exceed three consecutive days.
- (c) No more than two sales per year shall be permitted at the same location.

(Ord. 122-78. Passed 11-28-78.)

713.05 TRAFFIC SUPERVISION DURING SALE REQUIRED.

The applicant for the license required in Section 713.02 shall furnish to the Mayor evidence that an arrangement has been made for adequate traffic supervision to prevent traffic congestion at the time and place of the sale.

(Ord. 122-78. Passed 11-28-78.)

713.06 DISPLAY OF LICENSE UPON DEMAND.

Every person licensed under this chapter shall have his license in his possession at all times when conducting a public sale within a residential district of the City and shall display the same upon demand of any police officer of the City or upon demand of any person who attends such public sale.

(Ord. 122-78. Passed 11-28-78.)

713.07 ADVERTISING UPON THE PREMISES.

No person shall place more than one sign advertising such sale, such sign not to exceed two feet by two feet on the property where the sale is conducted. No person shall place any other such sign off the premises for such sale.

(Ord. 122-78. Passed 11-28-78.)

713.08 SALE HOURS; MERCHANDISE RESTRICTION.

No person shall conduct a public sale or garage sale, before 9:00 a.m. of any day or after 9:00 p.m. of any day, or sell any household furniture, furnishings, equipment or goods that were brought into the residence or onto the property for the sole purpose of selling the same at such sale.

(Ord. 122-78. Passed 11-28-78.)

713.09 LICENSE REVOCATION; DENIAL FOR PREVIOUS CONVICTION.

A license issued pursuant to this chapter may be revoked by the Mayor, after notice and hearing, for any of the following reasons:

- (a) Fraud, misrepresentation or any false statement made to the Police Division in furnishing the information required by Section 713.05;
- (b) Fraud, misrepresentation or any false statement contained in the application for a license;
- (c) A conviction of the licensee for violation of any provisions of this chapter;
- (d) Conviction of the licensee of any felony or crime involving moral turpitude; or
- (e) Conducting a public sale in any unlawful manner or in such manner as to constitute a breach of the peace.

No person who is convicted of a violation of any of the provisions of this chapter shall be granted a license for a garage sale for a period of five years next following the date of such conviction.

(Ord. 122-78. Passed 11-28-78.)

713.10 EXEMPTION.

The fee required in Section 713.04 shall not apply to any public sale conducted solely for or on behalf of any charitable, educational or religious institution when the person conducting such sale receives no compensation therefor.

(Ord. 122-78. Passed 11-28-78.)

713.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 723

Sweepstakes/Internet Cafes

723.01 Purpose and applicability.

723.02 Definitions.

723.03 License application and requirements.

723.04 Location.

723.05 License fee; transfer and display.

723.06 Revocation; hearing procedure.

723.07 Hours of operation.

723.08 Prohibited conduct.

723.09 Miscellaneous regulations.

723.10 Severability.

723.99 Penalty.

CROSS REFERENCES

Gambling - see GEN. OFF. Ch. 517
Mechanical amusement devices - see BUS. REG. Ch. 725

723.01 PURPOSE AND APPLICABILITY.

(a) It is the purpose of this chapter to establish standards for the licensing and regulation of computerized sweepstakes devices, and the sweepstakes/internet cafes within which they are located and operated. This chapter is designed to prevent safety and fire hazards, prevent disturbances, preserve the peaceful enjoyment of neighboring establishments and residences, and prevent gambling and other criminal behavior in and about sweepstakes/internet cafes within the City.

(b) This chapter shall apply immediately to all sweepstakes/internet cafes, as defined in this chapter, that commence operation after the effective date of this chapter. All sweepstakes/internet cafes in existence at the time of enactment of this chapter shall come into compliance with all sections of this chapter no later than thirty (30) days after its effective date.

(Ord. 35-2011. Passed 8-9-11.)

723.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

- (a) "Computerized sweepstakes device" means any computer, machine, game or apparatus which, upon the insertion of a coin, token, access number, magnetic card, or similar object, or upon the payment of anything of value, may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which provides the user with a chance to win anything of value that is not de minimus, on a per play basis, or any cash payout or anything that could be redeemed, directly or indirectly, for any cash payout, and which is not gambling under state or local laws. Machines designated for use by the State Lottery Commission are not computerized sweepstakes devices for purposes of this chapter. "De minimus", as used in this section, shall mean less than ten dollars (\$10.00).
- (b) "Sweepstakes/internet cafe" means any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises has other business purposes of any nature whatsoever.

(c) "Operator" means any person or entity that owns, controls, or operates a sweepstakes/internet café.
(Ord. 35-2011. Passed 8-9-11.)

723.03 LICENSE APPLICATION AND REQUIREMENTS.

- (a) No operator shall operate or conduct a sweepstakes/internet café without first obtaining a license from the Director of Public Safety or his designee. Every operator shall make an application in writing to the Director of Public Safety or his designee, which application shall set forth the following:
- (1) The legal name under which the business is to be conducted;
 - (2) The location where the business is to be conducted, with a description of the premises, including a scaled diagram;
 - (3) The name, address, and date of birth of all managers, supervisors, and other employees;
 - (4) The name, address, and date of birth (if applicable) of the owner(s) of the computerized sweepstakes devices; and
 - (5) The name, address, date of birth, and principal occupation of every person with an interest in the sweepstakes/internet café. The following persons are deemed to have an interest in the sweepstakes/internet café:
 - A. In a sole proprietorship, each individual owner(s).
 - B. In firm or partnership, each member of the firm or partnership.
 - C. In a corporation, each director, officer and shareholder owning more than twenty-five percent (25%) of the outstanding shares.
 - (6) The name, description, model number and serial number of each computerized sweepstakes device on the premises and any other device on the premises that is necessary to the operation of the computerized sweepstakes device.
 - (7) A list of each separate thing of value that may be given out, with an estimated cash value, and each separate cash amount that may be given out, and the odds of winning the same for the participation in any game, activity, program, scheme or play, use or participation in any way in a computerized sweepstakes device or participating in any other activity or promotion in the sweepstakes/internet café, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the sweepstakes/internet café premises or requires some event, occurrence or happening at another location.
 - (8) The name and address of any and all persons, businesses or organizations that provide games, computer software, equipment, or services or operate devices linked to the computerized sweepstakes devices or to devices necessary to operate the devices, whether any such devices are sold, leased or licensed.
 - (9) The tax account number of the business from the Regional Income Tax Agency (RITA).
- (b) No person, organization or entity shall make a false or incorrect statement in an application for a license. The operator shall have a continuing duty to inform the Director of Public Safety or his designee as to changes in the information required in this section. No operator shall operate or conduct a sweepstakes/internet café at any time unless the information on file with the Director of Public Safety or his designee is current and accurate.
- (c) If an application is not approved, the City shall notify the applicant in writing with reason(s) for rejection.
- (d) The Director of Public Safety or his designee shall not issue a license to any person, organization or entity if any of the persons with an interest in the business or if any of the employees of the business have been convicted of a violation of a federal, state, or local law pertaining to gambling or other crimes of moral turpitude within five years preceding the application. All owners, employees and persons having an interest in the sweepstakes/internet café, as set forth in Section 723.03(a)(5), shall consent to a criminal history check commissioned by the City as part of the application for a license.
- (e) As a prerequisite to the issuance of such license, an inspection shall be made of the premises by the City and the premises must be in compliance with all applicable fire regulations. The sweepstakes/internet café shall be open to inspection and viewing of operations by law enforcement officers, Division of Building, Housing and Zoning personnel, and by Division of Fire personnel at all times of operation. No operator shall fail to immediately permit entry to any such City officials.
- (f) Failure of any operator to pay a license fee or a device fee for a computerized sweepstakes device, as set forth in Section 723.05, shall be grounds for suspension or revocation of the license for the establishment. Any computerized sweepstakes devices being operated without a valid license for the premises may be seized and forfeited to the City.
(Ord. 35-2011. Passed 8-9-11.)

723.04 LOCATION.

- (a) No license shall be granted to a sweepstakes/internet café located within five hundred (500) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, or religious institution.
- (b) This section shall not apply to any sweepstakes/internet café locations in existence at the effective date of this chapter, and shall not apply to any duly licensed sweepstakes/internet café locations in existence at the time a school, public library or public playground moves within five hundred (500) feet of said sweepstakes/internet café. Any change in location will remove said sweepstakes/internet café from this exception. "Change in ownership" in the case of a partnership or corporation for the purpose of this section means more than fifty percent change in partners or shareholders from the partners or shareholders owning the partnership or corporation as of the date the school, public library, church, religious institution or public playground moves within five hundred (500) feet of said sweepstakes/internet café.
- (c) The sweepstakes/internet café must comply with all zoning and other regulations of the City of Richmond Heights Codified Ordinances.
(Ord. 35-2011. Passed 8-9-11.)

723.05 LICENSE FEE; TRANSFER AND DISPLAY.

- (a) The annual license fee, payable to the City at the time of application and annually thereafter, shall be five thousand dollars (\$5,000.00) for each sweepstakes/internet location per year, commencing on January 1 of each year and ending on December 31 of each year. The annual license fee shall be paid before January 1 of each year. In the event an applicant applies for an initial license under this chapter where the license goes into effect after January 1 of a given year, the Five Thousand Dollar application fee shall be prorated on a per diem basis from the date the license goes into effect through December 31 of that year. In the event that an application is denied under this chapter, one-half of the license fee shall be returned to the applicant and the remainder shall be retained by the City as a nonrefundable application fee. In the event that a license is revoked or suspended hereunder, no portion of the license fee shall be returned. In the event the State of Ohio law explicitly pre-empts the City's authority to license under this chapter, the applicant shall be entitled upon request to a refund of the license fee which refund shall be prorated on a per diem basis from the effective date of the State of Ohio's pre-emption of the City's authority to license under this chapter through December 31 of that year.
- (b) In addition to the annual license fee, each computerized sweepstakes device shall be registered with the City and subject to a device fee of five hundred dollars (\$500.00) for each device on the premises for each year. Device fees shall be paid initially upon preliminary approval of the license application and as a prerequisite to receiving the license, and then annually before January 1 for each subsequent year ending on December 31 of each year. In the event an applicant applies for an initial license under this chapter where the license goes into effect after January 1 of a given year, the device fee for each device shall be prorated on a per diem basis from the date the license goes into effect through December 31 of that year. Device fees shall not be refundable, except that in the event the State of Ohio explicitly pre-empts the City's authority to impose the device fee of this subsection, the applicant upon request shall receive a refund of the device fee which refund shall be prorated on a per diem basis from the effective date of the State of Ohio's pre-emption of the City's authority to charge the device fee under this subsection through December 31 of that year.
- (c) After the initial device fees are paid pursuant to subsection (b) of this section, the device fee shall be paid for each computerized sweepstakes device brought to the facility before the device is put into use. For purposes of determining device fees, each device that is operable by one or more persons is a separate device.
- (d) Licenses issued under this chapter shall not be transferable to any other person, partnership, corporation, or other entity and the business may be conducted only at the location for which the license is issued. The license must be so placed as to be made conspicuously visible and shall list each sweepstakes/internet device with serial number.
- (e) Failure to register any computerized sweepstakes device before placement on the premises is an unclassified misdemeanor and the operators shall each be liable for a mandatory fine of one hundred fifty dollars (\$150.00) for each day the device is not registered, and said fine shall not be reduced or suspended.
(Ord. 35-2011. Passed 8-9-11.)

723.06 REVOCATION; HEARING PROCEDURE.

- (a) The license may be suspended or revoked at any time by the Director of Public Safety or his designee after a hearing and upon satisfactory proof that a violation of the federal, state or local laws or ordinances, including those of this chapter, has occurred on the premises of the sweepstakes/internet café. In addition to any license suspension, the City may assess the licensee a penalty fee of not less than five hundred dollars (\$500.00) nor more than one thousand five hundred dollars (\$1,500.00) for any violation of this chapter. Each day a continuing violation exists shall constitute a separate violation for purpose of assessing penalty fees. Suspensions, revocations and assessments of penalty fees is in addition to and separate from any criminal liability and does not preclude criminal prosecution for any violation of this chapter or other City, state or federal laws.
- (b) The Director of Public Safety or his designee shall investigate all complaints and potential violations of this chapter with the aid of law enforcement as needed. If the Director of Public Safety or his designee finds substantial evidence to support a violation of this chapter, he shall conduct a hearing.
- (c) The Director of Public Safety or his designee shall provide the licensee and the owner of the computerized sweepstakes devices, as listed on the license application, with prior written notice of the hearing and a statement of the alleged violation at least ten (10) days in advance of the hearing. The licensee shall have the right to be represented by counsel and have the right to examine and cross-examine witnesses and introduce evidence. The Director of Public Safety or his designee shall render a decision the day of hearing unless additional time is needed. If additional time is needed, the decision shall be in writing to the licensee.
- (d) In the event of a decision and ruling adverse to the licensee, the licensee shall have the right to appeal such decision and ruling to the Zoning Board of Appeals within twenty (20) days of the receipt of the decision of the Director of Public Safety or his designee. The Zoning Board of Appeals shall set the matter for a public hearing and provide written notice to the appellant at least ten (10) days in advance of the hearing. The decision of the Zoning Board of Appeals shall be the final decision of the City on the violation(s) and may be appealed to a court of competent jurisdiction under authority of, and pursuant to, the provisions of the Ohio Revised Code. (Ord. 35-2011. Passed 8-9-11.)

723.07 HOURS OF OPERATION.

No sweepstakes/internet café shall be operated between the hours of 1:00 a.m. and 9:00 a.m. No operator shall permit any person to operate any computerized sweepstakes device between the hours of 1:00 a.m. and 9:00 a.m.
(Ord. 35-2011. Passed 8-9-11.)

723.08 PROHIBITED CONDUCT.

- No operator of a sweepstakes/internet café by himself/herself/itself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate or prevent the following activities from occurring on the licensed premises:
- (a) Permit any disorderly conduct upon the premises or permit the premises to become a gathering place for disorderly persons of any type;
 - (b) Permit gambling in any form or the possession or use of gambling paraphernalia upon the premises;
 - (c) Permit sale, possession or use of alcoholic beverages upon the premises;
 - (d) Permit the possession or use of any unlawful drug, narcotic or controlled substance;
 - (e) Permit the public streets, sidewalks, alleys or walkways adjacent to the premises to become littered or permit inside or outside walkways to become obstructed in any manner so that pedestrian traffic is hindered;
 - (f) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs or violate the public peace;
 - (g) Permit any computerized sweepstakes device to be operated at any time the premises is not open for business;
 - (h) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire codes or other regulatory codes;
 - (i) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operating condition;
 - (j) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;
 - (k) Permit the operation of any unlicensed computerized sweepstakes device upon the premises; and
 - (l) Permit any violation of any ordinance of the City or statute of the federal or state government to take place upon the premises.
(Ord. 35-2011. Passed 8-9-11.)

723.09 MISCELLANEOUS REGULATIONS.

- (a) Every sweepstakes/internet café shall have an adult who is twenty-one years of age or over on the premises and supervising at all times the computerized sweepstakes devices during all hours of operation.
- (b) The interior of the sweepstakes/internet café shall provide a minimum area of forty (40) square feet per computerized sweepstakes device in each room in which such devices are located.
- (c) No persons under the age of eighteen (18) years shall be permitted on the premises of any sweepstakes/internet café.
- (d) The operator shall require a photo identification of every person to whom anything of value is given, for any single event for which there is a chance of winning a thing of value or cash with a dollar value in excess of ten dollars (\$10.00) in connection with the sweepstakes/internet café and shall record the person's name, date of birth, and home address and a description of the thing of value given, a stated dollar value of the thing given, the date and time of the giving and which computerized sweepstakes device is involved in the circumstances of the giving by the serial number or other identifying description of the device. If the thing of value or cash given for any single event for which there is a chance of winning has a dollar value of six hundred dollars (\$600.00) or more, the operator shall also include in the record a copy of the recipient's photo identification

and the recipient's social security number. By the second Tuesday of each month the operator shall cause to be delivered to the City's Tax Administrator a copy of the record containing the information set forth above for the preceding month. The operator and the City shall not disclose the social security number of any person to anyone except as required by the laws of the City, the State of Ohio and the United States government.

- (e) The operator shall post in a conspicuous place on the premises in the room where the computerized sweepstakes devices are located in no less than twenty point type the following:
- (1) Each separate thing of value that may be given, with estimated value, and each separate dollar amount that might be given in association with the use of computerized sweepstakes device, on a per play basis;
 - (2) The odds of winning, as stated in the filing with the City pursuant to Section 723.03(a)(7); and
 - (3) A complete statement of the rules and conditions pertaining to the giving of any prizes, cash or anything of value to any person, whether or not the determination of the giving of the thing of value or the delivery of the thing of value occurs totally within the confines of the premises or requires some event, occurrence or happening at another location.
- (f) The operator shall keep a complete set of all records of the operations of the sweepstakes/internet cafe at the premises at all times, including all federal, state and local tax records, all records of payments and receipts, all records of expenses and revenues of the operation, all banking records, all contracts, leases and agreements affecting the premises, equipment and operation, all personnel records and all other records pertaining to the business. Records shall be maintained and made available for inspection by the City for ten (10) years.
- (g) It is the intent of this chapter that operators are strictly liable for any violations of this chapter.
- (h) No person shall be denied any license or the right to use a licensed computerized sweepstakes device under this chapter in the City because of race, color, creed, sex, religious belief or natural origin.

(Ord. 35-2011. Passed 8-9-11.)

723.10 SEVERABILITY.

In the event any 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. 35-2011. Passed 8-9-11.)

723.99 PENALTY.

Whoever violates any provision of this chapter for which a specific penalty is not otherwise stated shall be guilty of a misdemeanor of the first degree and may be subject to the fines and penalties thereof. A separate offense shall be deemed committed each day during or on which a violation occurs or continues. In addition to the penalties set forth herein, the license for the sweepstakes/internet cafe may be permanently revoked. (Ord. 35-2011. Passed 8-9-11.)

CHAPTER 725

Mechanical Amusement Devices

- 725.01 Definition.**
725.02 License required.
725.03 Application for license.
725.04 Issuance of the license; fee.
725.05 Transfer of license.
725.06 Distance from school; display of license.
725.07 Giving of prizes, awards.
725.99 Penalty; license revocation.

CROSS REFERENCES

Exhibiting gambling devices for gain - see GEN. OFF. 513.08
Enticing minor to play for money - see GEN. OFF. 529.02
Sweepstakes/Internet cafes - see BUS. REG. Ch. 723

725.01 DEFINITIONS.

For the purpose of this chapter "mechanical amusement device" means a machine, other than a "computerized sweepstakes device" as defined under Chapter 723, which, upon the insertion of a coin, slug, token or other device, operates or may be operated for use as a game, contest or amusement of any description, or which may be used for any game, contest or amusement and which contains no automatic pay-off device for the return of money, coins, merchandise or tokens, checks or tickets redeemable in money or anything of value.

(Ord. 36-2011. Passed 8-9-11.)

725.02 LICENSE REQUIRED.

No person shall display or exhibit a mechanical amusement device within the corporate limits without having first obtained a license therefor from the Director of Public Safety or his designee. A separate license shall be required for each mechanical amusement device displayed at any one time.

(Ord. 25-2010. Passed 5-25-10.)

725.03 APPLICATION FOR LICENSE.

Application for a license to display a mechanical amusement device must be made to the Director of Public Safety or his designee upon such forms as shall be prepared therefor by the Director. The application must be made by the owner or proprietor of the business or place at which the mechanical amusement device is to be displayed. Application shall state the name of the owner of the place of business, the address of the place for which the license is applied, the residence address of owner, the serial number and name of the manufacturer of the mechanical amusement device, the owner of the mechanical amusement device, the nature of the business in conjunction with which the mechanical amusement device is to be displayed and such other information as may be required by the Director of Public Safety or his designee.

(Ord. 25-2010. Passed 5-25-10.)

725.04 ISSUANCE OF THE LICENSE; FEE.

Upon the approval of the application and upon the payment of the annual license fee of:

Mechanical amusement device \$50.00 per machine

a license to display one mechanical amusement device shall be issued to the applicant. The license fee shall be for the fiscal year beginning January 1, of the calendar year or for any unexpired portion of the fiscal year. The license shall entitle the licensee therein named to display at or upon the premises therein described one mechanical amusement device.

(Ord. 25-2010. Passed 5-25-10.)

725.05 TRANSFER OF LICENSE.

A separate license shall be required for every mechanical amusement device which is displayed by any person at any one time, but any licensee may change from the display of one approved mechanical amusement device to the display of another approved mechanical amusement device at any time. A license issued under the provisions of this chapter shall not be transferred from one person to another person, but the license may be transferred by the licensee therein named from the place specified in the license to another place owned by the licensee, should the licensee move his business from the address specified in the license, to another location.

(Ord. 25-2010. Passed 5-25-10.)

725.06 DISTANCE FROM SCHOOL; DISPLAY OF LICENSE.

No license shall be issued for the display of a mechanical amusement device at a place which is within 500 feet from any premises occupied by any school building. It shall be the duty of the licensee to conspicuously display the license issued hereunder.

(Ord. 25-2010. Passed 5-25-10.)

725.07 GIVING OF PRIZES, AWARDS.

No person by himself, by another person or otherwise, directly or indirectly, shall give any prize, award, merchandise, gift or anything of value greater than ten dollars (\$10.00) to any player or to any operator of any mechanical amusement device or to any contestant for any type of score on the device for a single play of the device and the value of the prize, award, merchandise, gift or something of value for multiple plays of the device or devices by any player, operator or contestant shall not exceed one hundred dollars (\$100.00). Cash shall not be given to any player, operator, or contestant of a device.

(Ord. 25-2010. Passed 5-25-10.)

725.99 PENALTY; LICENSE REVOCATION.

Whoever violates this chapter is guilty of a minor misdemeanor. Each and every day during which the violation shall continue shall constitute a separate offense. In addition to the penalty, the Director of Public Safety is authorized to revoke the license held by any person who shall have been convicted for a violation of this chapter.

(Ord. 25-2010. Passed 5-25-10.)

CHAPTER 726

Recovery of Costs of Emergency Actions

- 726.01 Purpose and scope.**
726.02 Definitions.
726.03 Liability.
726.04 Services of other governmental bodies or parties.
726.05 Procedure.

CROSS REFERENCES

Commercial and heavy vehicles - see TRAF. Ch. 339
Transportation of radioactive materials - see TRAF. Ch. 349

726.01 PURPOSE AND SCOPE.

The purpose of this chapter is to provide for compensation to the City for costs incurred in investigating, mitigating, minimizing, removing or abating unauthorized spills, releases or discharges of materials into or upon the environment within the territorial jurisdiction or responsibility of the City, and which spills, releases or discharges require emergency action to protect the public health or safety or the environment.

(Ord. 144-90. Passed 10-23-90.)

726.02 DEFINITIONS.

As used in this chapter:

- (a) "Common carrier by motor vehicle" has the same meaning as in Ohio R.C. 4919.75(E) or 4912.02(A), as appropriate.
- (b) "Contract carrier by motor vehicle" has the same meaning as in Ohio R.C. 4919.75(F) or 4923.02(A), as appropriate.
- (c) "Costs" include, but not be limited to, all direct and incidental costs, including personnel costs, incurred by or on behalf of the City in connection with the investigation, mitigation, minimization, removal or abatement of an unauthorized spill, release or discharge, in the following respects:
 - (1) Operating any vehicle, apparatus or equipment used in connection with any such incident;
 - (2) Sanitizing, cleaning and/or repairing any vehicle, apparatus, equipment or apparel used in connection with any such incident;
 - (3) Testing any spilled, released or discharged material, or any vehicle, apparatus, equipment or apparel used in connection with any such incident;
 - (4) Storing any spilled, released or discharged material;
 - (5) Disposing of any spilled, released or discharged material, or any vehicle, apparatus, equipment, apparel or goods rendered unusable as a result of any such incident;
 - (6) Replacing any vehicle, apparatus, equipment, apparel or goods lost or rendered unusable as a result of any such incident; and
 - (7) Any costs incurred by any private party or governmental body, or subdivision thereof, whose assistance is requested by the City in the event of an unauthorized spill, release or discharge, and who submits a written

invoice to the City setting forth its costs incurred in responding to the incident.

- (d) "Material" has the same meaning as in Ohio R.C. 3745.13, and any regulations promulgated or matters decided thereunder, as appropriate.
- (e) "Motor vehicle" means any automobile, truck, tractor, trailer, semi-trailer, motorbus, or any other self-propelled vehicle not operated or driven on fixed tracks.
- (f) "Private motor carrier" has the same meaning as in Ohio R.C. 4923.02.
- (g) "Railroad" has the same meaning as in Ohio R.C. 4907.02.
- (h) "Unauthorized spill, release or discharge" has the same meaning as in Ohio R.C. Chapter 3745, any regulations promulgated or matters decided thereunder, and shall include, but not be limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, releasing, injecting, escaping, leaching, dumping or disposing of any material, into or upon the environment, which may endanger the public health or safety or the environment. The term does not include any spill, release or discharge that is in compliance with Ohio R.C. Chapters 1509, 3704, 3734 or 6111 and rules adopted thereunder, or the terms and conditions of a current and valid permit or license.

(Ord. 144-90. Passed 10-23-90.)

726.03 LIABILITY.

(a) Any person or corporation responsible for causing or allowing an unauthorized spill, release or discharge of material into or upon the environment is liable to the City for disaster services rendered, and all incidental and related costs. The costs shall be paid by the person or entity responsible for causing or allowing the unauthorized spill, release or discharge of materials into or upon the environment that requires emergency action to protect the public health or safety or the environment.

(b) If an unauthorized spill, release or discharge occurs from a motor vehicle or train being operating by, or on behalf of, a common carrier by motor vehicle, contract carrier by motor vehicle, private motor carrier, or railroad, a claim or civil action shall be submitted to or brought against, as appropriate, and the costs of the emergency action shall be recovered from, the motor carrier or railroad regardless of whether the motor carrier or railroad was responsible for causing or allowing the unauthorized spill, release or discharge to occur.

(c) Costs recoverable under this chapter shall accrue commencing with the first notification to the City of an incident involving, or which may involve, or subsequently proves to involve an unauthorized spill, release or discharge.

(Ord. 144-90. Passed 10-23-90.)

726.04 SERVICES OF OTHER GOVERNMENTAL BODIES OR PARTIES.

(a) The Fire Chief, or his designated officers or firemen, shall have the authority to request the assistance of any other governmental body, or agency or division thereof, in the event of an unauthorized spill, release or discharge at a location within the territorial jurisdiction or responsibility of the City.

(b) The Fire Chief, or his designated officers or firemen, shall have the authority to request the assistance of any expert, consultant or contractor in the event of an unauthorized spill, release or discharge at a location within the territorial jurisdiction or responsibility of the City.

(Ord. 144-90. Passed 10-23-90.)

726.05 PROCEDURE.

(a) The Fire Chief, or his designated representative, shall keep a record of the City's costs for investigating, mitigating, minimizing, removing or abating the unauthorized spill, release or discharge, including any incidental costs. A Schedule of Charges used to determine such costs shall be kept on file in the Fire Department and made available for inspection by the public during normal working hours. The Schedule shall be revised, as necessary, to reflect increases and decreases in the value of the items listed.

(b) Not less than thirty days before bringing civil action for the recovery of costs pursuant to this section and Ohio R.C. 3745.13, the Law Director shall submit to the responsible party a written itemized claim for the total certified costs incurred by the City and a written notice that, unless the amount is paid to the City within thirty days after the date of mailing of the claim and notice, the Law Director shall bring a civil action for that account.

(Ord. 144-90. Passed 10-23-90.)

CHAPTER 729

Oil and Gas Wells

729.01 Definitions.

729.02 License required.

729.03 Unitized lease required.

729.04 State permit required.

729.05 License applications.

729.06 Equipment on site.

729.07 License fee.

729.08 Number of licenses.

729.09 Distance requirements.

729.10 Necessity of contract with surface owner.

729.11 Issuance or refusal of permit.

729.12 Bond.

729.13 Public liability and property damage and medical payment insurance.

729.14 Permitting escape of mud, water or oil.

729.15 Drilling without permit.

729.16 Well workover.

729.17 Rules for drilling and producing operations.

729.18 Release from bond.

729.19 Penalty; equitable remedy.

CROSS REFERENCES

Oil and gas - see Ohio R.C. Ch. 1509

Barricades and warning lights; abandoned excavations - see GEN. OFF. 521.03

Sidewalk obstructions; damage or injury - see GEN. OFF. 521.04

Fences - see GEN. OFF. 521.07

Criminal damaging or endangering - see GEN. OFF. 541.03

Criminal mischief - see GEN. OFF. 541.04

Noise control - see GEN. OFF. Ch. 553

729.01 DEFINITIONS.

As used in this chapter:

- (a) "Person" means any natural person, individual, firm, partnership, association, corporation, club, society, co-operative, trust, municipal corporation or political subdivision whatsoever.
- (b) "Well" means any hole or bore to any sand, formation, strata or depth, which is drilled, bored, sunk, dug or put down for the purpose of either exploring for or ascertaining the existence of any oil, gas, liquid hydrocarbon, or any of them, or for the purpose of producing and recovering any oil, gas, liquid hydrocarbon, or any of them.
- (c) "Oil" means any liquid hydrocarbon, regardless of gravity, capable of being produced from a drilling unit in liquid form at the well by ordinary production methods and which is not the result of the condensation of gas after it leaves the reservoir.
- (d) "Gas" means natural gas including all of its constituent elements, which elements include, but are not limited to, gasoline, condensate, distillate, butanes, propanes and other lighter hydrocarbons.
- (e) "Oil well" means any well which produces one barrel or more of oil to each 100,000 cubic feet of gas.
- (f) "Gas well" means a well producing gas and which produces no oil, or less than one barrel of oil for each 100,000 cubic feet of gas.
- (g) "Workover" means working over a well and shall be considered the act of reentering a well for any purpose after it is initially completed or abandoned, other than for well servicing.
- (h) "Well servicing" includes installation or servicing of artificial lift equipment and the removal of tubing obstructions such as paraffin and sand.
- (i) "Licensee" means the person to whom is issued a license for the drilling and operation of a well under this chapter, and his or its administrators, executors, heirs, successors and assigns.
- (j) All technical or oil and gas industry words or phrases used in this chapter and not specifically defined in this chapter shall have the meaning customarily attributable thereto by prudent operators in the oil and gas industry.

(Ord. 120-77. Passed 11-22-77.)

729.02 LICENSE REQUIRED.

No person shall commence to drill a well for oil and/or gas within the City without first having wholly complied with all provisions of this chapter and having obtained a drilling license, which shall expire ninety days after the date of issuance.

(Ord. 120-77. Passed 11-22-77.)

729.03 UNITIZED LEASE REQUIRED.

No license shall be issued for oil and/or gas drilling where the ownership of the proposed minimum of ten-acre tract or unit is made up of more than one parcel of land as shown on the most recent tax duplicate map, unless the application is accompanied with copies of a proper lease executed with all the owners of land within the proposed ten-acre tract or unit and a copy of the unitized lease agreement, as executed, is furnished. When a person serves as agent, a certified copy of his appointment shall accompany the application. The area of all dedicated public streets and alleys shall be excluded in all calculations used to determine the area of such ten-acre tract or unit.

(Ord. 120-77. Passed 11-22-77.)

729.04 STATE PERMIT REQUIRED.

No license for drilling for oil and/or gas within the City shall be issued until the applicant has first obtained a permit for oil and/or gas drilling from the Division of Mines, State Department of Industrial Relations. A copy of such permit shall be included with each application.

(Ord. 120-77. Passed 11-22-77.)

729.05 LICENSE APPLICATIONS.

Any person desiring to drill, complete and operate a well for oil and/or gas within the City shall present an application in duplicate therefor to the Mayor, which application shall be in writing, be signed by the applicant or some person duly authorized to sign the same for the applicant, and shall state:

- (a) The date of such application;
- (b) The name and address of the applicant and, if the applicant is a corporation, the state of incorporation, and, if the applicant is a partnership, the names and addresses of the general partners;
- (c) The number of the drilling unit, the particular lot and block, number of tract in the drilling unit on which the proposed well is to be located and the exact location of the proposed well by dimensions from the lines of the unit lease;
- (d) The type of the well, whether oil or gas, and the proposed depth of the well;
- (e) The proposed complete casing program of the well;
- (f) The exact and correct number of square feet in the lease or unitized lease over which the applicant has control of oil rights or gas rights, and the applicant shall be required to own in fee, or hold under lease or

drilling contract from the owner of not less than ten acres, and all of the lots and lands shall be contiguous. Lots and lands across a public street shall be deemed as being contiguous. The area of all roads, streets, public ways and alleys shall not be included in determining the area of the unit.

(g) Each application for a license shall be accompanied by a map prepared by an Ohio registered surveyor showing and containing the following data:

- (1) The subject tract of land or drilling unit upon which the well is to be drilled, which shall show all parcels or tracts of land for which a lease has been obtained;
- (2) The location of the proposed well and the proposed location of oil storage tanks on the subject tract of land or drilling unit established by a field survey, showing the distance in feet from the proposed well site and all storage tanks to the boundary lines of the subject tract or drilling unit and distances to all residence buildings within 250 feet of proposed well or oil storage tank locations; the proposed well location shall also be designated by plane coordinates as provided in Ohio R. C. Chapter 157. Coordinates may be established by map scale to the nearest fifty feet.
- (3) The location of drilling or producing wells which are within 460 feet of the proposed well or 230 feet from the boundaries of the subject tract or drilling unit and a showing of the distances between such drilling or producing wells and the proposed well and between such drilling or producing wells and the nearest boundary of the subject tract or drilling unit;
- (4) The exact location of the proposed well with respect to the drilling unit boundaries and with respect to the boundaries of the lease or unitized lease on which the applicant has secured the rights from the owner to drill, designation of lots, blocks or tracts owned or controlled by the applicant within the drilling unit and the distances from the well location to all parks, streets, alleys or other public property, residences, commercial buildings and structures situated within 250 feet of the well location; and
- (5) The location, size and inclination of all drainage facilities, tile, ditches, etc., which lie within the work limits of the proposed well site and storage tank site.

(Ord. 120-77. Passed 11-22-77.)

729.06 EQUIPMENT ON SITE.

No person shall place any equipment, material, drilling rigs, etc., on any site until all necessary licenses or permits have been obtained.

(Ord. 120-77. Passed 11-22-77.)

729.07 LICENSE FEE.

The charge for each gas and/or oil drilling license shall be one thousand dollars (\$1,000) and shall be paid when the application for such permit is made. The purpose of this fee is to defray the expenses of administration and enforcement of regulatory ordinances concerning the drilling of oil and/or gas wells within the City and to defray the expenses of oil and/or well sites.

(Ord. 120-77. Passed 11-22-77.)

729.08 NUMBER OF LICENSES.

No more than one license for oil and/or gas drilling shall be issued for each ten acres of a tract of land. In the case of a nonproducing well, an additional license may be issued.

(Ord. 120-77. Passed 11-22-77.)

729.09 DISTANCE REQUIREMENTS.

No drilling license shall be issued and no oil and/or gas well shall be drilled within 200 feet of any dwelling, residential or mercantile building, school, church, hospital, theater, assembly hall or building in which the public is invited or within 100 feet of any building of any kind without first obtaining permission in writing from the owner or owners of any interest therein of such dwelling, residential or mercantile building, school, church, hospital, theater, assembly hall or building in which the public is invited, and from the owner or owners of any interest therein of any and all such buildings of any kind within such 100 feet. No license shall be issued where the proposed well location is closer than 230 feet from the boundary line of the ten-acre tract for which proper leases have been obtained. No well location shall be closer than 230 feet to the boundary line of any party or owner not joining the unitized lease agreement.

(Ord. 120-77. Passed 11-22-77.)

729.10 NECESSITY OF CONTRACT WITH SURFACE OWNER.

Neither this chapter nor any license issued hereunder shall be interpreted to grant any right or license to the licensee to enter upon, use or occupy in any respect for the drilling or operation of any well on any surface land except by the written contract of the surface owner, unless the licensee obtained such right in an oil and gas lease, or other contract. Nor shall it limit or prevent the free right of the owner to contract for the amount of damages, rights or privileges with respect to his own land and property.

(Ord. 120-77. Passed 11-22-77.)

729.11 ISSUANCE OR REFUSAL OF PERMIT.

(a) If, after an application or supplemental application is filed pursuant to this chapter, it is found by the Mayor to comply in all respects with the provisions of this chapter, and the drilling and operation or deepening and operation of a well is not prohibited by the provisions of this chapter, then the Mayor shall issue a license for the drilling and operation or deepening and operation of the well applied for. The granting and issuance of a license for a well on a drilling unit, as provided in this chapter, shall automatically operate as a rejection and denial of all other pending applications for a well to be completed upon the drilling unit involved, or any portion thereof.

(b) In the event the Mayor should deny the applicant a license to drill or deepen a well, an appeal to Council may be made by such applicant by filing written notice of appeal with Council. Such appeal shall be heard by Council within thirty days after the filing date.

(c) Each license issued under this chapter shall:

- (1) By reference have incorporated therein all provisions of this chapter with the same force and effect as if this chapter were copied verbatim in such license;
- (2) Specify definitely the location of the well and the number of the drilling unit in which the well is to be located;
- (3) Specify that drilling shall begin within ninety days from the date of the license or such license shall be forfeited, provided that such forfeiture shall not affect the right of the applicant to apply for another license; and
- (4) Specify that such license shall remain in full force and effect until such well is abandoned.

(d) Such license shall not be issued until the provisions of Sections 729.12 and 729.13 are complied with. Such license, in duplicate originals, shall be signed by the licensee. One original of the license, duly executed, shall be delivered to the licensee and one original of the license, duly executed, shall be retained and filed by the Mayor, and when so filed, shall constitute the licensee's drilling and operating license and the contractual obligation of the licensee to comply with the terms of such license, of the bond provided for in Section 729.12 and of this chapter.

(Ord. 120-77. Passed 11-22-77.)

729.12 BOND.

If the issuance of a license is authorized, the same shall not be issued until the applicant files with the Finance Director a bond executed by the licensee as principal and by a good and sufficient corporate surety company licensed to do business in the State as surety and whose name appears on the current list published by the United States Treasury Department of accepted sureties on Federal bonds, conditioned that the principal obligor will drill and operate such well in strict accordance with the provisions of this chapter and that the principal will remedy any and all damages to streets, curbs, gutters, water lines, fire hydrants and other public property, occasioned in any manner by his drilling of such well. Such bond shall inure to the benefit of the City, shall be in a form to comply with this section, shall be in the amount of twenty thousand dollars (\$20,000) and shall be approved by the Law Director. A licensee shall not be required to post additional bond if he has approved bonds on file with the City as required by this section totaling forty thousand dollars (\$40,000).

Failure to keep such bond in full force and effect, in accordance with the provisions of this section shall cause a revocation of the license and shall be unlawful and punishable in accordance with the provisions of this chapter.

(Ord. 120-77. Passed 11-22-77.)

729.13 PUBLIC LIABILITY AND PROPERTY DAMAGE AND MEDICAL PAYMENT INSURANCE.

The license shall not be issued until the applicant also files with the Mayor a memorandum copy or certificate of a policy of public liability and property damage insurance, issued by an insurance company authorized to do business in the State, to be approved by the Law Director. The amount of such policy of insurance for liability for bodily injury or death of one person shall not be less than two hundred thousand dollars (\$200,000) for any one occurrence, not less than six hundred thousand dollars (\$600,000) for injuries to more than one person in any one occurrence and the amount of such policy for damage to property of others shall not be less than two hundred thousand dollars (\$200,000). Medical payment insurance shall be in the limits of five thousand dollars (\$5,000) per person per occurrence and an aggregate amount of twenty-five thousand dollars (\$25,000) for injuries to more than one person in any single occurrence. The terms and conditions of such policy covering such operations are to be such as to assure persons against loss by liability imposed by law by reason of any accidental personal injury, death or medical payment to any person other than the assured or his employees, or by reason of any such loss or damage of property of any person other than the assured or his employees. Each policy of insurance shall contain a provision obligating the insurer to give Council written notice of cancellation not less than thirty days prior to the date of cancellation. The applicant shall, upon request of the Mayor, submit the original or a certified copy of any policy for inspection at any time.

Irrespective of the requirements as to insurance to be carried, the insolvency, bankruptcy or failure of any insurance company carrying insurance for any applicant or licensee hereunder, or the failure of any such company to pay claims accruing, shall not be held to waive any of the provisions of this chapter. The applicant shall pay promptly all premiums for such insurance in strict accordance with its obligations to its carrier and maintain such coverage in full effect so long as the license is in effect.

Failure to keep such policy in full force and effect in accordance with the provisions of this section shall be unlawful and shall be punishable in accordance with the provisions of this chapter.

(Ord. 120-77. Passed 11-22-77.)

729.14 PERMITTING ESCAPE OF MUD, WATER OR OIL.

No person shall permit to escape any mud, water, oil, slush or other waste matter related to the drilling or operating of any oil and/or gas well into any adjoining lots upon which the licensee does not have contractual rights to use the surface, or upon leases not owned by the licensee or into the alleys, streets, gutters or sewers of the City. Within fifteen days after the completion or abandonment of any oil or gas well, the mud and other similar matter and materials used in connection with the drilling and operations thereon shall be removed from the premises.

(Ord. 120-77. Passed 11-22-77.)

729.15 DRILLING WITHOUT PERMIT.

No person acting either for himself or as agent, employee, independent contractor or servant of any other person shall commence to drill, drill or operate any oil or gas well within the City or work upon or assist in any way in the prosecution or operation of such well without a license for the drilling and operation of such well having first been issued in accordance with the provisions of this chapter.

(Ord. 120-77. Passed 11-22-77.)

729.16 WELL WORKOVER.

Any person operating any well for oil or gas within the City may perform any well workover operations, except drilling deeper, without a prior license, provided that the operator complies with all safety rules set forth in this chapter, and no additional license fees shall be required for such work. However, no well workover shall be started or performed without first informing the Mayor. It shall not be necessary to inform the Mayor when well servicing is to be performed, except for swabbing operations.

(Ord. 120-77. Passed 11-22-77.)

729.17 RULES FOR DRILLING AND PRODUCING OPERATIONS.

No person engaged in the drilling and operation of oil and/or gas wells within the City shall fail to comply with the following rules and regulations:

- (a) In order to enable the holder of each license to move oil, gas, water or other products to or from each drilling unit within the City, the holder of each license issued under this chapter for the drilling and operation of a well for oil or gas in the City shall apply to Council for an easement on, over, under, along or across the streets, sidewalks, alleys and other property in the City for the purpose of constructing, laying, maintaining, operating, repairing, replacing and removing pipe lines so long as production or operation may be continued under any license issued pursuant to this chapter, provided such licensee shall:
 - (1) Not interfere with or damage existing water, sewer or gas lines or the facilities of public utilities, located on, under or across the course of such rights of way;
 - (2) Furnish the City Engineer with a plat showing the location of such pipe lines;
 - (3) Construct such lines or cause the same to be constructed out of new or reconditioned pipe in accordance with directions of the Mayor and properly cased and vented if under a street; and

- (4) Grade, level and restore such property to the same surface condition, as nearly as practical, as existed when operations for the drilling of the well were first commenced.
- (b) Any violation of the law of the State or any rule, regulation or requirement of any State or Federal regulatory body having jurisdiction in reference to drilling, completing, equipping, operating, producing, maintaining or abandoning any oil or gas well or related appurtenances, equipment or facilities, or in reference to fire wall, fire protection, blowout protection, safety protection or convenience of persons or property, shall also be a violation of this chapter and shall be punishable in accordance with the provisions hereof.
- (c) No person engaged in drilling or operating any well shall permit gas to escape or be vented into the air unless such gas is flared and burned. All gas flared and burned from a torch, pipe or other burning device, within the City shall be done in such manner so as not to constitute a fire hazard to any property. The location of the torch, pipe or other burning device, the construction thereof, the maintenance thereof and the operation thereof shall at all times be in full compliance with such regulations as may from time to time be issued by the Fire Chief.
- (d) No person shall use or operate in connection with the drilling or working over of any well within the City any wooden derrick or steam-powered rig, or permit any drilling rig or derrick to remain on the premises or drilling site for a period longer than sixty days after completion or abandonment of the well. All engines shall be equipped with effective mufflers of adequate size and type to match the engine used.
- (e) Two dual-controlled, fluid-operated blowout preventers with working pressures equal to the maximum anticipated wellhead pressures shall be used for all drilling or completion operations involving the use of drill pipe or tubing after the surface casing has been set. The mechanical operation of the preventers shall be checked every twenty-four hours and shall be tested with pump pressure with enough frequency to insure good working order at all times.
- (f) No oil, waste water, sludge water or salt water, produced or used in connection with the drilling operation or production of oil or gas wells, shall be disposed of within the City or shall be emptied into any sanitary sewer, storm sewer or surface drainage. However, temporary repositories for salt water, waste or sludge water and basic sediment and water may be constructed of concrete, steel or other material and, in the latter case, such pits for temporary deposits shall be so constructed that no seepage will result therefrom and that surface water resulting from water drainage or rain cannot drain into such pit, and provided that disposal of salt water may be made in a well drilled for that purpose or an abandoned oil well, further provided that approval for such disposal is first obtained from the Chief Inspector of the Oil and Gas Division of the Division of Mines, Department of Industrial Relations of the State.
- (g) All trucks hauling oil, sludge water, salt water, petroleum products or byproducts shall be closed and leakproof at all times and the intake vent and outlet valves and pump connections shall be watertight and leakproof. The operation of any truck engaged in the hauling of any of the products or by-products mentioned in this section, which permits leakage, seepage or drainage of such products or by-products, salt water or sludge water, is unlawful and the driver or operator of such truck shall be subjected to the penalties provided in this chapter. No person engaged in the hauling of salt water shall permit his truck, vehicle or other instrument of conveyance to overflow or leak while loading or after loading.
- (h) No well shall be drilled or worked over in the City without the bore holes at all times being filled with drilling fluid of a weight and viscosity as a reasonably prudent operator would use to keep the well under control at all times.
- (i) No person in connection with the drilling or working over operations of any well within the City shall conduct any swabbing operations or take and complete any drill stem test except during daylight hours. Drill stem tests may be conducted only if the well effluent during the test is produced through an adequate oil and gas separator to storage tanks, and the effluent remaining in the drill pipe at the time the tool is closed is flushed to the surface by circulating drilling fluid down the annulus and up the drill pipe. The Mayor shall be informed before drill stem testing or swabbing is performed so that a City representative may be present during such operations.
- (j) All completed wells within the City shall be equipped with Christmas tree fittings and wellhead connections, with a rated working pressure equal to or greater than the surface shut-in pressure of the well. All wellhead connections shall be assembled and tested prior to installation by a fluid pressure which shall be equal to the test pressure of the fitting employed.
- (k) Whenever any well is abandoned within the City, it shall be the obligation of the licensee to plug such well in accordance with the rules and regulations of the Department of Industrial Relations, Division of Mines, and to take any and all additional provisions or precautionary measures prescribed by the State in connection with abandonment and plugging of the well. It shall be the further obligation of the licensee or the operator of the well to cut the surface casing off at least six feet below the surface of the ground and to place at least a twenty-five foot cement plug in the top of the casing and to weld the top of the casing completely shut. The resulting hole in the ground shall be completely filled to the surface of the ground and duly tamped.
- (l) No person shall use, construct or operate in connection with any oil producing well within the City any crude oil storage tanks, except to the extent of two steel tanks for oil storage, not exceeding 500-barrel capacity each and so constructed and maintained as to be vapor-tight and each surrounded with a well compacted earthen fire wall at such distance from the tanks as will, under any circumstances, hold and retain at least two and one-half times the maximum capacity of such tank. A licensee may use, construct and operate a steel conventional separator, and such other steel tanks and appurtenances as are necessary for treating oil with each of such facilities to be so constructed and maintained as to be vapor-tight. Each oil and gas separator shall be equipped with both a regulation pressure relief safety valve and a bursting head.
- (m) No person within the City shall install any fired vessel or open flame nearer than 150 feet to any well or storage tank.
- (n) Before any actual drilling commences within the City, there shall be constructed completely around the work area, in no case exceeding an area of one acre, a farm type fence (10-47"-12"-9 ga. top and bottom - 11 ga. filler) not less than four to six feet in height. Access to the site shall be through proper gates which shall be closed when not being used for supply of material or other facilities.
- (o) All producing wells, wellheads, tank batteries, pumping units and equipment appurtenant thereto within the City shall be enclosed and protected by a six-foot galvanized or aluminum chain link type fence with matching type gates and effectively screened with evergreen plantings to the approval of the Mayor.
- (p) The premises shall be kept in a clean and sanitary condition, free from rubbish of every character, at all times during the drilling operation and as long thereafter as oil and/or gas is being produced therefrom. All licensee's premises shall be kept clear of high grass, weeds and combustible trash or any other rubbish or debris that might constitute a fire hazard within a radius of 100 feet around any oil tank or producing well, or to the limits of the premises, whichever is the lesser.
- (q) Within thirty days after any oil and/or gas well within the City has been completed for the production of oil and/or gas, or within thirty days after the same is abandoned for the reason that a dry hole is found, the licensee shall remove the excess sludge or mud and fill all pits and excavations and level off the surface of the working area and the licensee shall not allow any accumulation of sludge or oil or other offensive or dangerous substances to accumulate and shall keep his premises in a sanitary and slightly condition. The licensee shall restore any disturbed drainage facilities and leave the premises in such a condition that no pooling of surface water will result.
- (r) Printed signs reading "DANGER, NO SMOKING ALLOWED" or similar words shall be posted in conspicuous places on each well, storage tank or battery of tanks, within the City.
- (s) Material, equipment, tools or pipe used for either drilling or producing operations at the well shall not be delivered to or removed from the well site except between the hours of 7:00 a.m. and 7:00 p.m. of any day except in case of emergency.
- (t) No person shall block, encumber or close up any streets or alleys in any drilling or production operations, except pursuant to an ordinance duly passed by Council permitting a temporary closing of a street or alley.
- (u) There shall be constructed from the public street to the drilling work area a driveway and turnaround area. Such driveway and turnaround area shall be constructed of gravel or plank of sufficient thickness as determined by the City Engineer to support equipment and trucks using such drive. Vehicles delivering supplies and material shall stay on the surfaced drive to prevent tracking of dirt or mud onto streets. Such driveways shall be kept in good repair and free from dust.
- (v) All pumps and equipment operated in conjunction with a producing well shall be operated with electric motors and no internal combustion engines shall be permitted.
- (w) All oil removed from the site of a producing well shall be removed from the site between the hours of 7:00 a.m. and 7:00 p.m. (Ord. 120-77. Passed 11-22-77.)

729.18 RELEASE FROM BOND.

If and when any license terminates and becomes inoperative as provided for in this chapter, or if and when the licensee files with the Mayor written notice of his election to surrender his license and abandon the premises covered thereby, then, if no claims or lawsuits under the bond are pending or have been filed within six months after such license has terminated, become inoperative or written notice of election to surrender has been filed, the Mayor shall return the bond furnished by the licensee in connection with such license. If claims are pending or are filed within such time, upon the satisfaction or defeat of such claims or lawsuits, such bond shall thereupon be returned to the licensee.

(Ord. 120-77. Passed 11-22-77.)

729.99 PENALTY; EQUITABLE REMEDY.

- (a) Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.
- (b) The Law Director is further authorized to seek injunctive relief against any violation of any provision of this chapter or of any amendments thereto in any proper court of law or equity.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 732

Pawabrokers

- 732.01 Definition.**
- 732.02 License application; notice.**
- 732.03 License fee; name; location.**
- 732.04 Bond of licensee.**
- 732.05 Register of items, loans, etc.; inspection; identification.**
- 732.06 Daily report of licensee.**
- 732.07 Minimum holding period.**
- 732.08 Receipts.**
- 732.09 Interest, storage charges, etc.**
- 732.10 Foreclosure; sale; notice.**
- 732.11 Hours of operation.**
- 732.12 Minors; intoxicated or suspicious persons; other businesses.**
- 732.13 Pledger of mechanics' tools to prove ownership and identity.**
- 732.14 Revocation of license.**
- 732.99 Penalty.**

CROSS REFERENCES

- Power to regulate - see Ohio R. C. 715.61
- Pawnbrokers - see Ohio R. C. Ch. 4727
- Maximum interest and charges allowed - see Ohio R. C. 4727.06
- Daily report to police department - see Ohio R. C. 4727.09
- Purchase from minor or drunkard prohibited - see Ohio R. C. 4727.10

732.01 DEFINITION.

For the purpose of this chapter, "pawnbroker" means any person, firm or corporation who lends money on deposit of pledges of personal property or who purchases property or chases in action on condition of selling them back again at a stipulated price.

(Ord. 20-76. Passed 3-9-76.)

732.02 LICENSE APPLICATION; NOTICE.

No person, firm or corporation shall engage in or carry on the business of a pawnbroker in the City until he has first obtained a license to engage in and carry on such business. Every applicant for a license shall make an application in writing to the Chief of Police, which application shall set forth the name under which the business is to be conducted, and the name of every person interested in the business and the location where the business is to be carried on. The application must be made by the person or persons who are to carry on the business and must contain references of at least two other citizens of the City as to the character of the applicant or applicants. The Chief shall cause notice of the filing of such application to be published in a newspaper at least twice, after which the Chief may grant the application and issue the license.

(Ord. 20-76. Passed 3-9-76.)

732.03 LICENSE FEE; NAME; LOCATION.

Licenses for carrying on the business of a pawnbroker shall be issued annually and expire annually on December 31. The license fee shall be one thousand dollars (\$1,000) for each year. The license shall contain the name under which the business is to be conducted, the name of every person interested in the business and the location where the business is to be carried on. Licenses issued under this chapter shall not be transferable to any other person and the business may be conducted only at the location for which the license is issued.

(Ord. 20-76. Passed 3-9-76.)

732.04 BOND OF LICENSEE.

Every licensee under this chapter shall execute and file a bond in the sum of one thousand dollars (\$1,000) with the surety to the satisfaction of the Director of Law that such licensee will conform to the requirements of law and ordinances of the City.

(Ord. 20-76. Passed 3-9-76.)

732.05 REGISTER OF ITEMS, LOANS, ETC.; INSPECTION; IDENTIFICATION.

A person so licensed shall keep a correct list and description, in a book for that purpose, of each article pledged or deposited by him, or on which advances of money have been made, or which has been purchased by him. He shall also enter in such book the name and place of residence of each depositor and the date and hour when the deposit was made. Such registry shall also contain an entry setting forth the interest to be charged and the amount of money loaned. Entries shall be written in ink in the English language and no entry shall be erased, obliterated or defaced. Such book at all times shall be open to the inspection of the Chief of Police, or to any person deputized by him; to any police officer deputized by him, or to the Mayor or any person deputized by him. Upon demand of any of them such person so licensed shall produce and show any article thus listed and described which is in his possession.

Every pawnbroker shall also take a full face photo of any person who pledges or sells any property, and shall obtain and attach to the photograph proper identification, including but not limited to a photograph of either a driver's license or social security card of the person who pledges or sells the property. The photograph and identification shall be attached to or, if kept separately, indexed to the entry in books and forms that describe the transaction.

(Ord. 20-76. Passed 3-9-76.)

732.06 DAILY REPORT OF LICENSEE.

Every such licensed dealer shall on every weekday before noon, make out a report on a blank to be furnished by the Police Division for that purpose, a legible and correct copy of the record required to be kept, containing a clear description of all personal property, bonds, notes or other securities, received on deposit or purchased during the preceding day, with the hour at which the article was received, and a description of the person by whom it was left in pledge, or from whom purchased. Such report shall be delivered to the Chief of Police, or his authorized representative, or shall be mailed to such address as the Chief may designate.

(Ord. 20-76. Passed 3-9-76.)

732.07 MINIMUM HOLDING PERIOD.

Bonds, notes, securities or personal property received on deposit, purchase or pledge by such pawnbroker shall not be sold, redeemed or removed from his place of business for twenty- four hours after the copy and statement provided in Section 732.08 hereof has been delivered.

(Ord. 20-76. Passed 3-9-76.)

732.08 RECEIPTS.

A receipt shall be given to every pledger at the time the property is received, which receipt shall contain the name and address of the pledger, a description of the property received, the amount of money loaned, the rate of interest, the date and hour when the property was received and the date when the loan is due. A true copy of such receipt shall be kept by the licensee pawnbroker. When payments are made by the pledger, receipt for the payments shall be given by him, which receipt shall show the amount previously paid and the balance due. A true copy of such receipt shall be kept by the licensed pawnbroker.

(Ord. 20-76. Passed 3-9-76.)

732.09 INTEREST, STORAGE CHARGES, ETC.

The rate of interest that may be charged on money advanced by pawnbrokers shall not exceed the rate of eight percent per annum and shall be computed on the amount of money actually advanced and no interest shall be collected in advance. A pawnbroker may charge one-half percent per month of the amount of the money loaned to cover the cost of storage and insurance of the articles pawned. The rate of interest and the percentage for storage and insurance allowed to be charged in this section shall include all the compensation the pawnbroker may receive and no other charges of any kind shall be made except in the case of foreclosure.

(Ord. 20-76. Passed 3-9-76.)

732.10 FORECLOSURE; SALE; NOTICE.

After the expiration of twelve months after the maturity of the pledge the pawnbroker may proceed to sell the pawned property in the manner herein provided. At least ten days notice must be given the pledger by mail before the date of sale, and a notice of the proposed sale shall be published in a newspaper printed in and of general circulation within the City at least once, which publication shall be made at least ten days before the date of sale. The sale shall be by public auction and by an auctioneer approved by the Chief of Police. From the proceeds of the sale there shall be deducted the amount of the loan, the accrued interest and the expense of the sale, and the balance shall be paid to the pledger. If after diligent attempt, the pledger cannot be found, the balance due to the pledger shall be deposited with and held by the City until the pledger presents his claim for such balance to the City. If the balance is not claimed within ninety days, such balance shall be forfeited into the City's General Fund.

(Ord. 20-76. Passed 3-9-76.)

732.11 HOURS OF OPERATION.

A person licensed hereunder shall not receive on deposit or purchase personal property, bonds, notes, securities or articles, property or things before the hour of 7:00 a.m. nor after the hour of 8:00 p.m. during the time and months that Eastern Standard Time is in effect, and from 6:00 a.m. nor after the hour of 9:00 p.m. during the time and months that Daylight Savings Time is in effect.

(Ord. 20-76. Passed 3-9-76.)

732.12 MINORS; INTOXICATED OR SUSPICIOUS PERSONS; OTHER BUSINESSES.

A person so licensed shall not take or receive in pawn or pledge for money lent, or take, receive or purchase property, bonds, notes, securities or articles from a minor, or the ownership of which is in or is claimed by a minor, or may be in the possession or under the control of a minor, or a person appearing to be intoxicated or known to be a notorious thief or known to have been convicted of larceny or burglary. A person so licensed shall not receive, take or purchase any article of or pertaining to firearms. A person so licensed shall not carry on another business or avocation in the building in which pawnbroking is carried on, nor employ a person under the age of eighteen years, a convicted felon, or a person convicted of a misdemeanor involving moral turpitude, to take pledges in pawn.

(Ord. 20-76. Passed 3-9-76.)

732.13 PLEDGER OF MECHANICS' TOOLS TO PROVE OWNERSHIP AND IDENTITY.

When any person presents to any pawnbroker for the purpose of pledging the same as security for a loan any implements or tools commonly used by mechanics, the pawnbroker shall require such person to give proof that he is the owner of the tools so offered as a pledge, and when the tools so offered are stamped with the name or any initials or symbols, the pawnbroker shall require the person offering such tools or implements to produce the stamp by which such name, initials or symbols were imprinted, or if unable to produce such stamp, the person shall be required to establish his identity.

(Ord. 20-76. Passed 3-9-76.)

732.14 REVOCATION OF LICENSE.

The Chief of Police, upon conviction of a person for the violation of any of the provisions of this chapter or of any penal statute relating to pawnbrokers, shall revoke his license.

(Ord. 20-76. Passed 3-9-76.)

732.99 PENALTY.

Any person or persons, either for themselves or as an officer, agent or employee of any person, firm or corporation, who violates any provision of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 741

Peddlers and Solicitors

- 741.01 Definitions.**
- 741.02 License required.**
- 741.03 License issuance.**
- 741.04 Registration required.**
- 741.05 License fee.**
- 741.06 License to be carried; display.**
- 741.07 Permit to be carried; display.**
- 741.08 Time limit on canvassing or solicitation.**
- 741.09 Notice prohibiting canvassing or solicitation.**
- 741.10 False representation.**
- 741.11 Unnecessary noise.**
- 741.12 Sales on public ground.**
- 741.13 Metal tag for vehicles. (Repealed)**
- 741.14 Licenses and permits nontransferable.**
- 741.15 License exceptions.**
- 741.16 Employee's license prohibited for exempted persons.**
- 741.17 Exemptions.**
- 741.18 Revocation of license; appeal.**
- 741.19 Prosecution for violation.**
- 741.20 Charitable or religious purposes.**
- 741.21 Canvassing or solicitation in violation of notice.**
- 741.22 Prohibition of telephone solicitation.**
- 741.99 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.

Charitable solicitations - see Ohio R.C. Ch. 1716
Frozen desserts - see Ohio R.C. 3717.51 et seq.
Littering - see GEN. OFF. 517.08
Trespassing - see GEN. OFF. 537.06

741.01 DEFINITIONS.

Whenever used in this chapter, the following words shall be as herein defined unless a different meaning clearly appears from the context:

- (a) "Canvassing" or "canvasser" or "solicitation" or "solicitor" includes any person who calls at residences or places of business without the invitation or previous consent of the owner(s) or occupant(s) of such premises for the purpose of any one or more of the following activities:
 - (1) Seeking to obtain orders for the purchase of goods, wares, merchandise, foodstuffs or services of any kind, character or description whatever, for either present or future delivery; or
 - (2) Seeking to obtain prospective customers for application or purchase of insurance of any type, kind or character; or
 - (3) Seeking to obtain subscriptions to books, magazines, periodicals, newspapers and every other type or kind of publication;
 - (4) Seeking to obtain contributions or to sell any goods, articles or services of any kind for the support or benefit of any charitable, religious or nonprofit association, organization, corporation or project; or
 - (5) Seeking to obtain from an occupant of any residence an indication of such occupant's belief in regard to any social, political or religious matter; or
 - (6) Seeking to influence the personal belief of the occupant of any residence in regard to any social, political or religious matter; or
 - (7) Taking of a poll or census by any person, firm or corporation other than a governmental body or agency thereof.
- (b) "Canvasser for charitable or religious purposes" means any person who calls at residences or places of business without the invitation or previous consent of the owner(s) or occupant(s) of such premises for the purpose of soliciting or receiving contributions or pledges for charitable or religious purposes, or to offer or attempt to sell, or request a donation for, any advertisement, advertising space, book card, change, coupon, device, magazine, merchandise, ticket, token, flag, souvenir, foodstuff, service or any other article or thing in connection with which any appeal is made for any charitable or religious purpose, or when or where in connection with any such sale, donation or contribution, any statement is made that the whole or any part of the proceeds of any such sale will go to or be donated to any charitable or religious purpose.
- (c) "Charitable" includes the words patriotic, philanthropic, social service, welfare, eleemosynary, benevolent, education, civic, fraternal, veteran's, medical and social research, either actual or purported.
- (d) "Contribution" includes the words gift, food, clothing, money, property or donations of any kind, including those made under the guise of a loan of money or property.
- (e) "Person" means any individual, firm, partnership, corporation, company, association, joint stock company, church, religious sect, religious denomination, society, organization or league, or any combination of them, and includes any trustee, member, receiver, assignee, agent or other representative thereof.
- (f) "Religious" and "religion" as used herein shall not include the word charitable, but shall be given their commonly accepted definitions.
- (g) "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.
- (h) "Residence" means every separate living unit occupied for residential purposes by one or more persons, contained within any type of building or structure.
(Ord. 43-92. Passed 6-23-92.)

741.02 LICENSE REQUIRED.

No person shall peddle or solicit without having an unrevoked license from the City to do so, valid and in effect at the time.

(Ord. 820-59. Passed 7-6-59.)

741.03 LICENSE ISSUANCE.

Licenses shall be issued by the Chief of Police upon the applicant's complying with the following provisions:

- (a) Giving his name, present address and his permanent address;
- (b) Giving a brief description of the nature of the business and the kinds of goods or property to be peddled or solicited;
- (c) Paying the license fee required by this chapter for such license;
- (d) Giving the name and address of the licensed employer and exhibiting credentials showing he is an authorized employee or representative of such licensed employer, in the event the application is for an employee's license.

(Ord. 37-89. Passed 4-25-89.)

741.04 REGISTRATION REQUIRED.

Every person who desires to peddle or solicit shall register in a registration book provided for that purpose in the Division of Police, his name and address, the name and address of the person whom he represents, the names and addresses of at least two references as to his moral character, honesty and integrity, a brief description of the nature of the business in which he is engaged and the kind of goods or property to be peddled or solicited for, if any. Such person shall furnish his fingerprints and thumbprints to be taken by the Division of Police.

No person shall be registered and no permit be issued except upon such person's exhibiting a valid license for peddling or soliciting, or a clearance from the license collector stating that no license is required.

Such registration shall be valid for a period of one year and such person must register at the end of each year by period.

As evidence of compliance with the provisions of this section, the Division of Police shall issue to each person who complies a permit which shall show the name and address of such person, the name of the person he represents or by whom he is employed, if any, and the kind of goods or property to be peddled or solicited for.

No person shall peddle or solicit without having complied with the provisions of this section.

(Ord. 820-59. Passed 7-6-59.)

741.05 LICENSE FEE.

(a) Every person desiring a solicitor's or peddler's license shall pay to the City a license fee of sixty dollars (\$60.00) per year, payable in advance. A six month's license may be issued upon the payment of thirty dollars (\$30.00).

(b) Any individual having a valid solicitor's or peddler's license and who actually peddles or solicits himself, may have licenses issued to his employees in accordance with subsection (c).

(c) Employees of any licensed solicitor or peddler shall pay to the City a license fee of fifteen dollars (\$15.00) per year, payable in advance. A six month employee's license may be issued upon the payment of seven dollars and fifty cents (\$7.50).

(Ord. 820-59. Passed 7-6-59.)

741.06 LICENSE TO BE CARRIED; DISPLAY.

Every solicitor or peddler licensed under this chapter shall have his license in his immediate possession at all times when peddling or soliciting and when so peddling or soliciting shall display the same upon demand of any police officer of the City and upon demand of any person to whom he is peddling or soliciting.

(Ord. 820-59. Passed 7-6-59.)

741.07 PERMIT TO BE CARRIED; DISPLAY.

Every solicitor or peddler at all times while engaged in peddling or soliciting shall have in his immediate possession the permit issued to him under the provisions of Section 741.04 and when so peddling or soliciting shall display the same upon demand of any police officer of the City and upon demand of any person to whom he is peddling or soliciting.

(Ord. 820-59. Passed 7-6-59.)

741.08 TIME LIMIT ON CANVASSING OR SOLICITATION.

It is unlawful and shall constitute a nuisance for any person to go upon any premises and ring the doorbell upon or near any door of a residence located thereon, or rap or knock upon any door, or create any sound in any manner calculated to attract the attention of any occupant of such residence, for the purpose of securing an audience with the occupant(s) thereof and to engage in canvassing as defined in Section 741.01, prior to 9:00 a.m. or after 9:00 p.m., Monday through Sunday or on a State or national holiday.

(Ord. 43-92. Passed 6-23-92.)

741.09 NOTICE PROHIBITING CANVASSING OR SOLICITATION.

Notice by the owner(s) or occupant(s) of any residence or place of business of the determination to refuse to receive any uninvited canvassers or solicitors shall be given by displaying a weatherproof card, decal or sign not less than three inches by two inches in size nor more than thirty square inches in total surface area upon or near the main entrance door to the residence or place of business, indicating such determination by the owner or occupant, containing the words "No Solicitors Invited" or "No Soliciting", with letters at least one-fourth inch in height with reference to this section of the Codified Ordinances. Any such sign which complies with the requirements of this section shall be exempt from any additional or different requirements contained in the provisions of the Planning and Zoning Code.

(Ord. 43-92. Passed 6-23-92.)

741.10 FALSE REPRESENTATION.

No peddler or solicitor shall represent by words, writing or action that he is some other peddler or solicitor, that he is a partner, employee or agent of any peddler or solicitor when in fact he is not the partner, agent or employee of such peddler or solicitor, or that he is the employee, representative, agent or partner of any person when in fact he is not the employee, representative, agent or partner of such person.

(Ord. 820-59. Passed 7-6-59.)

741.11 UNNECESSARY NOISE.

No peddler or solicitor shall cry his wares in a loud voice or use any noise-producing device other than a soft chime, the limit of audibility of which shall be one hundred feet from the source of such sounds, nor shall any peddler commit any breach of peace in crying his wares or soliciting the sale of his products.

(Ord. 820-59. Passed 7-6-59.)

741.12 SALES ON PUBLIC GROUND.

No person shall sell or distribute on the streets, alleys, parks or other public grounds of the City any goods, wares or merchandise.

(Ord. 820-59. Passed 7-6-59.)

741.13 METAL TAG FOR VEHICLES. (REPEALED)

(EDITOR'S NOTE: Former Section 741.13 was repealed by Ordinance 37-89, passed April 25, 1989.)

741.14 LICENSES AND PERMITS NONTRANSFERABLE.

(a) Licenses and permits issued pursuant to this chapter shall not be assigned or transferred, nor shall they, or either of them, be used by any person other than the person to whom they were issued, except as herein provided. No person shall transfer, loan or permit the use of his license or permit by any other person, except as herein provided.

(b) Where a person who is not himself soliciting or peddling, has taken out licenses for bona fide employees, and such licenses are issued in the names of the employer and the employee, the license may be transferred subject to the following conditions:

- (1) The license and the permit must be presented to the Police Chief.
- (2) The permit is to be retained by the Police Chief.
- (3) A notation must be made upon the license to indicate its transfer from one employee to another.

- (4) The new employee must comply with the provisions of Section 741.04.
(Ord. 37-89. Passed 4-25-89.)

741.15 LICENSE EXCEPTIONS.

The provisions of Sections 741.02 and 741.05 shall not apply to the following:

- (a) Any person soliciting or peddling anything which such person has personally manufactured or produced. This exemption shall apply only to natural persons.
- (b) Any farmer, poultryman or horticulturist soliciting or peddling his own produce. This exemption shall apply only to natural persons and shall not apply to farmers, poultrymen or horticulturists who buy goods for resale, as well as selling their own produce.
- (c) Any person soliciting for personal services to be performed by the person so soliciting. This exemption shall apply only to natural persons.
- (d) Any natural person soliciting or peddling for or selling tickets for any religious, charitable, school, educational or veteran's organization.
- (e) Any peddling of or soliciting for the sale of religious or educational publications and books.

(Ord. 820-59. Passed 7-6-59.)

741.16 EMPLOYEE'S LICENSE PROHIBITED FOR EXEMPTED PERSONS.

No employee's license shall be issued under the provisions of subsection (b) of Section 741.05 to any employee of any solicitor or peddler exempted from the payment of a license fee by the provisions of Section 741.15. Every employee of such solicitor or peddler shall obtain a license and pay the fee required by subsection (a) of Section 741.05.

(Ord. 820-59. Passed 7-6-59.)

741.17 EXEMPTIONS.

The prohibitions contained in this chapter shall not apply to any persons selling or delivering newspapers, to any duly authorized solicitor soliciting the purchase of goods, wares, merchandise or gifts for or on behalf of any recognized educational, civic, religious or charitable organization nor to any person specifically exempted by law, except as to those provisions contained in this chapter relating to registration requirements of those hereby permitted to conduct such solicitations and except as otherwise provided in this chapter.

(Ord. 43-92. Passed 6-23-92.)

741.18 REVOCATION OF LICENSE; APPEAL.

Licenses issued pursuant to this chapter may be revoked by the Mayor after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation or any false statement contained in the application for a license.
- (b) Fraud, misrepresentation or any false statement made to the Division of Police in furnishing the information required by Section 741.04.
- (c) Any violation of this chapter.
- (d) Conviction of the licensee of any felony or crime involving moral turpitude.
- (e) Conducting the soliciting or peddling in an unlawful manner or in such a manner as to constitute a breach of the peace or to be a menace to the health, safety or general welfare of the people of the City.
- (f) Conducting the soliciting or peddling by motor bicycles, bicycles, scooters or motorcycles.

Notice of the hearing for revocation of a license shall be given in writing, stating the grounds of the complaint and the time and place of hearing. Such notice shall be mailed, postage prepaid, to the licensee at the address given on the application for the license, at least five days prior to the date set for the hearing.

Any person aggrieved by the decision of the Mayor shall have the right to appeal to Council. Such appeal shall be taken by filing with the Clerk a written statement of the grounds for the appeal within fourteen days after notice of the decision by the Mayor has been given.

Council shall set the time and place for hearing such appeal, and notice of such time and place shall be given by the Clerk in the manner hereinabove provided for notice of hearing of revocation by the Mayor.

(Ord. 820-59. Passed 7-6-59.)

741.19 PROSECUTION FOR VIOLATION.

Conviction and punishment of any person for peddling or soliciting without a license shall not excuse or exempt such person from the payment of any license fee due or unpaid at the time of such conviction and nothing in this chapter shall prevent criminal prosecution for any violation of any provision of this chapter.

(Ord. 820-59. Passed 7-6-59.)

741.20 CHARITABLE OR RELIGIOUS PURPOSES.

(a) Registration Required. No person shall act as a canvasser for charitable or religious purposes in this City without first having registered as such with the Police Chief. No fee shall be required. However, the Police Chief shall issue a registration certificate to each applicant and such certificate shall be carried on the person of the registrant at all times when engaged in such canvassing, solicitation or sales and shown on request of any police officer or any person of whom a request for contribution or offer to sell is made. Each canvasser or solicitor shall provide a written receipt and, if applicable, a statement attesting to the organization's exempt status under Section 501 of the Federal Internal Revenue Code if requested to do so by the person making a contribution or purchase. Such receipt shall show the name of the organization, amount of the contribution and the date and shall be signed by the solicitor.

An organization which desires to place a number of canvassers or solicitors for charitable or religious purposes in the City simultaneously may make a group application to cover all of them, however, separate registration certificates shall be issued to each or, in lieu thereof, a separate information card shall be issued to each canvasser or solicitor by the registered organization. Such information card shall include, at a minimum, the name of the registered organization; a description of the purpose of the solicitation; the period for which the registration was issued; the name of the canvasser or solicitor; a brief description of the canvasser or solicitor, such as age, weight and height; the signature of the canvasser or solicitor and the signature of a member of the registered organization.

(b) Registration Application; Contents. Application for a certificate of registration shall be made upon a form provided by the Police Chief. Each application shall contain, among other information, the name, address and the phone number of the person completing the application; the name, address and telephone number of the organization for which he purports to act; the name of an officer or other official of the organization; the nature of the charitable or religious purpose to which the contributions, donations or sale proceeds will be applied in the case of canvassers for charitable or religious purposes; the compensation, if any, which he or other canvassers are to receive for their services; and such other information as the Police Chief may require.

(c) Thirty-Day Limitation. In no case shall any registration certificate for canvassers for charitable or religious purposes or door-to-door salespersons in interstate commerce be valid for more than a thirty-day period. The certificate of registration shall state the expiration date thereof.

(d) Exceptions. The provisions of this section shall not apply to solicitations conducted only among the members of the entity or organization conducting the canvassing or to those in the form of collections or contributions at the regular assemblies, meetings or services of any such established charitable or religious organization.

(e) Registration Revocation. Any registration issued hereunder shall be revoked by the Police Chief 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.

Immediately upon such revocation, written notice thereof shall be given by the Police Chief 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 license shall become null and void.

(f) Fraudulent Solicitations Prohibited.

- (1) No person, canvasser or solicitor 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 in behalf of any person for 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.

(Ord. 43-92. Passed 6-23-92.)

741.21 CANVASSING OR SOLICITATION IN VIOLATION OF NOTICE.

It is unlawful and shall constitute a trespass for any person to go upon any premises and ring the doorbell upon or near any door, or rap or knock upon any door or create any sound in any other manner calculated to attract the attention of any occupant of such residence or place of business for the purpose of securing an audience with; the occupant(s) thereof and engage in canvassing as defined in Section 741.01 in defiance of the notice exhibited at the residence or place of business in accordance with the provisions of Section 741.09.

(Ord. 43-92. Passed 6-23-92.)

741.22 PROHIBITION OF TELEPHONE SOLICITATION.

(a) The practice of telephoning any private residence or dwelling in the City without having been requested or invited to do so by the owner or occupant for the purpose of soliciting orders for the sale of goods or services, for the purpose of soliciting the purchase of goods or services, for the purpose of soliciting a contract or agreement to purchase goods or services, for the purpose of soliciting the sale of such owner's property where such homeowner has not indicated a desire to be so solicited, or for the purpose of any commercial solicitation which results or is intended to result in the sale of goods or services, regardless of the form, guise or method of such solicitation, is prohibited.

(b) Any practice or act prohibited by this section shall be deemed to have occurred or to have been committed either at the place at which the telephone call was made or at the place at which the telephone call was received.

(Ord. 68-92. Passed 8-25-92.)

741.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 743

Ice Cream Trucks

743.01 Definitions.

743.02 License required.

743.03 Inspection and equipment required.

743.04 Insurance.

743.05 Restrictions.

743.06 Duties of approaching chieles.

743.99 Penalty.

743.01 DEFINITIONS.

As used in this section:

- (a) "Ice cream truck" means every motor vehicle from which ice cream, popsicles, ice sherbets or frozen desserts of any kind are dispensed for purposes of retail sale on the City's streets.
- (b) "Operator" means every person, firm, partnership, or corporation who or which owns, leases, contracts or in any other fashion permits a person to operate upon the City's streets any ice cream truck for the purpose of vending.

- (c) "Person" means every driver and/or passenger of an ice cream truck.
(d) "Vend" or "vending" means offering ice cream, popsicles, ice sherbets or frozen desserts for sale from a motor vehicle on the City's streets.
(Ord. 38-2011. Passed 7-12-11.)

743.02 LICENSE REQUIRED.

- (a) No operator shall perform or cause to be performed vending activities as defined in this chapter without having an unrevoked license from the City to do so.
(b) Licenses under this section will be issued by the Chief of Police upon an application form provided by the City being accurately completed by an operator and meeting the requirements and restrictions set forth in this chapter, including the annual inspection required by Section 743.03. (Ord. 38-2011. Passed 7-12-11.)

743.03 INSPECTION AND EQUIPMENT REQUIRED.

(a) Any person vending from ice cream trucks on the City's streets shall have any vehicle used for such vending inspected by the City's Division of Police for safety and for equipment required by this Section 743.03. Said inspection for safety may include, but may not be limited to, inspection of all lights, tire tread, mirrors, and any other features deemed relevant to safety by the City's Division of Police. The inspection shall be conducted annually prior to the issuance of a license, as required in this chapter, and at such other times as the Division of Police deems necessary in order to assure compliance with this chapter.

(b) The inspection provided for in subsection (a) hereof shall take place before any license is issued. Such license will not be issued unless all vehicles to be used by the applicant for vending are equipped with the following:

- (1) Two six-inch or larger flashing amber lights in front and on top of the vehicle;
- (2) Two six-inch or larger flashing amber lights in the rear and on top of the vehicle;
- (3) Front and rear vehicle signs with the words "Slow-Children" displayed in eight-inch black letters on a yellow background;
- (4) A stop signal arm that can be extended horizontally from the left side of the truck duplicating the design, as set forth in the State Manual of Uniform Traffic Control Devices. This arm shall be red and white in color and shall contain two alternately flashing lights three to five inches in diameter at the top and bottom thereof, visible at 300 feet to the front and rear in normal sunlight upon a straight level street. The two lights facing to the front shall be red and the two lights facing to the rear shall be red. The bottom of the signal arm shall be 42 inches above the highway.
The driver of an ice cream truck stopped on the streets for the purpose of vending shall actuate the special flashing lights and extend the stop signal arm. These lights and the stop signal arm shall not be used when the truck is in motion, nor at any time the truck is stopped for a purpose other than vending;
- (5) A convex mirror mounted on the front so that the driver in his or her normal seating position can see the area in front of the truck obscured by the hood;
- (6) Once issued, the license must be prominently displayed in plain view at all times that the vehicle is in operation within the City; and
- (7) Each applicant will pay the non-refundable fee of one hundred dollars (\$100.00) for such license for that calendar year.
(Ord. 38-2011. Passed 7-12-11.)

743.04 INSURANCE.

(a) No license shall be issued to an operator or person selling from an ice cream truck unless a certificate is furnished to the City showing that the vendor is carrying the following minimum amounts of insurance: general commercial liability insurance in an amount of not less than one million dollars (\$1,000,000) for injuries, including those resulting in death, resulting from any one occurrence and on account of any one accident, and property damage insurance in an amount of not less than one hundred thousand dollars (\$100,000) for damages on account of any one accident or occurrence.

(b) Insurance certificates shall contain an agreement signed by the insurance company that prior to modification, cancellation or termination of the subject policy, advance written notice of at least thirty (30) days shall be sent to the City's Division of Police by said insurance company.
(Ord. 38-2011. Passed 7-12-11.)

743.05 RESTRICTIONS.

- (a) A person shall vend only when the ice cream truck is lawfully stopped.
(b) A person shall vend only from the side of the truck away from moving traffic and as near as possible to the curb or side of the street. Double parking is prohibited. For purposes of this Section 743.05, "double parking" shall mean stopping the truck for the purpose of vending products alongside of another vehicle already parked parallel to the curb.
(c) A person shall not vend to a person standing in the roadway.
(d) Ice cream trucks shall be limited to travel only on public streets when vending products. Travel within public parks and vending on the portion of any street which is adjacent to public park property is prohibited.
(e) The operator of any ice cream truck which traverses the streets of the City for the purpose of vending products shall submit to the City's Division of Police, prior to commencing business each year, or as requested hereafter, a detailed listing of the routes to be traveled each day by said motor vehicle. The Division of Police shall approve or disapprove such routes within 30 days thereafter. Any routes not approved by the Division of Police shall not be utilized by said operator. Disapproval of a route shall be only for traffic safety or other safety reasons. There shall be no vending on Richmond Road, Highland Road, Monticello Boulevard, Chardon Road, Trebisky Road, White Road, Brush Road, and Wilson Mills Road, as well as within 100 yards of any school boundary. There shall be no vending between sunset, as defined in a newspaper of general circulation within Cuyahoga County, and 10:00 a.m. the following day.
(e) No person convicted of any of the following crimes, in any jurisdiction, shall be permitted to operate or be a passenger on a vehicle for vending within the City: any sex crime, domestic violence crime, any crime against or involving a minor, any crime of violence. No person who has been convicted of three or more moving traffic offenses in any jurisdiction within the last two years shall be permitted to operate an ice cream truck. No license, as required in this chapter, shall be issued to any owner or operator of such vehicle until driving records of every operator of such vehicle are provided to the Division of Police and approved by the Chief of Police.
(f) The applicant shall supply to the City, proof of a criminal record check. Such criminal history shall be obtained by the applicant by obtaining a set of fingerprints, which shall be sent to the Ohio Bureau of Criminal Investigation for such record check. The results of said record check from the Ohio Bureau of Criminal Investigation shall be supplied to the Division of Police with the license application for review. This provision applies to all persons as defined in Section 743.01(c).
(g) The applicant shall supply the City, if applicable, the proper permit from the County Board of Health for vending food products.
(h) The driver of an ice cream truck shall not back up an ice cream truck to make or attempt to make a sale.
(Ord. 38-2011. Passed 7-12-11.)

743.06 DUTIES OF APPROACHING VEHICLES.

- (a) The driver of a vehicle meeting or overtaking, from either direction, an ice cream truck stopped on the street, shall stop no less than 25 feet from the front or rear of said truck when the flashing lights and stop signal arm as provided for in division (d) of this section are in use. After stopping, a driver may proceed past such truck at a reasonable and prudent speed, not exceeding 15 miles per hour, and shall yield the right-of-way to any pedestrian who crosses the roadway to or from the ice cream truck.
(b) The driver of vehicle on a street with separate roadways separated by a divider of any kind need not stop upon meeting or passing an ice cream truck that is located on the other parallel roadway. (Ord. 38-2011. Passed 7-12-11.)

743.99 PENALTY.

- (a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the fourth degree for a first offense and shall be fined not more than two hundred fifty dollars (\$250.00) or imprisoned not more than 30 days, or both, if an individual person, and if not an individual person, shall be fined not more than one thousand dollars (\$1,000) for each offense. For any subsequent offense, such person is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than 180 days, or both, if an individual, and shall be fined not more than five thousand dollars (\$5,000), if an organization, subject to the provisions of Sections 501.11 and 501.12 of the General Offense Code, for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
(b) The conviction and punishment of any person for peddling or soliciting without a license shall not excuse or exempt such person from the payment of any license fee due or unpaid at the time of such conviction, and nothing in this chapter shall prevent a criminal prosecution for any violation of any provision of this chapter.
(Ord. 38-2011. Passed 7-12-11.)

CHAPTER 749

Housing Delivery System

749.01 Purpose.

749.02 Definitions.

749.03 Exemptions.

749.04 Unlawful discriminatory housing practices.

749.05 Unlawful discriminatory housing practices against persons with disabilities.

749.06 Fair Housing Review Board; creation, duties, responsibilities.

749.07 Complaints.

749.08 Investigation of complaints.

749.09 Conciliation.

749.10 Injunctive relief.

749.11 Pattern or practice of discrimination.

749.12 Other judicial relief.

749.13 Intimidation or interference in housing.

749.14 Scope/severability.

749.99 Penalty.

CROSS REFERENCES

Unlawful discriminatory practices - see Ohio R.C. 4112.02

749.01 PURPOSE.

It is hereby declared to be the purpose of this chapter to provide, within constitutional limitations, for fair housing throughout the City, to assure that all persons have full and equal opportunity to consider all available housing for themselves and their families within the City without being discriminated against on the basis of race, color, religion, sex, ancestry, handicap, familial status or national origin, and to promote a stable, racially integrated community.
(Ord. 91-2006. Passed 11-14-06.)

749.02 DEFINITIONS.

- (a) "Board" means the Fair Housing Review Board.
(b) "Covered multi-family dwellings" means buildings consisting of four or more units, if such buildings have one or more elevators, and ground floor units in other buildings consisting of four or more units.
(c) "Discriminate" or "discrimination" means to segregate or separate persons in a particular manner solely or in part because of race, religion color, sex, national origin, age, disability or handicap, familial status or ancestry. However, it does not include special outreach efforts conducted by, or under the authority of units of local government or non-profit fair housing corporations or agencies to administer the programs and activities relating to housing and urban development in a manner which affirmatively furthers the policy of this chapter.
(d) "Dwelling" means a building or structure, or part thereof, used or designed or intended to be used for residential purposes.
(e) "Handicap" means a physical or mental impairment that substantially limits one or more major life activities, including the functions of caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; a record of a physical or mental impairment; or being regarded as having a physical or mental impairment, but such term does not include current, illegal use of or addition to, a controlled substance, as defined in 21 U.S.C. Section 802. The term "disabled" or "disability" may be used in place of, or may be interchangeable with, the term "handicap."
(f) "Familial status" refers to the status of:
(1) One or more individuals (who have not attained the age of 18 years) being domiciled with:

- A. Parent or other person having legal custody of such individual or individuals; or
- B. The designees of such parent or other persons having such custody, with the written permission of such parent or other persons.
- (2) Any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen years.
- (g) "Housing accommodations" or housing or dwelling means any building which is used or occupied or is intended be used or occupied as the home residence, dwelling unit, or sleeping place of one or more individuals, groups, or families whether or not living independently of each other, and any vacant land zoned residential and offered for sale or lease. It also includes any housing accommodations held or offered for sale or rent by a real estate broker.
- (h) "Housing for older persons" means housing: (1) Provided under any State or Federal program that the Secretary of HUD determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or (2) Intended for, and solely occupied by, persons sixty-two (62) years of age or older; or (3) Intended and operated for occupancy by at least one person fifty-five (55) years or older per unit. The determination as to whether housing qualifies as housing for older persons under this subsection shall be consistent with regulations promulgated by the Secretary of HUD, providing at least the following factors: (a) The existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and (b) That at least eighty percent (80%) of the units are occupied by at least one (1) person fifty-five (55) years of age or older per unit; and (c) The publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons fifty-five (55) years of age or older. Housing shall not fail to meet the requirements of housing for older persons by reason of: (i) Persons residing in such housing as of the date of enactment of the Fair Housing Act of 1988 who do not meet the age requirements of this subsection; provided that the new occupants of such housing meet such age requirements; or (ii) Unoccupied units; provided that such units are reserved for occupancy by persons who meet the age requirements of this subsection.
- (i) "Lending institutions" means any bank, savings and loan association, insurance company, or other organization or person regularly engaged in the business of lending money, guaranteeing loans for profit, or otherwise providing financial assistance or insurance in connection with the purchase, sale or rental of dwellings.
- (j) "Person" means one (1) or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers or fiduciaries.
- (k) "Protected group" or "protected class" refers to persons who are or may be discriminated against on the basis of race, religion, color, sex, national origin, disability or handicap, familial status or ancestry.
- (l) "Purchase" means to obtain a dwelling through sale.
- (m) "Real Estate Broker" means a real estate agent or salesperson, or a limited real estate broker or salesperson, as defined in Ohio R.C. 4735.01.
- (n) "Rent" or "Rental" means to lease, sublease, assign or otherwise grant or obtain the right to occupy a dwelling not owned by the occupant in return for consideration, or a contract or option to do any of the foregoing.
- (o) "Sale" or "Sell" means to convey, exchange, transfer or assign legal or equitable title to, or beneficial interest in, a dwelling in return for consideration, or a contract or option to do any of the foregoing.
- (p) "Sexual orientation" means a person's actual or perceived homosexuality, bisexuality or heterosexuality, by orientation or practice.
- (q) "Unlawful discriminatory housing practice" means any act prohibited by Section 749.04 and/or 749.05.

(Ord. 91-2006. Passed 11-14-06.)

749.03 EXEMPTIONS.

The provisions of this chapter shall not:

- (a) Prohibit a religious organization, association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this chapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members, provided such club does not discriminate in its membership policies on the basis of race, color, religion, sex, ancestry, handicap, familial status or national origin.
- (b) Require any person selling or renting property to modify such property in any way at his or her expense, provided that such person does not refuse to permit reasonable modifications by a disabled person, which are necessary for that person to fully enjoy the premises in which he or she resides, when such modifications are made at the expense of the disabled person, which permission may be reasonably based on the disabled person's promise to restore the premises to the condition in which it previously existed before granting permission for such modification, nor shall this chapter be construed to relieve any disabled person of any obligation generally imposed on all persons regardless of disability in a written lease, rental agreement, or contract of purchase or sale, or to forbid distinctions based on the inability to fulfill the terms and conditions, including financial obligations, of the lease, agreement, or contract, so long as such distinctions are not based on the disability, or on the landlord's refusal to make reasonable modifications in the lease, agreement, or contract conditions for the purpose of denying a disabled person equal opportunity to use and enjoy the premises.
- (c) Prohibit restricting the sale or rental of a dwelling on the basis of handicap when such a dwelling is authorized, approved, financed or subsidized in whole or in part for the benefit of persons of a handicap by a unit of state, local or federal government, so long as such restrictions do not discriminate against otherwise qualified handicapped persons.
- (d) Require that a dwelling be made available to a person whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.
- (e) Prohibit the application of any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling.
- (f) With regard to familial status, apply to dwellings provided under any State or Federal program specifically designed and operated to assist elderly persons, as defined in the State or Federal program, or to housing for older persons provided that HUD has determined that such program or housing is exempt, which determination shall be conclusive.
- (g) Prohibit a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than membership in a protected class.

(Ord. 91-2006. Passed 11-14-06.)

749.04 UNLAWFUL DISCRIMINATORY HOUSING PRACTICES.

It shall be unlawful to:

- (a) Refuse to sell or rent, after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny a dwelling to any person because of membership in a protected class.
- (b) Discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the furnishing of facilities, services or privileges in connection with the occupancy, ownership or use of any housing accommodations, including the sale of fire, extended coverage, or homeowners insurance, because of membership in a protected class or because of the racial composition of the neighborhood in which the housing accommodations are located.
- (c) Make, print, circulate, or publish, or cause to be made, printed, or published, any written or oral notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on membership in a protected class or an intention to make such preference, limitation, or discrimination. Discriminatory notices, statements and advertisements include, but are not limited to:
 - (1) Using words, phrases, photographs, illustrations, symbols, or forms which convey that dwellings are available or not available to a particular group of persons because of membership in a protected class.
 - (2) Expressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation on any purchaser or renter because of membership in a protected class.
 - (3) Selecting media or locations for advertising the sale or rental of dwellings which deny particular segments of the housing market information about housing opportunities because of membership in a protected class.
 - (4) Refusing to publish advertising for the sale or rental of dwellings, or requiring different charges or terms for such advertising because of membership in a protected class.
 - (d) Represent to any person because of membership in a protected class that any dwelling is not available for inspection, sale, or rental when such dwelling is in fact available.
 - (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular protected class.

Prohibited actions under this section include, but are not limited to:

 - (1) Engaging for profit in conduct (including uninvited solicitations for listings) which conveys to a person that a neighborhood is undergoing or is about to undergo a change in persons of a particular protected class, in order to encourage persons to offer a dwelling for sale or rental.
 - (2) Encouraging, for profit, any person to sell or rent a dwelling, through assertions that the entry or prospective entry of persons of a particular protected class can or will result in undesirable consequences for the project, neighborhood or community, such as a lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools or other services or facilities.
 - (3) Soliciting or entering into any agreement for the sale, lease or listing for sale or lease of any real property within the City/Village (on the ground of loss of value) due to the present or prospective entry into any neighborhood of any person or persons of any particular protected class.
 - (4) Distributing or causing to be distributed, written material or statements designed to induce any person to sell or lease real property because of any alleged or actual, present or prospective change in the race, color, religion, sex, handicap, familial status, national origin or ancestry of persons in the municipality or neighborhood.
 - (5) Making any representation concerning the listing for sale or the anticipated listing for sale or the sale of any real property for the purpose of inducing or attempting to induce the sale or listing for sale of any real property, that the presence or anticipated presence of persons of any particular protected class in the area will or may result in the lowering of real property values in the block, neighborhood or area in which the property is located.
 - (f) Discriminate, in connection with borrowing or lending of money, guaranteeing or purchasing loans, accepting mortgages, or otherwise financing the purchase, construction, improvement, repair or maintenance of a dwelling, or the making or purchasing of loans or the provision of other financial assistance secured by residential real estate, because of membership in a protected class. Such discrimination includes, but is not limited to:
 - (1) Denying or delaying any of the services normally offered by such an institution, including the processing of a loan or other financial assistance;
 - (2) Making a transaction unavailable;
 - (3) Varying the terms or conditions, or otherwise discriminating in the fixing of the amount, interest rate, duration, or other terms or conditions of a loan or other financial assistance;
 - (4) Providing any person with any service which is different from, or provided in a different manner than, that which is provided to other persons similarly situated;
 - (5) Refusing to purchase or impose different terms or conditions on loans or other debts or securities which support the purchase, construction, improvement, repair or maintenance of a dwelling, or which are secured by residential real estate; and
 - (6) Denying or vary the terms and conditions of a loan on the basis that a specific parcel of real estate offered as security is located in a specific geographical area.
 - (g) Discriminate in the appraisal of the value of real estate or in the sale of insurance in connection with a real estate transaction because of membership in a protected class.
 - (h) Impose different sale prices or rental charges for the sale or rental of a dwelling upon any person because of membership in a protected class.
 - (i) Use different qualification criteria or applications, or sale or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or sale or rental approval procedures or other requirements, because of membership in a protected class.
 - (j) Evict tenants because of their membership in a protected class or because of a tenant's guest's membership in a protected class.
 - (k) Enter into a listing agreement which discriminates against any person because of membership in a protected class.
 - (l) Deny any person access to or membership or participation in any multiple-listing service, real estate brokers organization or other service, organization, or facility relating to the business of selling or renting dwellings or to discriminate against any person in the terms or conditions of such access, membership or participation because of membership in a protected class. Prohibited actions under this section include, but are not limited to:
 - (1) Setting different fees for access to or membership in a multiple-listing service based on membership in a protected class.
 - (2) Denying or limiting benefits accruing to members in a real estate brokers organization because of membership in a protected class.
 - (3) Imposing different standards or criteria for membership in real estate or rental organizations based on membership in a protected class.
 - (4) Establishing board or multi-listing service boundaries, residence or office, location or other membership requirements which have the effect of excluding persons from membership because of membership in a protected class.
 - (5) Refusing to hire or contract with any person because of membership in a protected class.
 - (m) Restrict or attempt to restrict, because of membership in a protected class, the choices of a person by words or acts in connection with buying or renting a dwelling so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct integrated housing. Prohibited actions under this section, which are generally referred to as unlawful steering practices, include, but are not limited, to the following:
 - (1) Discouraging the purchase or rental of a dwelling because of membership in a protected class by exaggerating drawbacks or failing to inform any person of desirable features of a dwelling or of a community, neighborhood, or development, so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct integrated housing.
 - (2) Communicating to any prospective purchaser that he or she would not be comfortable or compatible with existing residents of a community, neighborhood or development because of membership in a protected

- class so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct integrated housing.
- (3) Assigning any person to a particular section of a community, neighborhood or development, or to a particular floor of a building, because of membership in a protected class so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct integrated housing.
- (4) Failing to inform any person of available housing opportunities in a particular section of a community, neighborhood or development, or in a particular building or particular floor of a building, because of membership in a protected class, so as to perpetuate, or tend to perpetuate, segregated housing patterns, or to discourage or obstruct integrated housing.
- (n) Perform any act of discrimination with the intention or effect of restricting or limiting the housing choice of any person.
- (o) Aid or abet acts performed in violation of this chapter.
- (p) Coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in the exercise or enjoyment or any right granted or protected by this chapter.
- (q) Solicit any owner to sell or rent or list residential property at any time after such person has provided notice that such owner does not desire to sell, rent, or list such residential property. For the purposes of this subsection, notice must be provided as follows:
 - (1) The notice may be given by the owner personally or by a third party in the owner's name, either in the form of an individual notice or a list, provided it complies with subsection (q)(2)B. below.
 - (2) Such notice shall be explicit as to whether each owner on the notice seeks to avoid both solicitation for listing and sale, or only for listing, or only for sale, as well as the period of time for which any avoidance is desired. The notice shall be dated and either of the following shall apply:
 - A. Each owner shall have signed the notice; or
 - B. The person or entity preparing the notice shall provide an accompanying affidavit to the effect that all the names on the notice are, in fact, genuine as to the identity of the persons listed and that such persons have requested not to be solicited as indicated.
- (3) The individual notice or notice in the form of a list with the accompanying affidavit shall be served personally or by certified or registered mail, return receipt requested.

749.05 UNLAWFUL DISCRIMINATORY HOUSING PRACTICES AGAINST PERSONS WITH DISABILITIES.

- (a) It shall be unlawful to:
 - (1) To make an inquiry to determine whether an applicant for a dwelling; a person intending to reside in that dwelling after it is sold, rented or made available; or any person associated with that person has a disability, or to make an inquiry as to the nature or severity of a disability of such a person.
 - (2) To refuse to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modifications, reasonable wear and tear excepted.
 - (3) To refuse to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy the dwelling, including public and common use areas.
 - (4) In connection with the design and construction of covered multi-family residential property for first occupancy on and after March 13, 1991, fail to design and construct such residential real property in such a manner that:
 - A. The public use and common use portions of such residential real property are readily accessible to and usable by persons with disabilities;
 - B. All the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by disabled persons in wheelchairs; and
 - C. All premises within such dwellings contain the following features of adaptive design:
 - 1. An accessible route into and through the dwelling;
 - 2. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;
 - 3. Reinforcements in bathroom walls to allow later installation of grab bars; and
 - 4. Usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.
- (b) It shall be an unlawful discriminatory housing practice to construct multi-family covered dwellings that do not provide for accessibility and usability for physically disabled or handicapped persons in compliance with applicable state or federal law, whichever is controlling.
- (c) However, this section does not prohibit the following inquiries, provided these inquiries are made of all applicants, whether or not they have disabilities:
 - (1) Inquiry into the applicant's ability to meet the requirements of ownership or tenancy.
 - (2) Inquiry to determine whether an applicant is qualified for a dwelling available only to persons with disabilities or to persons with a particular type of disability.
 - (3) Inquiry to determine whether an applicant for a dwelling is qualified for a priority available to persons with disabilities or to persons with a particular type of disability.
 - (4) Inquiry to determine whether an applicant for a dwelling is a current illegal abuser or addict of a controlled substance.
 - (5) Inquiry to determine whether an applicant has been convicted of the illegal manufacture or distribution of a controlled substance.

749.06 FAIR HOUSING REVIEW BOARD; CREATION, DUTIES, RESPONSIBILITIES.

- (a) There is hereby created a Fair Housing Review Board (hereinafter referred to as "FHRB"), consisting of (3) members, who shall be residents of the City and who shall each serve for a term of three (3) years. However, the FHRB shall become effective and the terms of all three FHRB members shall commence on the first day of January following the enactment of this section. The initial term of one member shall be for one year, the initial term for one member shall be two years and the initial term for the third member shall be for three years. Thereafter, all terms shall be for a full-term of three years. Each member shall be appointed by the Mayor of the municipality with the advice and consent of a majority vote of the Council. The Chairperson and co-Chairperson shall be elected annually by a majority of FHRB. FHRB members shall be compensated as may be provided by the Council.
- (b) FHRB shall have and execute with respect to all dwellings and persons subject to this chapter the power to render from time to time, but not less often than every twelve months, a written report to municipal officials of its activities and recommendations with respect to fair housing practices, which written report shall be made public after submission to the Mayor and Council.
- (c) FHRB shall adopt, promulgate, amend and rescind, after approval of the Mayor and Council, such rules and regulations a may be necessary and desirable to carry out the purpose of this chapter.

(Ord. 91-2006. Passed 11-14-06.)

749.07 COMPLAINTS.

- (a) Any aggrieved person may allege that a violation of this section has occurred by filing with FHRB, within one hundred eighty (180) days of the alleged violation, a sworn, written complaint setting forth his or her grievance. The complaint shall state the name and address of the aggrieved party (hereinafter the complainants), the name and address of the person(s) alleged to have committed an unlawful discriminatory housing practice (hereinafter referred to as the "respondent") and the particular facts thereof and such other information as may be required by FHRB. Upon the filing of a complaint, FHRB shall acknowledge the receipt of the complaint and serve notice thereof to the complainant, which notice shall also contain information as to the time limits and choice of forum provided in this chapter.
- (b) Within fifteen (15) calendar days after a complaint has been received by FHRB, FHRB shall serve, or cause to be served, in person, or by certified mail, a copy of the complaint on the respondent alleged to have violated Section 749.04 and/or 749.05. Along with the service of the complaint, the notice shall advise the respondent in writing of his or her procedural rights and obligations pursuant to this chapter. The respondent may file with FHRB an answer to the complaint.

(Ord. 91-2006. Passed 11-14-06.)

749.08 INVESTIGATION OF COMPLAINTS.

- (a) FHRB, within thirty (30) days after a complaint has been received, shall commence an investigation and shall determine that either:
 - (1) There are reasonable grounds to believe that an unlawful discriminatory housing practice has occurred, in which case FHRB shall then initiate the conciliation process set forth in Section 749.09; or
 - (2) There are no reasonable grounds to believe that an unlawful discriminatory housing practice has occurred, in which case the FHRB shall dismiss the complaint by preparing a written notice of dismissal, within five (5) days, by serving a copy of the notice of dismissal by certified mail on the parties. The notice of dismissal shall advise the complainant of his or her right of appeal under this section. Within fourteen (14) days of receipt of notice of dismissal, the complainant may appeal by filing a written request with FHRB for a review of the complaint. By a majority vote, FHRB may reverse the dismissal and refer the complaint to conciliation, pursuant to Section 749.09.
- (b) FHRB shall complete the investigation within one hundred (100) days after receipt of the complaint, unless impracticable, in which case FHRB shall inform, in writing, the complainant and the respondent of the reasons why the investigation cannot be completed within the time prescribed.
- (c) FHRB may be assisted in the investigation by a fair housing agency or other organization or person under contract with the City.

(Ord. 91-2006. Passed 11-14-06.)

749.09 CONCILIATION.

- (a) FHRB may act as conciliator in carryout the procedures set forth in this section or may employ any qualified person to serve as conciliator.
- (b) If FHRB has made a determination pursuant to Section 749.08 that there are reasonable grounds to believe that an unlawful discriminatory housing practice has occurred, or at such other time after a complaint has been filed, as appropriate, the FHRB shall:
 - (1) Notify the complainant and respondent of the time, place, and date of the conciliation conference at least ten (10) days prior thereto, and both parties shall appear at the conciliation conference in person or by attorney; and
 - (2) Attempt to resolve the complaint by methods of conference, conciliation and persuasion with all interested parties and such representatives as the parties may choose to assist them. Conciliation conferences shall be informal, and nothing said or done during such conferences shall be made public unless the parties agree thereto in writing.
 - (3) The terms of conciliation agreed to by the parties shall be reduced to writing and incorporated into a consent agreement to be signed by the parties, subject to approval by FHRB:
 - A conciliation agreement negotiated by the FHRB may include, but is not limited to:
 - A. Sale, exchange, lease, rental, assignment, or sublease of real property to a person;
 - B. Extension to all persons of the full and equal enjoyment of the advantages, facilities, privileges and services of the respondent;
 - C. Reporting as to the manner of compliance;
 - D. Posting of notices in conspicuous places in the respondent's place of business in a form prescribed by the court or the FHRB; and
 - E. Payment to the complainant of actual damages, including compensation for humiliation and embarrassment, and reasonable attorney fees.
 - (4) The terms of the conciliation agreement shall be made public, unless the complainant and the respondent agree otherwise and FHRB determines that disclosure is not required to further the purposes of this chapter.
- (c) If the complaint has not been resolved by conciliation within sixty (60) days after it has been received, the FHRB shall refer the complaint to the Ohio Civil Rights Commission.

(Ord. 91-2006. Passed 11-14-06.)

749.10 INJUNCTIVE RELIEF.

At any time after the filing of a complaint referred to in Section 749.07, FHRB may request the Director of Law to petition the appropriate court for temporary or preliminary relief pending final determination of the proceedings under this chapter, or as otherwise necessary to carry out the purposes of this chapter, including an order or decree restraining the respondent from doing or causing any act which would render ineffectual any order or action made pursuant to this chapter by FHRB.

(Ord. 91-2006. Passed 11-14-06.)

749.11 PATTERN OR PRACTICE OF DISCRIMINATION.

Whenever the FHRB has reasonable cause to believe that any person or persons are engaged in a pattern or practice of resistance to a person or persons' full enjoyment of the rights granted by this chapter, or that any group of persons has been denied any of the rights granted by this chapter and the denial raises an issue of public policy, the FHRB may refer the matter to the Director of Law for commencement of a civil action in a court of competent jurisdiction on behalf of the City. The Director of Law may seek any relief considered necessary to ensure the full enjoyment of the rights granted by this chapter.

(Ord. 91-2006. Passed 11-14-06.)

749.12 OTHER JUDICIAL RELIEF.

The City, the complainant, or any person aggrieved by a violation of any provision of this chapter may at any time within one (1) year from the date of the alleged violation and in lieu of proceeding with the administrative process set forth in this chapter, apply to any court of competent jurisdiction for appropriate relief including, but not limited to:

- (a) Injunctive relief or an order otherwise compelling compliance with this chapter;
 - (b) Compensatory damages and/or punitive damages;
 - (c) Reasonable attorneys' fees and costs to complainant and/or the City as applicable; and/or
 - (d) Such other or further relief as is appropriate for the enforcement of this chapter and elimination of violations thereof.
- (Ord. 91-2006. Passed 11-14-06.)

749.13 INTIMIDATION OR INTERFERENCE IN HOUSING.

No person, whether or not acting under color of law, shall by force or threat of force attempt to injure, intimidate or interfere with any of the following:

- (a) Any person because of membership in a protected class and because that person is or has been selling, purchasing, renting, financing, occupying, contracting, or negotiation for the sale, purchase, rental, financing, occupation of any housing accommodations, or applying for or participating in any service, organization, or facility relating to the business of selling or renting housing accommodations;
 - (b) Any person because that person is, has been, or is considering:
 - (1) Participating, without discrimination on account of membership in a protected class, in any activities, services, organization or facilities described in subsection (a) hereof; and
 - (2) Affording another person or class of persons opportunity or protection so to participate;
 - (c) Any person because that person is, has been, or is considering lawfully aiding or encouraging other persons to participate, without discrimination on account of membership in a protected class, in any of the activities, services, organizations or facilities described in subsection (a) hereof, or participating lawfully in speech or peaceful assembly opposing any denial of the opportunity to so participate.
- (Ord. 91-2006. Passed 11-14-06.)

749.14 SCOPE/SEVERABILITY.

- (a) The provisions of this chapter shall apply to all housing accommodations located within the territorial limits of the City of Richmond Heights.
- (b) If any provision of this chapter is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the chapter shall not be invalidated.

(Ord. 91-2006. Passed 11-14-06.)

749.99 PENALTY.

- (a) Whoever violates Section 749.13 of this chapter is guilty of a misdemeanor of the first degree.
 - (b) The FHRB may not initiate any criminal proceeding arising under this chapter. However, nothing in this section shall prevent such Board from referring a possible criminal violation to the appropriate authorities.
- (Ord. 91-2006. Passed 11-14-06.)

CHAPTER 757

Picnics and Clambakes

- 757.01 Written report required.**
- 757.02 Application requirements.**
- 757.03 Fees.**
- 757.99 Penalty.**

CROSS REFERENCES

Disturbing the peace - see GEN. OFF. 509.02
Littering - see GEN. OFF. 517.08

757.01 WRITTEN REPORT REQUIRED.

Any person proposing to conduct or sponsor a picnic, clambake or other gathering of adults or more than fifty persons, on privately owned property within the City, shall report such proposal in writing to the Chief of Police not later than twenty-four hours prior to the time of such proposed picnic, clambake or other gathering.

(Ord. 468-54. Passed 6-1-54.)

757.02 APPLICATION REQUIREMENTS.

Such report shall contain the name and address of the person or the names and the addresses of the person or persons representing the group or association, the location where the picnic, clambake or other gathering is proposed to be held, the date and hours during which the same is expected to continue and the number of persons expected or invited to attend. Such report shall also contain full information as to whether or not any alcoholic beverage is expected to be sold or dispensed on the premises, where and when the picnic, clambake or other gathering is proposed to be held.

(Ord. 468-54. Passed 6-1-54.)

757.03 FEES.

The Chief of Police shall charge and collect a fee of ten dollars (\$10.00) for each report so received and, in addition thereto, an amount sufficient to defray the cost of furnishing police supervision as hereinafter set forth for picnics, clambakes or gatherings:

Number of Adults	Number of Police to	
to attend	be Assigned	Rate per Hour
100 to 500	one	\$ 5.50
500 to 1,000	two	11.00
	to be determined	
1000 and over		5.50 per man hour
	by Police Chief	

(Ord 30-61. Passed 11-21-61.)

757.99 PENALTY.

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

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 761

Landlord Tenant Relations

- 761.01 Definitions.**
- 761.02 Return of security deposit.**
- 761.03 Security deposit held in trust.**
- 761.04 Statement of condition of premises.**
- 761.05 Tenant to have copy of these provisions.**
- 761.06 Provisions cannot be waived.**
- 761.99 Penalty.**

761.01 DEFINITIONS.

As used in this chapter:

- (a) "Tenant" means a person entitled under a rental agreement to residential use and occupancy of real property to the exclusion of others.
- (b) "Landlord" means the owner of real property for residential use and occupancy, his agent, or any person authorized by him to manage the premises or to receive rent from the lessee under a rental agreement.
- (c) "Premises" include a dwelling unit for residential use and occupancy consisting of more than two rental units, and the structure of which it is a part, and facilities and appurtenances therein, and grounds, areas and facilities for the use of the lessees generally or whose use is promised the lessee.
- (d) "Rental agreement" means all agreements or leases, written or oral, which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the residential use and occupancy of real property, including the premises, by one of the parties.
- (e) "Security deposit" means any deposit of money or property, regardless of its denomination, whose primary function is to secure performance under a rental agreement.

(Ord. 112-74. Passed 12-10-74.)

761.02 RETURN OF SECURITY DEPOSIT.

Any rental agreement which includes a provision for the payment of a security deposit by the tenant to the landlord is deemed to contain a covenant by the landlord to return to the tenant within thirty days of the termination of the rental agreement, the amount of the security deposit less any amount reasonably due as follows:

- (a) The security deposit may be applied to the payment of accrued rent.
 - (b) The security deposit may be applied to extraordinary deterioration of the premises other than normal wear of the property, its components and/or appliances. Damages of deterioration shall not include the normal cleaning and sanitary measures which are required for a change of occupancy.
- (Ord. 112-74. Passed 12-10-74.)

761.03 SECURITY DEPOSIT HELD IN TRUST.

Any money which is deposited or advanced by the tenant as a security deposit continues to be the money of the tenant until applied to payment of accrued rent or repairs, and shall be held in trust by the landlord and shall not be mingled with the landlord's personal moneys.

(Ord. 112-74. Passed 12-10-74.)

761.04 STATEMENT OF CONDITION OF PREMISES.

- (a) The landlord shall provide to each new tenant and a tenant that is renewing a lease a statement signed by both the landlord and the new or renewing tenant as to the condition of the premises as of the time the tenant is to occupy the premises. Such statement shall contain any items which need to be repaired, including, but not limited to any and all outstanding violations of the Richmond Heights Codified Ordinances, and the timetable for such repair which is mutually agreed upon by the landlord and tenant.
 - (b) The landlord shall maintain a copy of the signed statement required by subsection (a) of this section for a period of two (2) years after its execution and shall immediately produce a copy of any such statement to the City's Building Official upon the Building Official's request.
 - (c) The landlord shall post a copy of this Section 761.04 in a place in the leased premises where a tenant can readily see and review this section.
- (Ord. 15-2023. Passed 3-14-23.)

761.05 TENANT TO HAVE COPY OF THESE PROVISIONS.

The landlord shall present to each new tenant a copy of this chapter prior to occupying any premises.

(Ord. 112-74. Passed 12-10-74.)

761.06 PROVISIONS CANNOT BE WAIVED.

Rights created by this chapter cannot be waived or modified by agreement.

(Ord. 112-74. Passed 12-10-74.)

761.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined or imprisoned or both for each offense in accordance with Section 501.99 of the General Offenses Code. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) of this section shall not be deemed to prevent the enforced removal of prohibited conditions or the exercise or application of any other equitable remedy.

(Ord. 15-2023. Passed 3-14-23.)

CHAPTER 763

Tenant's Right to Pay to Stay

763.01 Definitions.

763.02 Tenant's right to pay to stay prior to the filing of an eviction action for non-payment of rent.

763.03 Tenant's right to pay to stay prior to an eviction judgment for non-payment of rent.

763.04 Rent receipt required.

763.05 Other causes for eviction.

763.06 Reasonable late fees.

763.07 Severability.

763.01 DEFINITIONS.

(a) "Tenant" means a person entitled under a rental agreement to the use and occupancy of a residential premises to the exclusion of others.

(b) "Tender" means an offer of payment that is equivalent to the actual production or remittance of the money and includes any emergency rental assistance vouchers from an accredited social service, nonprofit, governmental, or quasi-governmental agency that guarantees the payment of past due rent, reasonable late fees, and court costs.

(c) "Court costs" means filing fees and costs assessed by the municipal court that include, but are not limited to, costs to file, costs for data entry, costs for court appearances, costs for serving summons and subpoenas, and costs associated with court transcripts and copying papers and exhibits. (Ord. 81-2023. Passed 6-27-23.)

763.02 TENANT'S RIGHT TO PAY TO STAY PRIOR TO THE FILING OF AN EVICTION ACTION FOR NON-PAYMENT OF RENT.

If the tenant tenders all past due rent with reasonable late fees to the landlord prior to the filing of an action under Ohio Revised Code 1923 and the landlord refuses the tender, the tenant's tender of all past due rent with reasonable late fees shall be an affirmative defense to any action filed by the landlord against the tenant for nonpayment of rent.

(Ord. 81-2023. Passed 6-27-23.)

763.03 TENANT'S RIGHT TO PAY TO STAY PRIOR TO AN EVICTION JUDGMENT FOR NON-PAYMENT OF RENT.

If the tenant tenders all past due rent with reasonable late fees and court costs to the landlord prior to a judgment and the landlord refuses the tender, the tenant's tender of all past due rent, reasonable late fees and court costs shall be an affirmative defense to the eviction action filed by the landlord against the tenant for nonpayment of rent.

(Ord. 81-2023. Passed 6-27-23.)

763.04 RENT RECEIPT REQUIRED.

The landlord shall provide the tenant with a signed receipt for all payments made under this chapter. (Ord. 81-2023. Passed 6-27-23.)

763.05 OTHER CAUSES FOR EVICTION.

This chapter in no way limits the ability of a landlord to initiate an eviction action for reasons other than solely for non-payment of rent.

(Ord. 81-2023. Passed 6-27-23.)

763.06 REASONABLE LATE FEES.

No landlord may charge a tenant late fees that are not reasonable late fees. If a rental agreement includes a provision that authorizes the landlord to assess the tenant a fee for late payment of the monthly rent, to be considered "reasonable late fees" the total amount of that late payment fee for any month may not exceed the larger of: (i) twenty-five dollars (\$25.00); or (ii) five percent (5%) of the monthly contract rent. This section shall only be applicable to rental agreements entered into after the effective date of this section.

(Ord. 81-2023. Passed 6-27-23.)

763.07 SEVERABILITY.

If any provision of this Chapter 763 is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this chapter which can be implemented without the invalid provisions and, to this end, the provisions of this chapter are declared to be severable. Richmond Heights City Council hereby declares that it would have adopted this chapter and each provision thereof, irrespective of whether any one or more provisions is found invalid, unconstitutional or otherwise unenforceable.

(Ord. 81-2023. Passed 6-27-23.)

CHAPTER 773

Roadside Stands

773.01 Location of stands.

773.02 Parking facilities.

773.99 Penalty.

CROSS REFERENCES

Power to inspect food products - see Ohio R. C. 715.46

Sales of goods and services within right of way of interstate and other State highways - see Ohio R. C. 5515.07

Sales on public ground - see BUS. REG. 741.12

Peddling and soliciting license exceptions - see BUS. REG. 741.15

773.01 LOCATION OF STANDS.

No sales yard, container, stand or structure which is used to exhibit or display produce or products for sale shall be placed, located or maintained less than thirty feet from the traveled or hard surface of any street, road or highway in the City.

(Ord. 253. Passed 9-15-47.)

773.02 PARKING FACILITIES.

Each sales yard, container, stand or structure so operated or maintained shall have, adjacent thereto, a lot or driveway of sufficient area to provide adequate facilities for the parking of vehicles of prospective customers.

(Ord. 253. Passed 9-15-47.)

773.99 PENALTY.

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

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 783

Snow Plow Operators

783.01 Permit required.

783.02 Permit applications; fee; effective period.

783.03 Depositing snow on public streets or treelawns.

783.99 Penalty.

CROSS REFERENCES

Placing injurious material or obstruction in street - see TRAF. 311.01

Operation generally - see TRAF. Ch. 331

Safety and equipment - see TRAF. Ch. 337

Sidewalk obstructions; damage or injury - see GEN. OFF. 521.04

Duty to keep sidewalks in repair and clean - see GEN. OFF. 521.06

Destruction of shrubs, trees or crops - see GEN. OFF. 541.06

783.01 PERMIT REQUIRED.

No person shall remove snow, by means of a snow removal vehicle, from private driveways or parking lots in the City without first having obtained a snow plow permit from the Police Department.

(Ord. 11-94. Passed 9-27-94.)

783.02 PERMIT APPLICATIONS; FEE; EFFECTIVE PERIOD.

Prior to issuance of the permit required in Section 783.01, the applicant shall furnish the year, make, model and license plate number of the vehicle to be used, and the name, address and telephone number of the owner and/or operator employed. Each applicant shall pay the sum of ten dollars (\$10.00) for such permit for each vehicle, which sum shall cover the period from October 15 to April 15 of each year.

(Ord. 11-94. Passed 9-27-94.)

783.03 DEPOSITING SNOW ON PUBLIC STREETS OR TREELAWS.

(a) No person shall discharge or deposit any snow by truck, plow, blower or by any other means, onto the roadway, except for accumulations which are necessary residuals of street or roadway cleaning operations by public authority.

(b) No person removing snow from any driveway or sidewalk within this City shall deposit the same on the pavement or sidewalk of any public street or on any treelawn in any public street, except upon the treelawn or property of the premises from which the snow was removed.

(Ord. 11-94. Passed 9-27-94.)

783.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 787

Video Surveillance Systems For Apartment Complexes

- 787.01 Video Surveillance Systems required for Apartment Complexes.**
- 787.02 Access to media.**
- 787.03 Minimum technological standards.**
- 787.04 Minimum coverage standards, site assessment, signage.**
- 787.05 Inspections.**
- 787.06 Enforcement; civil penalties.**
- 787.07 Exemptions.**
- 787.08 Appeal process.**
- 787.09 Severability.**

787.01 VIDEO SURVEILLANCE SYSTEMS REQUIRED FOR APARTMENT COMPLEXES.

Every apartment complex in the City is required to install a video surveillance system. For the purposes of this chapter, "apartment complex" shall mean any building or group of buildings comprised of three or more individual rental units. Any apartment complex which installed surveillance systems prior to the effective date of this chapter must ensure the systems are in full compliance with this chapter. Video surveillance systems shall be in operation twenty-four (24) hours a day, seven (7) days a week, and shall meet the minimum technological standards established in this chapter. (Ord. 103-2021. Passed 12-14-21.)

787.02 ACCESS TO MEDIA.

If a crime occurs, or if the owner or management of an apartment complex believes a crime has occurred, the owner or management shall immediately contact the City's Division of Police and shall provide immediate access to the media containing the recorded event to the Division of Police. The apartment complex shall retain the continuous digital images recorded by its system(s) for not less than thirty (30) days. (Ord. 103-2021. Passed 12-14-21.)

787.03 MINIMUM TECHNOLOGICAL STANDARDS.

The video surveillance system must be capable of delineating on playback of the system the activity and physical features of persons or areas within the premises and must be able to record such images on a form of media as approved by the Division of Police upon inspection thereof. Additional minimum technological standards required for video surveillance systems may be established by resolution of the City Council, which may be updated periodically. The Division of Police shall review the video surveillance system standards annually to ensure that they are consistent with current technology, and shall recommend appropriate updates to Council. If the video surveillance system is web-enabled or has wireless capability, the Division of Police shall be provided the ability to access the live system upon initiation by the apartment complex during incidents requiring a police response or intervention. (Ord. 103-2021. Passed 12-14-21.)

787.04 MINIMUM COVERAGE ST AND ARDS, SITE ASSESSMENT, SIGN AGE.

The video surveillance system shall have, at a minimum, a camera at each exterior entrance and exit positioned to capture faces of people entering and exiting. The placement of cameras included in video surveillance systems required under this chapter must be approved by the Division of Police. The Division of Police will conduct an assessment of video surveillance systems at each site required to install a video surveillance system, and upon approval of the installation, will issue an approval notice which will be placed in plain view inside the premises. This approval notice will also inform residents and visitors of the existence of the video surveillance system. (Ord. 103-2021. Passed 12-14-21.)

787.05 INSPECTIONS.

The video surveillance system shall be subject to regular inspection by the Division of Police, which shall be authorized to inspect at all reasonable times any video surveillance system to determine if the system conforms with this chapter and regulations adopted by Council resolution. If the video surveillance system does not so conform the apartment complex owner must take immediate steps to bring the system into conformance. (Ord. 103-2021. Passed 12-14-21.)

787.06 ENFORCEMENT; CIVIL PENALTIES.

- (a) Apartment complexes subject to the mandatory requirements of this chapter shall have six (6) months from the effective date of this chapter to comply with the regulations set forth in this chapter.
- (b) The violation of any provision of this chapter by any owner or management of an apartment complex subject to this chapter shall result in a notice of violation from the Division of Police. The Division of Police is authorized to investigate all alleged violations. Violators shall have thirty (30) days after receipt of the notice to provide proof of compliance to the Richmond Heights Division of Police. If the violation continues after the thirty (30)-day period, the Chief of Police or his/her designee shall issue a citation against the violator and the violator shall pay a fine in the amount of five hundred dollars (\$500.00).
- (c) In addition to the foregoing, the violation of any provision of this chapter shall be and is hereby declared to be a public nuisance and contrary to the public interest and shall, at the discretion of the City, create a cause of action for injunctive relief.
- (d) For purposes of this chapter, each day that a violation continues shall be a separate violation. (Ord. 103-2021. Passed 12-14-21.)

787.07 EXEMPTIONS.

An apartment complex which is required to install a video surveillance system may, on an annual basis, apply to the Division of Police for an exemption from the provisions of this chapter. The may exempt an apartment complex for a period of twelve (12) months if the Chief of Police or his/her designee finds that the apartment complex has or will undertake alternate security procedures which are substantially equal to or more effective in preventing criminal activity and in assisting in the apprehension of the perpetrators of crime or for the protection of residents and the community. The Chief of Police may also authorize alternate procedures on an experimental basis. Such an exemption shall carry a maximum duration of twelve (12) months, and an owner or management must reapply for an exemption at the end of the exemption period or bring the system into conformance with this chapter. The Chief of Police may also authorize temporary extensions of time for installation when an apartment complex owner or management demonstrates that it is temporarily unable to comply for good cause shown. (Ord. 103-2021. Passed 12-14-21.)

787.08 APPEAL PROCESS.

- (a) Any apartment complex found to be in violation of this chapter by the Chief of Police or his/her designee shall have the right to a hearing before the Zoning Board of Appeals.
- (b) The Chief of Police or his/her designee shall give the applicant written notice of the violation. The notice shall set forth the grounds for the violation, and shall inform the owner or management of the apartment complex that he/she has ten (10) days from the date of mailing of the notice to file a written request for a hearing before the Zoning Board of Appeals.
- (c) Within ten (10) days of mailing of the written notice of violation by the Chief of Police or his/her designee, the owner or management of the apartment complex may appeal by requesting a hearing before the Zoning Board of Appeals. Such a request must be made in writing and must set forth the specific grounds for the appeal. If the owner or management of the apartment complex files a timely request for a hearing, the Zoning Board of Appeals shall set a time and place for the hearing within ten (10) days thereafter. All parties involved shall have the right to offer testimonial, documentary and tangible evidence bearing on the issues, to be represented by counsel, and to confront and cross-examine any witness against them. The decision of the Zoning Board of Appeals as to whether there was a violation of this chapter shall be in writing, is final and shall be rendered within ten (10) days of the conclusion of the hearing. (Ord. 103-2021. Passed 12-14-21.)

787.09 SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have passed the ordinance codified in this chapter, and each and every section, subsection, sentence, clause or phrase not declared invalid or unconstitutional without regard to whether any portion of this chapter would be subsequently declared invalid or unconstitutional. (Ord. 103-2021. Passed 12-14-21.)

CHAPTER 791

Emergency Alarm Systems

- 791.01 Purpose.**
- 791.02 Authority to install alarms.**
- 791.03 Alarm users permit required.**
- 791.04 Registration of alarm installer personnel.**
- 791.05 Equipment regulations.**
- 791.06 Local alarms.**
- 791.07 Alarms connected directly to Police Department.**
- 791.08 Automatic telephone dialing alarm systems prohibited.**
- 791.09 False alarms.**
- 791.10 Nonliability of City.**
- 791.99 Penalty.**

False alarms - see GEN. OFF. 509.07

791.01 PURPOSE.

The purpose of this chapter is to protect the emergency services of the community from misuse and to protect the general public from a dangerous situation caused by alarm systems which malfunction. The purpose of this chapter is to further protect the integrity of alarm systems installed in the City.

(Ord. 11-86. Passed 3-25-86.)

791.02 AUTHORITY TO INSTALL ALARMS.

- (a) Any resident or lawful business located within the City may be equipped with an emergency alarm system for the purpose of detecting and signaling the presence of a fire or unauthorized intrusion only upon compliance with the provisions of this chapter.
- (b) Pre-existing alarms or installations are subject to the requirements of this chapter including those relating to the issuance of permits.

(Ord. 11-86. Passed 3-25-86.)

791.03 ALARM USERS PERMIT REQUIRED.

- (a) No person shall operate an alarm system without a valid alarm user permit.
 - (1) Alarm user permits may be acquired from the Richmond Heights Police Department upon application and payment of a ten dollar (\$10.00) registration fee.
- (b) Applications for alarm permits shall be made on forms provided by the Police Department. Each application shall be accompanied by a fee of ten dollars (\$10.00). The application shall state the name, address and telephone number of the applicant's property to be serviced by the alarm and the name, address and telephone number of the applicant's residence, if different. If the applicant's alarm is serviced by an alarm company, then the applicant shall also include the name, address and telephone number of that company.
- (c) If a business has one or more alarm systems protecting two or more separate structures having different addresses, a separate permit shall be required for each structure.
- (d) A decal with the alarm user's permit number will be issued with the alarm user permit. The decal must be prominently posted on or near the front entrance to the premises so that the information provided on the decal is visible from the outside of the structure.
- (e) Each application shall list an emergency telephone number of the user or his representative to permit prompt notification of alarm calls and facilities assisting the police in the inspection of the property. Changes in emergency telephone numbers shall be kept current and failure to provide updated information may constitute grounds for revocation of the permit.
- (f) Each holder of an alarm user permit shall immediately notify the Police Department in writing of any and all changes in the information on file with the City regarding such permit. Failure to do so shall constitute grounds for revocation of the permit. (Ord. 11-86. Passed 3-25-86.)

791.04 REGISTRATION OF ALARM INSTALLER PERSONNEL.

Each of the alarm agents of an alarm business shall submit to the City Police Department the following information upon forms provided by the Police Department:

CROSS REFERENCES

- (a) The agent's or employee's name, current residential address and age.
- (b) The number of the agent's or employee's current Ohio driver's license.
- (c) The agent's or employee's fingerprint record.
- (d) A recent photograph of such agent or employee.
- (e) A copy of any alarm installer agent permit issued to the agent or employee by any other municipality or governmental agency.
- (f) Three character references.
- (g) The agent's or employee's employers during the past three years.
- (h) Any criminal record convictions.

(Ord. 11-86. Passed 3-25-86.)

791.05 EQUIPMENT REGULATIONS.

- (a) All equipment used in installations for which a permit is required shall meet the applicable standards of the Underwriters Laboratories and the National Fire Protection Association. The applicant may be required to submit evidence of the reliability and suitability of the equipment to be installed.
- (b) The sensory mechanism used in connection with such devices must be adjusted to suppress false indications of fire or intrusion so that the device will not be activated by impulses due to transient pressure change of water pipes, short flashes of light, wind noises, such as rattling or vibrating doors or windows, vehicular noises adjacent to the installation or other forces unrelated to genuine alarms.
- (c) All alarm systems shall have a backup power supply that will become effective in the event of power failure or outage in the source of electricity from the utility company.
- (d) All components comprising such device must be maintained by the owner or lessee in good repair to assure reliability of operation.
- (e) Each alarm equipment supplier that sells or leases to a person an automatic protection device which is installed on such person's premises within the City shall furnish such person with instructions as to the manner in which the device operates, along with maintenance instructions.
- (f) Each alarm equipment supplier shall also furnish the Chief of Police or his authorized representative with a copy of the instructions as to the way the device operates. If the Chief of Police or his authorized representative finds such to be incomplete, unclear or otherwise inadequate, he may require the alarm equipment supplier to have the same revised to meet his approval and then promptly have copies distributed to the persons for whom installations of such devices are made.
- (g) Each alarm equipment supplier that sells or leases to a person an automatic protection device which is installed on such person's premises within the City for which a permit is required under this chapter must provide for receiving calls for service directly or through an agent on a twenty-four hour basis seven days a week and shall respond to such calls within eight hours of the time they are received.
- (h) At the time of installation each alarm equipment supplier shall furnish to the person for whom an automatic protection device has been installed written information as to how service can be obtained at any time, including the telephone number to call the service. Such person shall be responsible for having the device repaired as quickly as possible after he learns, either from his own sources or from notification by the City, that the device is not working properly.
- (i) All equipment, the use of or installation of which is subject to this chapter shall be maintained in good operating condition. The Chief of Police or the Chief of the Fire Department may require that repairs be made whenever he has determined that such are necessary to assure proper operation.
- (j) All alarm systems will have an automatic reset which silences the annunciator within twenty minutes after activation and which will not sound again as a result of the same event that resulted in the original activation.

(Ord. 11-86. Passed 3-25-86.)

791.06 LOCAL ALARMS.

A permit for the installation of a local alarm which, when activated, sounds a horn, bell, buzzer or other type of audible alarm, shall be required if the sound created by the alarm is audible beyond the premises being served. The Police Department shall issue a permit for such alarm provided the intensity of sound does not exceed 85 decibels at a distance of ten feet beyond the building line being served and, upon the payment of any permit fees required by this chapter.

(Ord. 11-86. Passed 3-25-86.)

791.07 ALARMS CONNECTED DIRECTLY TO POLICE DEPARTMENT.

- (a) Upon proper application by any person to connect installed equipment to the Police Department to receive emergency alarms, the Police Chief or his authorized representative may issue a permit for such connection.
- (b) Connection to the Police Department alarm panel shall be contingent upon the applicant having obtained permission from the company which maintains the alarm panel in the station to make such connection, provided that such company shall not deny permission if the equipment is compatible, and proper charges are paid to the company.
- (c) No unit shall be installed or connected unless it is approved by the Fire Prevention Officer if designed to detect smoke or fire or by the Police Chief, or his designated representative, if designed to detect unauthorized intrusion, holdup or panic. The responsible officer or his representative shall inspect and approve the electrical installation or, upon failure to approve, shall state the reasons therefor, which the person making the installation shall forthwith correct.
- (d) The City will, within its capabilities, endeavor to accommodate every reasonable application for connection to the police/fire alarm panels.

(Ord. 11-86. Passed 3-25-86.)

- (e) Each alarm connected to the police/fire alarm panel shall be charged an annual fee as established in Section 1501.08 of these Codified Ordinances. The Director of Finance is authorized, empowered and directed to bill such amounts upon certification by the Chief of Police and/or Fire that an installation to the Municipal Police or Fire Department is being maintained. Failure of the user to pay this annual charge within thirty days of the date of billing shall result in disconnection of the alarm.

(Ord. 128-89. Passed 9-26-89.)

791.08 AUTOMATIC TELEPHONE DIALING ALARM SYSTEMS PROHIBITED.

No person shall sell, offer for sale, install, maintain, lease, operate or assist in the operation of an automatic telephone dialing alarm system over any telephone lines exclusively used by the public to directly request emergency service from the Police or Fire Departments.

(Ord. 11-86. Passed 3-25-86.)

791.09 FALSE ALARMS.

- (a) False alarm charges shall be made as follows:
 - (1) Residential users. No charge shall be made for any false alarms during the first ninety days from installation or the first false alarm thereafter annually or for a false alarm to which there is no response by the Police or Fire Department. A charge of ten dollars (\$10.00) shall be made for a third false alarm annually and a charge of twenty-five dollars (\$25.00) shall be made for each additional false alarm.
 - (2) Business users. A charge of twenty-five dollars (\$25.00) shall be made for each of the first three false alarms annually and a charge of fifty dollars (\$50.00) shall be made for each false alarm thereafter annually.
- (b) Residential and business false alarm charges shall apply whether the alarm is received from an automatic device or from one connected directly to the Police station or Fire station under this chapter. Any charge for a false alarm remaining unpaid thirty days after the date of the mailing of the invoice for same shall be cause for cancellation of the alarm and the permit therefor by the Chief of Police.

(Ord. 11-86. Passed 3-25-86.)

791.10 NONLIABILITY OF CITY.

The issuance of any permit or permits under the authority of this chapter shall not constitute an acceptance by the City of any liability to maintain equipment, to answer alarms or for anything in connection with installation, use or operation of the systems regulated by this chapter. This governmental service shall not be an acceptance by the City of any liability in contract, negligence or otherwise to provide any protection whatsoever.

(Ord. 11-86. Passed 3-25-86.)

791.99 PENALTY.

Unless otherwise specifically provided in this chapter, a violation of any provision of this chapter shall be a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 793

Automated External Defibrillators Required at Physical Fitness Facilities

793.01 Required installation and definitions.

793.02 Installation standards.

793.03 Training.

793.04 Inspection.

793.01 REQUIRED INSTALLATION AND DEFINITIONS.

- (a) The installation of automated external defibrillators ("AEDs") is required at all physical fitness facilities.
- (b) For purpose of this chapter, the term "automated external defibrillator" means a portable electronic apparatus used to counteract atrial or ventricular fibrillation by application of a brief electric shock to the heart and designed to be automated such that it can be used by persons without substantial medical training who are responding to a cardiac emergency.
- (c) For purposes of this chapter, the term "physical fitness facilities" is defined as a place of business, whether for profit or not for profit, with equipment and facilities for exercising and improving physical fitness.

(Ord. 51-2012. Passed 7-10-12.)

793.02 INSTALLATION STANDARDS.

- (a) AEDs required by this chapter shall be installed in sufficient numbers and in locations so that an AED device shall be accessible, at a minimum, within three (3) minutes in the event of an emergency, in accordance with American Heart Association recommendations and any guidelines and requirements established by the City's Chief of Fire and authorized by the Director of Public Safety.
- (b) For new business occupancies, the City's Division of Building, Zoning and Housing will notify the Division of Fire, the Chief of Fire, or their designee during the building plans review process to review and approve the number and installation locations for AED devices and shall inspect the establishment to confirm the AED devices have been installed as approved prior to the issuance of a certificate of occupancy.

(Ord. 51-2012. Passed 7-10-12.)

793.03 TRAINING.

The installation and maintenance of the AED device(s) and periodic training on the use of the AED device(s) shall be the responsibility of the owner of the physical fitness facility.

(Ord. 51-2012. Passed 7-10-12.)

793.04 INSPECTION.

All AED installations at physical fitness facilities shall be subject to periodic inspections by the City's Division of Fire or its designee.

(Ord. 51-2012. Passed 7-10-12.)

CHAPTER 795

Video Service Providers

795.01 Fees.

795.01 FEES.

(a) Subject to Ohio Senate Bill 117 going into legal effect, in accordance with the requirements of Ohio R.C. 1332.32 enacted thereby, all video service providers providing video service in the City pursuant to a video service authorization obtained from the Director of the Ohio Department of Commerce shall pay Video Service Provider Fees ("VSP Fees") in the amount of five percent (5%) of gross revenues received from providing video service in the City, which gross revenue base shall include advertising revenues. The VSP Fee shall be paid quarterly, not sooner than forty-five (45) days nor later than sixty (60) days after the end of each calendar quarter.

(b) No later than ten (10) days from receipt of notice from a video service provider that it will begin providing video service in the City pursuant to a state-issued video service authorization, the Mayor is authorized and directed to provide such video service provider with notice of the VSP Fee as determined by this Council above, which notice shall be delivered in a manner that provides for proof of timely delivery.
(Ord. 93-2007. Passed 8-28-07.)

CODIFIED ORDINANCES OF RICHMOND HEIGHTS PART NINE - STREETS AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas

- Chap. 901 . Use of Public Right-of-Way by Service Providers.
- Chap. 903 . Sidewalks.
- Chap. 905 . Driveway Culverts; Roadside Ditches.
- Chap. 907 . House Numbering.
- Chap. 911 . Trees, Shrubs and Bushes.
- Chap. 913 . Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures.
- Chap. 915 . Small Cell Design Guidelines.

TITLE THREE - Utilities

- Chap. 931 . Sewers.
- Chap. 933 . Septic Tanks.
- Chap. 935 . Water.

TITLE FIVE - Other Public Services

- Chap. 951 . Garbage and Rubbish Collection.
- Chap. 952 . Branch Chipping Services.
- Chap. 953 . Kiwanis Lodge.
- Chap. 955 . Ambulance Emergency Squad Service.
- Chap. 957 . Cable Television.
- Chap. 959 . Use of Parks by Large Groups/Organizations.

CODIFIED ORDINANCES OF RICHMOND HEIGHTS PART NINE - STREETS AND PUBLIC SERVICES CODE

TITLE ONE - Street and Sidewalk Areas

- Chap. 901 . Use of Public Right-of-Way by Service Providers.
- Chap. 903 . Sidewalks.
- Chap. 905 . Driveway Culverts; Roadside Ditches.
- Chap. 907 . House Numbering.
- Chap. 911 . Trees, Shrubs and Bushes.
- Chap. 913 . Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures.
- Chap. 915 . Small Cell Design Guidelines.

CHAPTER 901

Use of Public Right-of-Way by Service Providers

- 901.01 Scope of chapter; definitions.**
- 901.02 Consent to occupy or use the right-of-way.**
- 901.03 Annual registration of service providers.**
- 901.04 Insurance, bond and indemnification.**
- 901.05 General right-of-way use regulations.**
- 901.06 Location, relocation and removal of facilities.**
- 901.07 Notice of work, routine maintenance and emergency work.**
- 901.08 Construction permit and standards.**
- 901.09 Recovery of City costs of managing the right-of-way.**
- 901.10 Miscellaneous provisions.**
- 901.99 Penalties and other remedies.**

CROSS REFERENCES

Power to establish and care for streets - see Ohio R.C. 715.19, 717.01, 723.01
Openings by the Municipality - see Ohio R.C. 723.02
Excavation liability - see Ohio R.C. 723.49 et seq.
Digging, excavating and piling earth on streets - see Ohio R.C. 5589.10
Barricades and warning lights; abandoned excavations - see GEN. OFF. 517.03
Specifications for public and private roads - see P. & Z. Ch. 1103

901.01 SCOPE OF CHAPTER; DEFINITIONS.

- (a) The purpose and intent of this Chapter is to:
- (1) Manage reasonable access to the City's Right-of-Way by utility and other Service Providers and ensure their compliance with the ordinances, rules and regulations of the City.
 - (2) Conserve the limited physical capacity of the Right-of-Way held in trust by the City for the benefit of the public.
 - (3) Assure that the City fairly and responsibly protects the public health, safety and welfare.
 - (4) Enable the City to discharge its public trust consistent with rapidly evolving federal and State regulatory policies, industry competition and technological development.
- (b) For the purpose of this Chapter, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:
- (1) Affiliate means a Person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another Person.
 - (2) Capital Improvement means an addition made to enhance the value or extend the useful life of an existing System or Facilities, including Construction, Reconstruction, installation, rehabilitation, renovation, improvement, enlargement and extension of Facilities, but not including ordinary or Routine Maintenance.
 - (3) City means the City of Richmond Heights, Ohio.
 - (4) City Engineer means the engineer of the City who is duly-appointed by the Mayor and approved by the City Council.
 - (5) Construct, Constructing, Construction, etc. means installing, repairing, replacing or removing any Facility, regardless of the methods employed, including Excavation.
 - (6) Construction Permit or Permit means a permit issued pursuant to Section 901.08 of this Chapter.
 - (7) Emergency means an unforeseen occurrence or condition calling for immediate action.
 - (8) Excavate, Excavating or Excavation means cutting, sawing, breaking, drilling into, boring under, or otherwise altering any Public Street or sidewalk pavement, and/or digging, drilling into or boring under any unpaved portion of the Right-of-Way, including any other work or activity which disturbs the existing surface or subsurface structure, composition, or soil compaction.
 - (9) Excess Capacity means the volume or capacity in any existing or future Facility in the Right-of-Way that is or will be available for use for additional Facilities.
 - (10) Facilities or Facility means the plant, equipment and property, including but not limited to, cables, fibers, wires, lines, pipes, conduits, ducts, pedestals, antennae, electronics, poles, pipes, mains, plant, equipment and other appurtenances located under, on or above the surface of the ground in the Right-of-Way of the City and used or to be used to operate a System to transmit, receive, distribute, provide or offer a service, publicly or privately.
 - (11) Lane Obstruction means the blocking or diverting of vehicular and/or pedestrian traffic from a street or sidewalk for the purpose of Constructing, Excavating, maintaining or operating any Facility, including (A) the lifting or removing of manhole or handhole covers, and (B) the opening or accessing of at-grade or pole-mounted cabinets, pedestals, transformers, power supplies, amplifiers, splice enclosures, traps or other Facilities.
 - (12) New Service Orders means the connection from the Service Provider's existing Facilities on private property for the purpose of providing a new Service to a customer in the City.
 - (13) Occupancy, Occupy or Use means, with respect to the Right-of-Way, to place a tangible thing in the Right-of-Way for any purpose, including, but not limited to, Constructing, repairing, positioning, maintaining or operating lines, poles, pipes, conduits, ducts, equipment or other structures, appurtenances or Facilities necessary to operate, or relating to, a System for the delivery of Services or private services over the Right-of-Way.
 - (14) ODOT means the Ohio Department of Transportation.
 - (15) Other Ways means the highways, streets, alleys, Utility Easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.
 - (16) Overhead Facilities means utility poles that extend more than eight (8) feet above the surface of the Rights-of-Way and wires, cables and other such equipment running between and on such poles more than eight (8) feet above the surface of the Rights-of-Way, including the underground supports and foundations for such Facilities.
 - (17) Person means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies, trusts and individuals and includes their lessors, trustees and receivers.
 - (18) Public Easement means any easement under the jurisdiction and control of the City and acquired, established, dedicated or devoted for public purposes, including utility purposes.

- (19) Public Street means the paved and unpaved portion of any street, road, boulevard, drives, highway, freeway, parkway, lane court, alley or other Right-of-Way in which the City has an interest in law or equity and which has been acquired, established, dedicated or devoted to street purposes.
- (20) Public Way Fee means a fee levied to recover the costs incurred by the City and associated with the Occupancy or Use of a Right-of-Way as provided in Chapter 4939 of the Ohio Revised Code.
- (21) PUCO or Public Utilities Commission of Ohio means the State Administrative agency, or lawful successor, authorized to regulate and oversee certain Public Service Providers and Services in the State of Ohio.
- (22) Reconstruct, Reconstruction, etc. means substantial physical change to or Capital Improvement of all or a portion of an existing System or Facilities including, but not limited to, the addition or alteration of Facilities to accommodate the provision of an additional Service or Services, and a change in location, or additional locations, of Facilities along the same Right-of-Way involving Construction in Public Streets, Utility Easements, or Right-of-Way.
- (23) Right-of-Way means the surface of, and the space within, through, on, across, above or below, 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 is owned or controlled by the City but excludes a private easement.
- (24) Routine Maintenance means repair, upkeep, replacement or restoration of existing Facilities located in the Right-of-Way that requires no more than three (3) working days to complete, is not an Emergency and does not include Excavation of the Right-of-Way.
- (25) Service means the offering of water, sewer, electric, gas, telephone, telecommunications, cable television, video, information or other utility- like service directly to the public, or to such classes of users as to be effectively available to the public, or a class of private users, regardless of the Facilities used.
- (26) Service Provider means any Person who, pursuant to the consent to Occupy or Use the Right-of-Way pursuant to Section 901.02 of this Chapter, directly or indirectly owns, controls, operates or manages Facilities within the City's Right-of-Way, used or to be used for the purpose of operating a System to: (i) offer Service to the public within the City or outside of the City's boundaries or (ii) transmit, receive, distribute or provide telecommunications or other services between or among private buildings or facilities where there is no service offered to the public.
- (27) State means the State of Ohio.
- (28) Surplus Space means that portion of the Usable Space on a utility pole that has the necessary clearance from the Facilities of other Public Service Providers using the pole, as required by the orders and regulations of PUCO and other applicable State and local orders and regulations, to allow its use by an additional Service Provider for a pole attachment.
- (29) System means a network of Facilities for the transmission and/or distribution of a particular Service.
- (30) Trenchless Technology means the use of directional boring, horizontal drilling and micro-tunneling and other techniques in the Construction of underground portions of Facilities that result in the least amount of disruption and damage to the Right-of-Way as possible.
- (31) Underground Facilities means that portion of a System located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.
- (32) Usable Space means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance as specified in the orders and regulations of the PUCO.
- (33) Utility Easement means any easement owned by a Service Provider and acquired, established, dedicated or devoted for the purpose of providing Service to the public. (Ord. 89-2007. Passed 11-13-07.)

901.02 CONSENT TO OCCUPY OR USE THE RIGHT-OF-WAY.

- (a) Consent Required to Occupy Right-of-Way. No Person shall Occupy or Use the Right-of-Way without obtaining prior consent from the City to do so.
- (b) Persons Required to Apply for Consent to Occupy or Use Right-of-Way.
- (1) The following Persons shall apply to the City for consent to Occupy or Use the Right-of-Way on a form provided by the City Engineer if such Person:
- Does not currently have an existing System or Facilities in the City's Right-of-Way and desires to Construct a System or Facilities in the Right-of-Way;
 - Had an existing System or Facilities in the Right-of-Way on July 2, 2002 and does not have presumed initial consent under Section 901.02(c)(1) below; or
 - Has initial presumed consent or City consent to Occupy or Use the Right-of-Way for an existing System or Facilities, but is planning
 - A Capital Improvement or Reconstruction of existing Facilities; or
 - To Construct additional Facilities or an additional System anywhere in the City.
- (c) Initial Consent Presumed.
- (1) A Person with existing Facilities in the Right-of-Way on July 2, 2002 Chapter shall be presumed to have initial consent for those Facilities to Occupy or Use the Right-of-Way if such Person:
- Is subject to jurisdiction by the PUCO;
 - Has a valid franchise agreement with the City to provide Cable Services or other Services in the City, and/or
 - Is any other Person whose existing Facilities lawfully Occupied the Right-of-Way on July 2, 2002.
- (2) Initial presumed consent for Occupancy or Use of the Right-of-Way is limited to the Service Provider's existing Facilities.
- (3) Any Service Provider with initial presumed consent to Occupy or Use the Rights-of-Way shall file an Initial Registration with the City within ninety (90) days of the effective date of this Chapter, on a form provided by the City Engineer, which shall include the information required by Section 901.02(d) of this Chapter.
- (4) A Person with initial presumed consent must comply with the requirements of this Chapter with respect to the ongoing Occupancy or Use of the Right- of-Way including, but not limited to, the Insurance, Indemnity, Performance Bond and Registration requirements of Sections 901.04(a), (b) and (c) and 901.05 of this Chapter.
- (d) Application for Consent to Occupy or Use the Right-of-Way and Initial Registration of Service Providers with Initial Presumed Consent. The application for Consent to Occupy or Use the Right-of-Way and/or initial registration pursuant to Section 901.02(c) for Service Providers with initial presumed consent to Occupy or Use the Right-of-Way shall include the following information with respect to the applicant's or Service Provider's planned or existing System and/or Facilities in the Right-of-Way as well as plans for any planned Capital Improvements or Reconstruction for the following twelve (12) months:
- The identity, legal status and federal tax identification number of the applicant, including all Affiliates of the applicant or Service Provider that will Use or Occupy the Right-of-Way or are in any way responsible for Facilities located in the Right-of-Way.
 - The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the application or initial registration and available at all reasonable times to be notified in case of emergency.
 - A general description of the Service provided or to be provided by the applicant or Service Provider over its System or Facilities. Where Services are or will be provided by a nonaffiliated provider, the applicant or Service Provider shall identify that provider.
 - A description of the type of transmission medium used, or to be used, by the applicant or Service Provider to operate a System.
 - A map and/or description of the existing or proposed Facilities in the City's Right-of-Way:
 - The map and/or description shall be in sufficient detail to identify:
 - The location and route of the applicant's or Service Provider's Facilities or proposed Facilities.
 - The location of all known existing Overhead and/or Underground Facilities in the Right-of-Way along the route or proposed route of the applicant's or Service Provider's Facilities or proposed Facilities that is sufficient to show the impact of the applicant's Facilities on other existing Facilities.
 - The location of all known overhead and underground Utility Easements.
 - Upon written request of a Service Provider, the City Engineer may modify the requirements of this subsection (d)(5), if in his or her reasonable discretion such modification serves the purposes of this Chapter and the City's need to manage its public Rights-of-Way.
 - A Service Provider may designate any portion or portions of the maps and/or information provided under this subsection (d)(5) as proprietary and/or a trade secret so as to remain confidential. In this event, the City shall seek to maintain the confidentiality of such maps and/or information; provided, however, that such information is subject to applicable public records laws and exceptions thereto. The City shall provide a Service Provider with written notice of any proposed inspection or disclosure prompted by a public records request related to the Service Provider's maps and/or information the Service Provider has designated to be confidential. The Service Provider shall have three (3) business days from the written notice to object to any public records disclosure and to agree in writing to defend and indemnify the City with respect to any litigation under the Ohio Public Records Act to compel disclosure and all costs thereof.
- (6) Evidence that the applicant or Service Provider has complied, or will comply, with the Indemnification, Insurance, Performance Bond and Construction Bond requirements of this Chapter.
- (7) Information sufficient to determine that the applicant or Service Provider has received any certificate of authority required by the PUCO, FCC or other applicable State or Federal Agency to operate a System and provide Services in the City.
- (8) Written acknowledgement of receipt of a copy of this Chapter.
- (9) Such other information as the City Engineer may reasonably require that is relevant to the Provider's Use or intended Use of the Right-of-Way.
- (e) City Consent or Denial for Occupancy or Use of the Right-of-Way.
- (1) The City shall grant or deny, in writing, a Person's application for consent to Occupy or Use the Right-of-Way within sixty (60) days of the date on which the Person filed the application with the City.
- The City may withhold, deny or delay its consent to a Person's application to Occupy or Use the Right-of-Way based on the Person's failure to possess the financial, technical and managerial resources necessary to protect the public health, safety and welfare, or for other reasons based on the health, safety and welfare of the City and in accordance with Ohio law.
 - If the City denies a Person's application to Occupy or Use the Right-of-Way, the City shall provide its reasons in writing for denying the application, and shall provide any information reasonably requested by that Person necessary to obtain the City's consent to Occupy or Use the Right-of-Way.
- (2) The City's grant of consent for a Person to Occupy or Use the Right-of- Way shall be in the form of a Right-of-Way Occupancy Certificate which shall set forth the specific terms of the City's consent for such Person to Occupy or Use the Right-of-Way.
- (f) Application to Existing Franchise or Agreement. For purposes of this Chapter, an effective Franchise or Agreement shall be deemed consent authorizing the Occupancy or Use of the Right-of-Way to the extent described in the Franchise. Any Occupancy or Use of the Right-of- Way beyond that authorized by the Franchise or Agreement shall require additional consent for such additional Occupancy or Use. Service Providers shall comply with all other provisions of this Chapter except if there is a direct conflict between a specific provision in the Franchise or Agreement and the provisions of this Chapter, the Franchise or Agreement shall control.

(Ord. 89-2007. Passed 11-13-07.)

901.03 ANNUAL REGISTRATION OF SERVICE PROVIDERS.

- (a) Annual Registration Required. All Service Providers with consent to Occupy or Use the Right-of-Way as provided in Section 901.02 shall register with the City each calendar year between January 1 and January 31 on a form provided by the City Engineer. Service Providers who file an Initial Registration after November 13, 2007, but before December 31, 2007, need not file an Annual Registration for calendar year 2008.
- (b) Purpose of Annual Registration. The purpose of Annual Registration is to assist the City in monitoring use of the Right-of-Way; to maintain an accurate and current database of information concerning Service Providers that Occupy or Use the Right-of-Way; and to assist the City in managing the Right-of-Way in a manner that best serves the public health, safety and welfare.
- (c) Information Required for Annual Registration. Registration forms will be provided by the City and shall require the following information:
- Any material changes to the information the Service Provider provided the City in the application for consent to Occupy or Use the Right-of-Way or Initial Registration, including, but not limited to:
 - The identity, legal status, and federal tax identification number of the Service Provider, including any Affiliates.
 - The name, address and telephone number of the local officer, agent or employee responsible for the accuracy of the Service Provider's registration statement and available at all reasonable times to be notified in case of emergency.
 - Evidence that the Service Provider is in compliance with the Insurance, Indemnity and Performance Bond requirements pursuant to Section 901.04 of this Chapter.
 - Information regarding, and a preliminary Construction schedule and completion date for, any Capital Improvements the Service Provider plans in the Right-of-Way for the following twelve (12) months.
 - Any other information the City Engineer may reasonably require relevant to the Service Provider's Occupancy or Use of the Right-of-Way.
- (d) Service Provider's Facilities Maps.
- The City shall have the right to access and review all the Service Provider's maps and/or as-built plans showing the location of its Facilities in the City's Rights-of-Way, upon ten (10) days notice to the Service Provider.
 - Upon written request by the City Engineer, each Service Provider shall work in good faith with the City Engineer to provide, in a reasonable time and manner, maps and/or as built plans in a format compatible with the City's current and/or future mapping system.
 - The Service Provider may designate any portion or portions of the maps and/or as-built plans provided under this subsection (d) as proprietary and/or a trade secret so as to remain confidential. In this event, the City shall seek to maintain the confidentiality of such maps and/or as-built plans; provided, however, that such information is subject to applicable public records laws and exceptions thereto. The City shall provide a Service Provider with written notice of any proposed inspection or disclosure prompted by a public records request related to the Service Provider's maps and/or as-built plans the Service Provider has designated to be confidential. The Service Provider shall have three (3) business days from the written notice to object to any public records disclosure and to agree in writing to

defend and indemnify the City with respect to any litigation under the Ohio Public Records Act to compel disclosure and all costs thereof.

(e) Registration to be Kept Current. In addition to Annual Registration, each Service Provider shall keep the required registration information current at all times.
(Ord. 89-2007 11-13-07.)

901.04 INSURANCE, BOND AND INDEMNIFICATION.

(a) Service Provider Insurance. As a condition of the consent to Occupy or Use the Right-of-Way, a Service Provider must secure and maintain, at a minimum, the following liability insurance policies insuring the Service Provider and naming the City, its elected and appointed officers, officials, agents, employees and representatives as additional insureds:

- (1) Comprehensive general liability insurance with limits not less than
 - A. Five million dollars (\$5,000,000) for bodily injury or death to each Person;
 - B. Five million dollars (\$5,000,000) for property damage resulting from any one accident; and
 - C. Five million dollars (\$5,000,000) for all other types of liability.
- (2) Automobile liability for owned, non-owned and hired vehicles with a limit of three million dollars (\$3,000,000) for each Person and three million dollars (\$3,000,000) for each accident.
- (3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than one million dollars (\$1,000,000).
- (4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars (\$3,000,000).
- (5) The liability insurance policies required by this Section shall be maintained by the Service Provider throughout the period of time during which the Service Provider is Occupying or Using the Right-of-Way, or is engaged in the removal of its Facilities. Each such insurance policy shall contain the following endorsement:
"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until sixty (60) days after receipt by the City, by registered mail, of a written notice addressed to the City Engineer of such intent to cancel or not to renew."
- (6) Within sixty (60) days after receipt by the City of said notice, and in no event later than thirty (30) days prior to said cancellation, the Service Provider shall obtain and furnish to the City replacement insurance policies meeting the requirements of this Section.
- (7) Upon written application to, and written approval by, the City Engineer, a Service Provider may be self-insured to provide all of the same coverages as listed in this Section; except that all coverages for Workers' Compensation shall be in compliance with State law. No approval for self-insurance shall be given until the City Engineer has made a complete review of the Service Provider's financial ability to provide such self-insurance. As part of the review process, the City Engineer may require, and the self-insurance applicant shall provide, any and all financial documents necessary to make a valid determination of the applicant's ability to meet the needs of this Chapter.

(b) General Indemnification. Each application for consent to Occupy or Use the Right-of-Way, and each annual registration, shall include, to the extent permitted by law, the Service Provider's express undertaking to defend, indemnify and hold the City and its elected and appointed officers, officials, employees, agents, representatives and subcontractors harmless from and against any third party claims (including all damages, losses and expenses, reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the Service Provider or its Affiliates, officers, employees, agents, contractors or subcontractors relating to the Service Provider's Occupancy or Use of the Right-of-Way, whether such acts or omissions are authorized, allowed or prohibited by this Chapter. A Service Provider, however, will have no obligation to defend, indemnify or hold the City and its elected and appointed officers, officials, employees, agents, representatives and subcontractors harmless from their own negligence.

(c) Performance Bond. As a condition of consent to Occupy or Use the Right-of-Way, and to ensure the full and complete compliance with, and performance under this Chapter, including any costs, expenses, damages or loss the City pays or incurs because of any failure attributable to the Service Provider to comply with the codes, ordinances, rules, regulations or permits of the City, each Service Provider shall, in the amount of fifty thousand dollars (\$50,000), or such lesser amount as the City Engineer may determine to be necessary, (i) provide an unconditional letter of credit, or other instrument acceptable to the City, or (ii) furnish and file with the City a Performance Bond running to the City in the required amount from a company licensed to do business in the State of Ohio; which performance bond or letter of credit or other instrument shall be maintained at the sole expense of the Service Provider so long as any of the Service Provider's Facilities are located within the City's Right-of-Way.

- (1) Before claims are made against the Performance Bond or letter of credit or other instrument, the City shall give written notice to the Service Provider:
 - A. Describing the act, default or failure to be remedied, or the damages, cost or expenses which the City has incurred by reason of the Service Provider's act or default;
 - B. Providing a reasonable opportunity for the Service Provider to remedy the existing or ongoing default or failure, if applicable;
 - C. Providing a reasonable opportunity for the Service Provider to pay any monies due the City before the City makes a claim against the Performance Bond or letter of credit or other instrument;
 - D. That the Service Provider will be given an opportunity to review the act, default or failure described in the notice with the City Engineer.
- (2) Service Providers shall maintain the full value of the Performance Bond or letter of credit or other instrument regardless of claims against the Performance Bond or letter of credit or other instrument made by, or paid to, the City.
- (3) Any draw upon the Performance Bond or letter of credit to recover the City's costs related to a Service Provider's use of the Right-of-Way shall be considered Public Way Fees as that term is defined in this Chapter and Chapter 4939 of the Ohio Revised Code and shall be assessed by the City Engineer in accordance with Chapter 4939 and any other applicable law.

(Ord. 89-2007. Passed 11-13-07.)

901.05 GENERAL RIGHT-OF-WAY USE REGULATIONS.

(a) Rights Conveyed. Consent granted to or initially presumed of a Service Provider to Occupy or Use the Right-of-Way under Section 901.02:

- (1) Shall be limited to a grant to Occupy or Use the specific Right-of-Way and defined portions thereof including the specific System or Facilities and location along the Right-of-Way;
- (2) Shall not confer any exclusive right, privilege, license or franchise to Occupy or Use the Right-of-Way of the City to operate a System for delivery of Services or any other purposes; and
- (3) Shall not convey any right, title or interest in the Right-of-Way, but shall be deemed consent only to Occupy or Use the Right-of-Way for the limited purposes granted by the consent. Further, no consent shall be construed as any warranty of title.

(b) Maintenance of Facilities. Each Service Provider shall maintain its System or Facilities in good and safe condition and in a manner that complies with all applicable federal, State and local requirements.

(c) Maintenance of Landscaping or Other Aesthetic Requirements. A Service Provider with a Construction Permit that includes a landscaping, screening and/or other aesthetic requirement in connection with the placement of any structure or item above the ground in the Right-of-Way, shall maintain the landscaping, screening and/or other aesthetic requirement, on a continuing basis, in the manner specified in the Construction Permit or other manner as approved in writing by the City Engineer.

(d) Safety Procedures. A Service Provider or other Person acting on its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as necessary and in accordance with applicable State and local requirements for the safety of all members of the general public and to prevent injury or damage to any Person, vehicle or property by reason of such work in or affecting such Right-of-Way or property.

(e) Interference with the Rights-of-Way. No Service Provider may locate or maintain its Facilities so as to unreasonably interfere, as determined by the City Engineer, with the use of the Right-of-Way by the City, by the general public or by other Persons authorized to use or be present in or upon the Right-of-Way. All such Facilities shall be moved by the Service Provider, temporarily or permanently, as determined by the City Engineer.

(f) Damage to Public and Private Property. No Service Provider nor any Person acting on the Service Provider's behalf shall take any action or permit any action to be done which may impair or damage any City Property, Right-of-Way, Other Ways or other public or private property located in, on or adjacent thereto.

(g) Restoration of Right-of-Way, Other Ways and City Property.

- (1) When a Service Provider, or any Person acting on its behalf, does any Construction, Reconstruction, Excavation, Routine Maintenance, Emergency Work or any other work in or affecting any Right-of-Way, Other Ways or City Property, it shall, after the work is completed and at its own expense, promptly remove any obstructions from and restore such ways or property, within ten (10) to thirty (30) days, at the City Engineer's discretion, to as good a condition as existed before the work was undertaken, unless otherwise directed by the City.
- (2) If weather or other conditions prevent the complete restoration required by this Section, the Service Provider shall temporarily restore the affected ways or property as directed by the City Engineer, at the Service Providers' sole expense. The Service Provider shall promptly undertake and complete the required permanent restoration when weather or other conditions no longer prevent permanent restoration.

(h) Duty to Provide Information. Within ten (10) days of a written request from the City Engineer, each Service Provider shall:

- (1) Furnish the City with documentation sufficient to show that the Service Provider has complied with all requirements of this Chapter.
- (2) Make available for inspection by the City, at reasonable times, all books, records, maps and other documents, maintained by the Service Provider with respect to its Facilities in the Right-of-Way.

(i) Leased Capacity. A Service Provider shall have the right, without prior City approval, to lease capacity or bandwidth to an unaffiliated Service Provider, provided that when a lessee has physical access to the leased Facilities:

- (1) The Service Provider shall notify the City of the lease agreement within thirty (30) days of such lease agreement.
- (2) The lessee has complied with the applicable requirements of this Chapter.
- (j) Assignments or Transfers of Consent. Consent to Occupy or Use the Right-of-Way may be, directly or indirectly, transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the Service Provider, by operation of law or otherwise, without consent of the City; provided that with respect to any transactions (including transactions between Affiliated entities) that singularly or collectively result in a change of twenty-five percent (25%) or more of the ownership or ultimate working control of a Service Provider, of the ownership or working control of the Service Provider's Facility, or of control of the capacity or bandwidth of the Service Provider's System, Facilities or substantial parts thereof, the transferor and transferee shall comply with the following:

- (1) Notify the City of the proposed transfer before the date of transfer; and
- (2) The transferee shall fully comply with this Chapter within sixty (60) days of the transfer, including, but not limited to providing the City with all information required by the Initial Registration required by Section 901.02(d) of this Chapter.

(k) Revocation of Consent. Subject to Section 901.05(k), consent granted by the City to Occupy or Use the Right-of-Way of the City, or a Construction Permit, may be revoked for any one of the following reasons:

- (1) Construction, Reconstruction or operation or Excavation at an unauthorized location.
- (2) Construction, Reconstruction or operation in violation of City safety and/or Construction requirements.
- (3) Material misrepresentation or lack of candor by or on behalf of a Service Provider in any application or registration required by this Chapter.
- (4) Failure to relocate or remove Facilities, or failure to restore the Right-of-Way, as required by this Chapter.
- (5) Insolvency or bankruptcy of the Service Provider.
- (6) Violation of material provisions of this Chapter.

(l) Notice of Violation and Duty to Cure. In the event that the City Engineer believes that grounds exist for revocation of consent to Occupy or Use the Right-of-Way or Construction Permit, he or she shall give the Service Provider written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the Service Provider a reasonable period of time not exceeding thirty (30) days to furnish evidence:

- (1) That corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;
- (2) That rebuts the alleged violation or noncompliance; and/or
- (3) That a lesser penalty or sanction would better serve the public interest.

(Ord. 89-2007. Passed 11-13-07.)

901.06 LOCATION, RELOCATION AND REMOVAL OF FACILITIES.

(a) Location of Facilities. All Facilities shall be Constructed, Reconstructed, installed and located in accordance with the following terms and conditions:

- (1) Overhead Facilities. A Service Provider with permission to install Overhead Facilities shall install its Facilities on pole attachments to existing utility poles only, and then only if Surplus Space is available. Except for Overhead Facilities as provided herein, no Facilities shall be located above ground in a Right-of-Way without the express written permission of the Planning Commission.
- (2) Underground Facilities. Whenever the existing electric, cable, telecommunications and other similar Facilities are located underground in a Right-of-Way, a Service Provider with permission to Occupy the same Right-of-Way with the electric, cable, telecommunications or other similar Facilities, must also locate its Facilities underground. Facilities shall be installed within an existing compatible underground duct or conduit whenever Excess Capacity exists within such Facility.

(b) Relocation or Removal of Facilities. Within thirty (30) days following written notice from the City, a Service Provider shall, at its expense, temporarily or permanently remove, relocate, change or alter the position of any Facilities in the Right-of-Way whenever the City determines that such removal, relocation, change or alteration is reasonably necessary for:

- (1) The Construction, Reconstruction, maintenance or installation of any City or other public improvement in or upon the Right-of-Way.
- (2) The operations of the City or other governmental entity in or upon the Right-of-Way.

Notwithstanding the above, no Service Provider shall be required to bear the expense of removal, relocation, change or alteration of position of any Facilities if such requirement would be prohibited by law.

(c) **Removal of Unauthorized Facilities.** Within thirty (30) days following written notice from the City, any Service Provider or other Person that owns, controls or maintains any unauthorized System, Facility or related appurtenances in the City's Right-of-Way shall, at its own expense, remove those Facilities or appurtenances from the Right-of-Way or shall, at the City's option, arrange to sell the System, Facilities or appurtenances to the City. After the thirty (30) days have expired, the City may remove the Facilities or appurtenances from the Right-of-Way at the other party's expense. A System or Facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon revocation of the Service Provider's consent to Occupy or Use the Right-of-Way;
 - (2) If the System or Facility was Constructed, Reconstructed, operated or maintained without the consent to do so, except as otherwise provided by this Chapter;
 - (3) Upon abandonment of a Facility in the Right-of-Way of the City, with the exception of underground facilities abandoned in a manner authorized and approved by the City Engineer;
 - (4) If the System or Facility was Constructed or Reconstructed, or any Excavation of a Right-of-Way was performed, without prior issuance of a required Construction Permit, except as otherwise provided by this Chapter;
 - (5) If the System or Facility was Constructed, Reconstructed, operated or maintained, or any Excavation of a Right-of-Way was performed, at a location not permitted pursuant to the City's consent for the Provider to Occupy or Use the Right-of-Way or Construction Permit; or
 - (6) If the Service Provider fails to comply with, or cure a violation of, a material requirement of this Chapter.
- (d) **Emergency Removal or Relocation of Facilities.** The City retains the right and privilege to cut or move any Facilities, or stop work on any Construction, Reconstruction, or Excavation, located in the Right-of-Way, as the City Engineer may determine to be necessary, appropriate or useful in response to any need to protect the public health, safety or welfare.
- (Ord. 89-2007. Passed 11-13-07.)

901.07 NOTICE OF WORK, ROUTINE MAINTENANCE AND EMERGENCY WORK.

- (a) **Notice of Work.** Except in case of Emergency, as provided in Section 901.07(c), or for Routine Maintenance as provided in Section 901.07(b), no Service Provider, or any Person acting on the Service Provider's behalf, shall commence any work in the Right-of-Way of the City or Other Ways without twenty-four (24) hours advance notice to the City, obtaining a Construction Permit pursuant to Section 901.08, if required, and complying with the consent and registration requirements of Section 901.02.
- (b) **Routine Maintenance and New Service Orders.**
- (1) A Service Provider need not obtain a Construction Permit or notify the City prior to or after commencing any Routine Maintenance or New Service Orders that do not include the Construction in, or Excavation or Lane Obstruction of, a Right-of-Way or closing of a Public Street.
 - (2) For Routine Maintenance and New Service Orders that require the Service Provider to cause a Lane Obstruction in a Public Street for more than four (4) hours, the Service Provider shall provide the City with forty-eight (48) hours advance notice prior to commencing the Routine Maintenance or New Service Order, and shall submit a drawing showing the planned traffic maintenance and indicating how the Service Provider will meet all requirements of ODOT's Manual of Traffic Control Devices or other applicable ODOT regulations.
 - (3) A Service Provider performing Routine Maintenance shall otherwise comply with the requirements of this Chapter.
- (c) **Emergency Work.** In the event of the need for any unexpected repair or Emergency work, a Service Provider may commence such Emergency response work as required under the circumstances, provided that for Emergency work that requires Excavation of a Right-of-Way or Lane Obstruction or closing of a Public Street, the Service Provider shall notify the City Engineer as promptly as possible before commencing such Emergency work, or as soon as possible thereafter if advance notice is not practicable.
- (Ord. 89-2007. Passed 11-13-07.)

901.08 CONSTRUCTION PERMIT AND STANDARDS.

- (a) **Construction Permit.**
- (1) No Construction Permit is required for Routine Maintenance and New Service Orders that do not include Excavation in a Public Street.
 - (2) No Person shall commence or continue with the Construction or Reconstruction of Facilities or Excavation in the Right-of-Way without obtaining a Construction Permit from the City Engineer as provided in this Section, including but not limited to the following circumstances:
 - A. The Construction of a new System or Reconstruction of Facilities to provide a new Service;
 - B. The extension of a Service Provider's System in the Right-of-Way in an area of the City not currently serviced by that Service Provider; not including New Service Orders unless a Public Street will be Excavated;
 - C. Any Construction, Reconstruction or replacement of Facilities or New Service Orders in the Right-of-Way requiring more than one (1) working day to complete; or
 - D. Any Construction, Reconstruction or New Service Orders requiring the Excavation of a Public Street, including the replacement of a pole.
 - (3) No Construction Permit shall be issued for the Construction or Reconstruction of Facilities, or Excavation, in the Right-of-Way unless the Service Provider has obtained consent from the City to Use or Occupy that portion of the Right-of-Way and filed a current registration pursuant to Sections 901.02 and 901.03 of this Chapter.
 - (4) The City Engineer may waive or modify, as reasonably required, the construction permit requirements for Service Providers with Underground Facilities whose routine maintenance of Facilities requires Excavation.
- (b) **Construction Permit Applications.** Applications for Construction Permits shall be submitted upon forms provided by the City and be accompanied by relevant drawings, plans and specifications in sufficient detail and include the following information:
- (1) A preliminary construction schedule.
 - (2) **Above-Ground Facilities.**
 - A. If the applicant is proposing to Construct or Reconstruct Overhead Facilities:
 1. Evidence that Surplus Space is available for locating its Facilities on existing utility poles along the proposed route;
 2. The location and route of all Facilities to be located or installed on existing utility poles.
 - B. If the Applicant is proposing to install above-ground Facilities that are not Overhead Facilities, the location of all known existing underground utilities, conduits, ducts, pipes, mains and installations that are in the Right-of-Way in the proposed location of and/or along the route of the proposed above-ground Facilities.
 - (3) **Underground Facilities.**
 - A. If the applicant is proposing new Underground Facilities in existing ducts, pipes or conduits in the Right-of-Way, information in sufficient detail to identify:
 1. The Excess Capacity currently available in such ducts or conduits before the installation of the applicant's Facilities.
 2. The Excess Capacity, if any that will exist in such ducts or conduits after installation of the applicant's Facilities.
 - B. If the applicant is proposing new Underground Facilities in new ducts or conduits to be Constructed in the Right-of-Way:
 1. The location and depth proposed for the new ducts or conduits; and
 2. The Excess Capacity that will exist in such ducts or conduits after installation of the applicant's Facilities.
 - C. The location and route of all Facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are in the Right-of-Way. Included with the installation shall be magnetic and florescent tape placed at a minimum of one (1) foot to a maximum of two (2) feet above the entire Facility as installed for the purpose of locating the Facility during future Construction activities, or other such location device as approved by the City Engineer. The tape shall be marked with the type of Facility installed.
 - D. The location of all known existing underground utilities, conduits, ducts, pipes, mains and installations that are in the Right-of-Way along the underground route proposed by the applicant.
 - (4) The location(s), if any, for interconnection with the Facilities of other Service Providers.
 - (5) The construction methods to be employed to protect existing structures, fixtures and Facilities in or adjacent to the Right-of-Way.
 - (6) The structures, improvements, Facilities, and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate, and any necessary plans for their restoration.
 - (7) The impact of Construction or Reconstruction of Facilities on trees and landscaping in or adjacent to the Right-of-Way along the route proposed by the applicant, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees, landscaping or areas disturbed during Construction.
 - (8) Information to establish that the applicant has obtained all other governmental approvals and permits to Construct and operate the Facilities and to offer or provide the Services.
 - (9) An attestation that the Facilities will be Constructed or Reconstructed, or the Right-of-Way Excavated, in accordance with all applicable codes, rules and regulations.
 - (10) Any other information the City Engineer may reasonably request related to the Service Provider's application for a Construction Permit.
- (c) **Construction Codes.** Facilities shall be Constructed, Reconstructed and Excavated in accordance with all applicable federal, State and local codes, rules, regulations and technical codes including, but not limited to, the National Electrical Safety Code.
- (d) **Issuance of Permit.** Within ten (10) business days after submission of all plans and documents required of the applicant, the City Engineer, if satisfied that the applications, plans and documents comply with all requirements of this Chapter, shall issue a Construction Permit authorizing the Construction or Reconstruction of the Facilities, or Excavation in the Right-of-Way, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the City Engineer may deem necessary or appropriate. The ten (10) business day period shall begin after the City Engineer deems all submissions to be complete and in accordance with the requirements of this Chapter.
- (e) **Modification of Construction Schedule.** The Service Provider may modify the construction schedule at any time provided that forty-eight (48) hours advance notice is given to the City Engineer. The Service Provider shall further notify the City Engineer and the Ohio Utility Protection Service (OUPS) not less than forty-eight (48) hours in advance of any Excavation or work in the Right-of-Way.
- (f) **Least Disruptive Technology.** To the extent reasonably possible, all Facilities shall be Constructed or Reconstructed in the manner resulting in the least amount of damage and disruption of the Right-of-Way. Unless otherwise authorized by the City Engineer for good cause, Service Providers Constructing or Reconstructing Underground Facilities shall utilize Trenchless Technology, including, but not limited to, horizontal drilling, directional boring, and microtunneling, if technically and/or technologically feasible.
- (g) **Compliance with Permit.** All Construction practices and activities shall be in accordance with the Construction Permit and approved final plans and specifications for the Facilities. The City Engineer shall have access to the work and such further information as he or she may require to ensure compliance with such requirements. Field changes may be approved by the City Engineer if such changes are determined to be necessary due to site conditions or other changed circumstances.
- (h) **Display of Permit.** The Service Provider shall maintain a copy of the Construction Permit and approved plans at the construction site, which shall be displayed and made available for inspection by the City Engineer whenever Construction work is occurring.
- (i) **Noncomplying Work.** Upon order of the City Engineer, all work that does not comply with the Permit, the approved plans and specifications for the work, or the requirements of this Chapter, shall immediately cease and be immediately removed and/or corrected by the Service Provider.
- (j) **Record Drawings.** Within sixty (60) days after completion of Construction, the Service Provider shall provide the City with two (2) complete sets of plans, drawn to scale and certified to the City as accurately depicting the location of all Facilities Constructed pursuant to the Permit. If required by the City, the Service Provider shall submit the Record Drawings in a digital format compatible with the City's computer software, in accordance with Section 901.05(f).
- (k) **Restoration of Improvements.** Upon completion of any Construction work, the Service Provider shall promptly repair any and all Rights-of-Way, property improvements, fixtures, structures and Facilities which were damaged during the course of Construction, and restore them as nearly as practicable to their prior condition.
- (l) **Landscape Restoration.** All trees, landscaping and grounds removed, damaged or disturbed as a result of the Construction, Reconstruction, installation, maintenance, repair or replacement of Facilities must be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work, except to the extent that tree trimming is necessary to prevent the interference of tree branches with Overhead Facilities.
- (m) **Responsibility of Owner.** The owner of the Facilities to be Constructed or Reconstructed and, if different, the Service Provider, are responsible for performance of and compliance with all provisions of this Section.
- (Ord. 89-2007. Passed 11-13-07.)

901.09 RECOVERY OF CITY COSTS OF MANAGING THE RIGHT-OF-WAY.

- (a) **Purpose.** The purpose of this Section 901.09 is to provide for the recovery of all direct and indirect costs and expenses actually incurred by the City and associated with a Service Provider's Occupancy or Use of the Right-of-Way and related to the enforcement and administration of this Chapter.
- (b) **Recovery of Costs.** Any City costs related to a Service Provider's Occupancy or Use of the Right-of-Way and recovered pursuant to this Chapter shall be considered Public Way Fees as that term is defined in this Chapter and Chapter 4939 of the Ohio Revised Code. Public Way Fees shall be assessed by the City Engineer in a manner that is in accordance with Chapter 4939 of the Ohio Revised Code and any other applicable law.
- (1) City costs related to a Service Provider's Occupancy or Use of the Right-of-Way which may be recovered include, but are not limited to, administrative costs associated with applications for consent to Occupy or Use the Right-of-Way, initial and annual registration and issuance and enforcement of construction permits.
 - (2) City costs related to a Service Provider's use of the Right-of-Way and recovered pursuant to this Chapter from the Performance Bond, letter of credit and/or Construction Bond shall be considered Public Way Fees

and shall be assessed by the City Engineer in accordance with Chapter 4939 and any other applicable law.

(c) **Regulatory Fees and Compensation Not a Tax.** The regulatory fees and costs provided for in this Chapter are separate from, and additional to, any and all federal, State, local and City taxes as may be levied, imposed or due from a Service Provider, its customers or subscribers, or on account of the lease, sale, delivery or transmission of Services.
(Ord. 89-2007. Passed 11-13-07.)

901.10 MISCELLANEOUS PROVISIONS.

(a) **Variance.** Upon application of a Service Provider, the Planning Commission shall hear and decide requests for a variance from a requirement, or requirements, of this Chapter. In determining the merits of an application for a variance, the Planning Commission shall consider all relevant factors including, but not limited to, the purpose of the requirement from which a variance is requested, whether the requirement is necessary or appropriate to protect the interests of the City, the health safety and welfare of the City's residents, the purposes and intent of this Chapter and the extent of the hardship the Service Provider will bear if the Planning Commission does not grant the requested variance. The Planning Commission shall issue a written decision setting forth its reasons for granting or denying the variance.

(b) **Preemption by State and Federal Law.** Except as may be preempted by applicable State or Federal laws, rates, regulations, and orders, this Chapter shall apply and be controlling over each Service Provider with Facilities in the Rights-of-Way.

(c) **Exemption for City-Owned or Operated Facilities.** Except as otherwise required by law, nothing in this Chapter shall be construed to apply the provisions of this Chapter to Facilities owned or operated by the City or any of its operations.

(d) **Private Facilities.** Persons who wish to use the Right-of-Way of the City for Facilities that provide service not available to the general public shall obtain consent from the City pursuant to Section 901.02, register pursuant to Section 901.03, obtain a Construction Permit (if applicable) pursuant to Section 901.07 and comply with all provisions of this Chapter.

(e) **Application to Existing Code Provisions.** In the event of a direct conflict between any provision of this Chapter and any other section of the City's Codified Ordinances, the provisions of this Chapter shall apply.

(f) **Severability.** If any section, subsection, sentence, clause, phrase, or other portion of this Chapter, or its application to any Person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, that decision shall not affect the validity of the remaining portions hereof.

(g) **Remedies.** Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.
(Ord. 89-2007. Passed 11-13-07.)

901.99 PENALTIES AND OTHER REMEDIES.

(a) **Criminal Penalties.** Any Person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be guilty of a misdemeanor of the fourth (4th) degree. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

(b) **Civil Violations and Forfeiture.**

- (1) In lieu of the criminal penalties set forth above, the City Engineer may make an initial finding of a civil violation by the Service Provider for violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter.
- (2) The Civil Forfeiture shall be in an amount payable to the City of not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.
- (3) An action for civil forfeiture shall be commenced by providing the Service Provider with written notice describing in reasonable detail the Service Provider's alleged violation of one or more provisions of this Chapter and the amount of the penalty that will be assessed against it.
- (4) The Service Provider shall have fifteen (15) days subsequent to receipt of the notice of violation in which to correct the violation before the City may assess penalties against the Service Provider. The time in which to cure the violation may be extended by the City if additional time is required to correct the violation; provided that the Service Provider commences corrective action within seven (7) days of the notice of violation and proceeds with reasonable diligence.
- (5) The Service Provider may dispute the alleged violation by providing the City with written notice within five (5) days of receipt of the notice of violation, setting forth in reasonable detail the reasons for its dispute. The City shall set a date for hearing of the alleged violation no sooner than thirty (30) days and no later than sixty (60) days from receipt of the notice of dispute.
- (6) The City shall issue a written decision on the Service Provider's alleged violation within thirty (30) days of the hearing, which decision shall be final and subject to the administrative appeal procedures under Ohio law. If the City finds after hearing that the alleged violation(s) did occur, the penalty shall be assessed starting fifteen (15) days from the notice of violation and shall continue until the violation has been corrected.

(c) **Other Remedies.** Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.
(Ord. 89-2007. Passed 11-13-07.)

CHAPTER 903

Sidewalks

903.01 Permit required; fee.

903.02 Width.

903.03 Supervision.

903.04 Specifications.

903.05 Establishment of grades; fee.

903.06 Annual sidewalk inspections.

903.07 Criteria for sidewalk inspections.

903.99 Penalty.

CROSS REFERENCES

Sidewalks and gutters - see Ohio R.C. 729.01 et seq.

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.

Sidewalk obstructions; damage or injury - see GEN. OFF. 517.04

Repair and drainage of sidewalks - see GEN. OFF. 517.05 , 517.06

Cutting curbs - see S. & P.S. Ch. 901

Construction - see P. & Z. 1103.08

903.01 PERMIT REQUIRED; FEE.

No person shall construct or repair a sidewalk or a driveway across a sidewalk without first obtaining a permit therefor from the Building Inspector. A separate permit shall be obtained for each property involved and all permits shall be valid only for the year in which issued. The fee for the permit shall be seventy-five dollars (\$75.00).
(Ord. 93-2008. Passed 11-25-08.)

903.02 WIDTH.

All sidewalks shall have a minimum width of not less than five feet. Where the existing width of walks is greater than five feet, all newly constructed walks must be of the same width as the existing walk. Where a width of greater than five feet for walks has been established, even though there are no walks in, all new construction must be to the greater width.

903.03 SUPERVISION.

The construction and repair of all sidewalks shall be done under the supervision of the Building Inspector.

(Ord. 30-61. Passed 11-21-61.)

903.04 SPECIFICATIONS.

Specifications for the construction or repair of sidewalks must be strictly adhered to by the permittee. Copies of the specifications are available at the office of the Building Inspector.

(Ord. 30-61. Passed 11-21-61.)

903.05 ESTABLISHMENT OF GRADES; FEE.

The grade for all sidewalks shall be established by the City Engineer to insure that the grade will be in conformity with the topography of the adjacent land, allow proper drainage of surface water and allow the construction of sewers at reasonable depths.
(Ord. 93-2008. Passed 11-25-08.)

903.06 ANNUAL SIDEWALK INSPECTIONS.

An inspection of the sidewalks within the City shall be conducted by the Building Department once each calendar year at a time designated by the Department to facilitate compliance with standards for sidewalk maintenance and repair required in the Codified Ordinances. The results of each annual sidewalk inspection shall be put into a written report and a copy of the same shall be placed on file with the Building Department, City Engineer and the Clerk of Council for review and further action by Council. Each property owner shall be notified of any defective or condemned portion of sidewalk, if any, and the requirement to repair the same.

(Ord. 83-89. Passed 5-10-90.)

903.07 CRITERIA FOR SIDEWALK INSPECTIONS.

The inspection of the sidewalks within the City as required by Section 903.06 shall be conducted based on the following criteria for condemning sidewalks or portions thereof:

- (a) Height differential between portions of sidewalk one inch or more.
- (b) Multiple cracks in block creating three or more distinct pieces. (Block is scored area, usually five feet by five feet.)
- (c) A abrupt dip or raised area in walk being two and three quarter inches or more from a straight line grade within a ten foot distance.
- (d) Spalled or scaled surface over fifty percent (50%) or more of surface area.
- (e) Gaps or missing areas in walk exceeding one and one-half inch wide crack.
- (f) Loose, rocking or missing sidewalk areas.
- (g) Blocks having reverse cross slopes sloping away from street or sloped reverse from intended slope and causing impounding of mud or water.
- (h) Too severe a slope, exceeding three-fourths inch vertical in a one foot horizontal area.
- (i) Surface too smooth, surface slippery when wet and/or dry, such as a smooth steel plate, or smooth steel troweled concrete.
- (j) Obstructions in sidewalk areas such as stumps, stones, private sign posts or any unauthorized obstruction in the sidewalk area.
- (k) Water, gas or other valve boxes, etc., that are not to proper grade.
- (l) Defective columns, supporting walls or slab for support of slab or slab over sub- space or other "bridged" open area.

(Ord. 83-89. Passed 5-10-90.)

903.99 PENALTY.

Any person violating any provision of this chapter is guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 905

Driveway Culverts; Roadside Ditches

- 905.01 Permit for installation required; regulations.**
- 905.02 Permit for changes.**
- 905.03 Fee for culvert pipe installation.**
- 905.04 Fee for grade changes.**
- 905.99 Penalty.**

CROSS REFERENCES

Sidewalks and gutters - see Ohio R. C. 729.01 et seq.
Repair and drainage of sidewalks - see GEN. OFF. 517.05 , 517.06
Specifications for public and private roads - see P. & Z. Ch. 1103

905.01 PERMIT FOR INSTALLATION REQUIRED; REGULATIONS.

Before installing any driveway culvert along a roadside ditch within the dedicated portion of any public street within the City, the owner of the abutting property shall first obtain written permission from the Building Inspector to make such installation. The length, diameter and type of material of such culvert, the depth and level of such culvert shall first be approved by the Building Inspector and the installation of such culvert shall be subject to the approval and inspection of the Building Inspector.

(Ord. 30-61. Passed 11-21-61.)

905.02 PERMIT FOR CHANGES.

No person shall fill in, cover, regrade or alter the course or grade of any ditch or otherwise change the grade of a ditch, tree lawn or any portion of a dedicated street within the City without first having obtained permission from the Building Inspector. Any such filling in, covering, grading or alteration shall be subject to the approval and inspection at all times of the Building Inspector.

(Ord. 30-61. Passed 11-21-61.)

905.03 FEE FOR CULVERT PIPE INSTALLATION.

Every person making an installation of a driveway culvert pipe shall pay the sum of ten dollars (\$10.00).

(Ord. 30-61. Passed 11-21-61.)

905.04 FEE FOR GRADE CHANGES.

Every person otherwise filling in, covering, regrading or altering the course or grading of a drainage ditch or in any manner changing the grade of a ditch, tree lawn or other portion of a dedicated street, shall first pay the sum of fifteen dollars (\$15.00).

(Ord. 30-61. Passed 11-21-61.)

905.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 907

House Numbering

- 907.01 Uniform system; Official Map.**
- 907.02 Assignment of numbers.**
- 907.03 Compliance required.**
- 907.99 Penalty.**

CROSS REFERENCES

Power to regulate building numbering - see Ohio R. C. 715.26

907.01 UNIFORM SYSTEM; OFFICIAL MAP.

A uniform system of numbering houses and structures located along all north-south streets within the City, as shown on the Official Map, as revised on February 16, 1959, is hereby adopted.

(Ord. 806-59. Passed 4-6-59.)

907.02 ASSIGNMENT OF NUMBERS.

The Building Commissioner is authorized to assign such uniform numbers to residents who shall request the same.

(Ord. 806-59. Passed 4-6-59.)

907.03 COMPLIANCE REQUIRED.

Every dwelling in the City shall have posted in a conspicuous manner the identifying house number thereof which has been assigned to such dwelling by the Building Commissioner. The numerals for the house number shall be not less than three and one-half inches in height. The house number shall be mounted on the front elevation of the dwelling in the vicinity of the primary entrance door so that it is clearly visible from the public right-of-way on which such dwelling is located. The house number may not be located on any exterior doors. A house number may be painted on the right-of-way curbing, and/or may be displayed on a post light or any other exterior structure, but these shall not be considered a substitute for the number that shall be mounted on the front elevation of the dwelling.

(Ord. 158-93. Passed 1-1 1-94.)

907.99 PENALTY.

Any owner, agent, lessee or tenant of any dwelling in the City who, after written notification by the Building Commissioner of maintaining an illegible or unreadable house number sign, fails to correct the condition in accordance with the requirements of this chapter and within ten days of such notification is guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 911

Trees, Shrubs and Bushes

- 911.01 Definitions.**
- 911.02 City Arborist's jurisdiction and duties.**
- 911.03 Master Street Tree Plan adopted.**
- 911.04 Permit required; conditions.**
- 911.05 General tree and shrub regulations.**
- 911.06 Certain trees prohibited in public places.**
- 911.07 Preservation and removal of trees on public property.**
- 911.08 Procedure upon order to preserve or remove.**
- 911.09 Stone or concrete on ground adjacent to tree trunk.**
- 911.10 Moving of trees; bond.**
- 911.11 Duties of private owners.**
- 911.12 Authority of City Arborist to enter private properties.**
- 911.13 Interference with City Arborist prohibited.**
- 911.14 Regulations for trees in tree lawns.**
- 911.99 Penalty.**

CROSS REFERENCES

Power to regulate shade trees and shrubbery - see Ohio R.C. 715.20
Assessments for tree planting or maintenance - see Ohio R.C. 727.011
Malicious destruction - see Ohio R.C. 2909.02
Removal of noxious weeds - see GEN. OFF. 517.11

911.01 DEFINITIONS.

For the purposes 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 used 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) "City" means the City of Richmond Heights, Ohio.
- (b) "City Arborist" means the Director of Public Service or a specifically assigned member of his staff.
- (c) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (d) "Street tree" or "tree" means a tree in a public place, except where otherwise indicated.
- (e) "Public place" means any public street, public highway, public park or any property owned or held by the City within the boundaries of the City.
- (f) "Arboriculture" or "tree preservation" means and includes the treating, spraying, pruning, maintaining and any other care or work intended for the strengthening of trees, and the removal and prevention of tree pests, blights and diseases of any and all kinds.

(Ord. 38-64. Passed 12-22-64.)

911.02 CITY ARBORIST'S JURISDICTION AND DUTIES.

The Director of Public Service and Properties shall, by virtue of his office, be the City Arborist.

- (a) Scope of Authority. The Director of Public Service and Properties is hereby given full jurisdiction, authority, control, supervision and direction over all trees which now or which may hereafter exist upon any public place in this City and over all trees which exist upon any private property in this City when such trees constitute a menace to the City.
 - (1) Issuance of permits. The Director of Public Service and Properties is also given full jurisdiction, authority and control in connection with the issuing of permits hereinafter provided for.
 - (2) Delegation of duties and authority. In the exercise of any or all powers herein granted, the Director of Public Service and Properties shall have the authority to delegate all or such part of his power and duties with respect to supervision and control of trees to his subordinates and assistants in the employ of the City as he may from time to time determine.
- (b) Order to Preserve or Remove. The Director of Public Service and Properties shall have the authority and it shall be his duty to order the trimming, preservation or removal of trees or plants upon private property when he shall find such action necessary to public safety or to prevent the spread of disease or insects to public trees and places.

(Ord. 38-64. Passed 12-22-64.)

911.03 MASTER STREET TREE PLAN ADOPTED.

There is hereby adopted for the City a Master Street Tree Plan Public Document showing varieties of species of all trees to be planted in the public right of way of all streets within the City. The plan is contained under separate cover attached to this chapter and incorporated in this chapter by reference as if fully set forth herein. No person shall hereafter plant, transplant or move any public tree on or to any street of the City except to a location where it will be in conformance to the Master Street Tree Plan and the species or variety therein designated.

(Ord. 38-64. Passed 12-22-64.)

911.04 PERMIT REQUIRED; CONDITIONS.

(a) Tampering with Trees in Public Places. No person shall plant, remove, destroy, cut, prune, treat, break, climb, injure or spray any tree existing on any public place in this City, or authorize or procure any person to do so, or remove or tamper with any device placed for the protection of any such tree, or attach any rope, wire, chain, sign or other device placed for the protection of such tree, or authorize or cause the same to be done, except having first obtained written permission from the Director of Public Service and Properties to do so.

(b) Permit Specifications; Support Posts. Such permit, when granted for the planting of any tree on any public place in this City, shall designate the species of tree to be planted, the required spacing and required minimum planting size, as specified in the Master Street Tree Plan for the City, as such plan now exists or as it may be amended from time to time. All newly planted trees, whether installed by the abutting property owner or contractor, shall be supported by a ninety-six inch iron fence post placed on the street side of the tree. No person shall guy any tree less than four inches in caliper with wires or rope. For trees over four inches in caliper, special permission must be obtained and the permittee must assume liability for accidents occurring therefrom.

(c) Application Data. The application for permit herein required shall state the number and kind of trees to be trimmed, sprayed, preserved, removed or planted, the kind of treatment to be administered, and such other information as the Director of Public Service and Properties shall find reasonably necessary to a fair determination of whether a permit should be issued hereunder.

(d) Standard for Issuance. The Director of Public Service and Properties shall issue the permit provided for herein when he finds that the desired action or treatment is necessary and that the proposed method and workmanship are satisfactory.

(e) Supervision. The Director of Public Service and Properties shall have the authority and it shall be his duty to supervise all work done under a permit issued in accordance with the terms of this chapter.

(f) Conditions. The Director of Public Service and Properties shall have the authority to affix reasonable conditions to the grant of a permit hereunder.

(g) Exemptions. No permit shall be required to cultivate, fertilize or water public trees or shrubs. The Director of Public Service and Properties may authorize any person to do any work or act described in subsection (a) hereof without written permit whenever he determines that such work or act will not be detrimental to the public interest and will be in accord with the spirit and other requirements of this chapter.

(Ord. 38-64. Passed 12-22-64.)

911.05 GENERAL TREE AND SHRUB REGULATIONS.

(a) Injury to Trees and Shrubs Prohibited. No person shall, without the consent of the owner in the case of a private tree or shrub, or without a written permit from the Director of Public Service and Properties in the case of a public tree or shrub, do, or cause to be done by others, any of the following acts:

- (1) Secure, fasten or run any rope, wire, sign or other device or material to, around or through a tree or shrub;
- (2) Break, injure, mutilate, deface, kill or destroy or permit any fire to burn where it will injure any tree or shrub;
- (3) Permit any toxic chemical, gas, smoke, salt, brine, oil or other injurious substance to seep, drain or be emptied upon or about any tree or shrub;
- (4) Excavate any ditch, tunnel or trench or lay any drive within a radius of not closer than three feet from any tree or shrub;
- (5) Erect, alter, repair or raze any building or structure without placing suitable guards around all nearby public trees or shrubs which may be injured or defaced, or where the injury or defacement may arise, in connection with or by reason of such an operation. Quality of the guard shall be determined by the Director of Public Service and Properties;
- (6) Knowingly permit any unprotected electric service wires to come in prolonged contact with any public tree or shrub; or
- (7) Remove any guard, stake or other device or material intended for the protection of a public tree or shrub or close or obstruct any open space about the base of a public tree or shrub designed to permit access of air, water and fertilizer, as described in Section 911.09 hereof.

(b) Trimming of Trees. The Director of Public Service and Properties shall and he is hereby directed to keep all trees standing upon any public place in this City trimmed so that the branches of such trees projecting over any public sidewalk, private driveway or into any public street beyond the curb line, shall not conflict with the public welfare.

(c) Trimming of Trees on Private Property. All trees standing upon private property in this City having branches projecting into public highways or public places shall, under the supervision of the Director of Public Service and Properties, be kept trimmed by the owner or occupant of such private property to such an extent that the lowest branches of such trees shall not come within nine feet of the ground where they overhang any public sidewalk or public place or thirteen feet over a public highway.

(d) Obstruction of View at Intersections Prohibited. Notwithstanding any other provision of this chapter, no person shall maintain, plant or permit to remain on any private or public premises situated at the intersection of two or more streets or alleys in the City any hedge, tree, shrub or other growth which may obstruct the view of the operator of any motor vehicle approaching such intersection to the extent that such operator is unable to observe other vehicles or pedestrians approaching or crossing such intersection. Any such hedge, tree, shrub or growth is hereby declared to be a public nuisance.

(Ord. 38-64. Passed 12-22-64.)

911.06 CERTAIN TREES PROHIBITED IN PUBLIC PLACES.

Any silver maple, honey locust, poplar, basswood, box elder, catalpa or willow upon private property in the City, in such close proximity to any public place as will permit the roots of such tree to penetrate through or under the surface of any public place, is hereby declared to be a public nuisance and may be abated by the Director of Public Service and Properties as provided in Sections 911.02 (b) and 911.08 .

(Ord. 38-64. Passed 12-22-64.)

911.07 PRESERVATION AND REMOVAL OF TREES ON PUBLIC PROPERTY.

The Director of Public Service and Properties shall have the right to trim any tree existing on any public place in the City so as to insure the public safety or to preserve the function or beauty of such public place. He shall further have the right to remove any such tree, or any part thereof, which is in an unsafe condition or which, by reason of its location or nature, is injurious or detrimental to other public improvements in the City, or is infected with any injury, fungus, insect or other pest or disease which cannot otherwise be controlled. Such infested or infected tree is a public nuisance.

(Ord. 38-64. Passed 12-22-64.)

911.08 PROCEDURE UPON ORDER TO PRESERVE OR REMOVE.

When the City Arborist shall find it necessary to order the trimming, preservation or removal of trees or plants upon private property, as authorized in Sections 911.02 (b) and 911.05 (c) herein, he shall serve a written order to correct the dangerous condition upon the owner, operator, occupant or other person responsible for its existence.

(a) Method of Service. The order required herein shall be served in one of the following ways:

- (1) By making personal delivery of the order to the person responsible;
- (2) By leaving the order with some person of suitable age and discretion upon the premises;
- (3) By affixing a copy of the order to the door at the entrance of the premises in violation;
- (4) By mailing a copy of the order to last known address of the owner of the premises, by registered mail; or
- (5) By publishing a copy of the order in local paper once a week for three successive weeks.

(b) Time for Compliance. The order required herein shall set forth a time limit for compliance, dependent upon the hazard and danger created by the violation. In cases of extreme danger to persons or public property, the City Arborist shall have the authority to require compliance immediately upon service of the order.

(c) Appeal from Order. A person to whom an order hereunder is directed shall have the right, within twenty-four hours of the service of such order, to appeal to the Mayor, who shall review such order within three days and file his decision thereon. Unless the order is revoked or modified, it shall remain in full force and be obeyed by the person to whom directed. No person to whom an order is directed shall fail to comply with such order within ten days after an appeal shall have been determined.

(d) Failure to Comply. When a person to whom an order is directed shall fail to comply within the specified time, the City Arborist shall remedy the condition or contract with others for such purpose and charge the cost thereof to the person to whom the order is directed. The person remedying a condition under a contract made hereunder shall be authorized to enter premises for that purpose.

(e) Failure to Pay Cost; Interest. If the cost of remedying a condition is not paid within ten days after receipt of a statement therefor from the City Arborist, such cost shall be levied against the property upon which the hazard exists, as a special assessment. The levying of such assessment shall not affect the liability of the person to whom the order is directed to fine and imprisonment as herein provided. Such special assessment shall be collected in the manner provided in Ohio R.C. 727.30 and 727.38, with a forfeiture of five percent and interest for failure to pay at the time fixed by the assessing ordinance.

(Ord. 38-64. Passed 12-22-64.)

911.09 STONE OR CONCRETE ON GROUND ADJACENT TO TREE TRUNK.

No person shall place or maintain upon the ground in any public place any stone, concrete, brick or other impervious material or substance in such a manner as may obstruct the free access of air and water to the roots of any tree upon any public place in this City, without first having obtained written permission. Unless otherwise provided for, there shall be maintained about the base of the trunk of each such tree at least nine square feet of open ground for every three inches in diameter, for every two inches of increase of such diameter, there shall be an increase of at least one square foot of open ground.

(Ord. 38-64. Passed 12-22-64.)

911.10 MOVING OF TREES; BOND.

All moving of trees upon any public place in this City made necessary by the moving of a building or structure or any other private enterprise shall be done under the supervision, and with the written permission, of the City Arborist, and at the expense of the applicant or person seeking the removal of such tree. Such applicant, as one of the conditions to obtaining such permission, shall deposit with the City such sum in cash as the City Arborist may determine and specify to cover all of the cost of moving and replacing such tree, if the conditions of such permission require the replacement thereof. However, in lieu of such cash deposit the City Arborist may, in his discretion, accept a good and sufficient bond in like amount conditioned upon the payment of all the cost of such moving and replacing.

(Ord. 38-64. Passed 12-22-64.)

911.11 DUTIES OF PRIVATE OWNERS.

It shall be the duty of any person growing a tree within a public highway or responsible for trees growing on property abutting on public places supporting trees or plants to:

- (a) Trim his trees so as not to cause a hazard to public places or interfere with the proper lighting of public highways by the street lights, and so that the minimum clearance of any overhanging portion thereof shall be nine feet over footways and thirteen feet over vehicular ways;
- (b) Treat or remove any tree or plant so diseased or insect-ridden as to constitute a hazard to trees or plants in public places; and
- (c) Remove and refrain from planting any of the species mentioned in Section 911.06 .

(Ord. 38-64. Passed 12-22-64.)

911.12 AUTHORITY OF CITY ARBORIST TO ENTER PRIVATE PROPERTIES.

The City Arborist shall have the authority to enter upon private premises at all reasonable times for the purpose of examining any tree or shrub located upon or over such premises and carrying out any of the provisions of this chapter.

(Ord. 38-64. Passed 12-22-64.)

911.13 INTERFERENCE WITH CITY ARBORIST PROHIBITED.

No person shall prevent, delay or interfere with the City Arborist or his agents, employees or servants while they are engaged in carrying out any work or activities authorized by this chapter.

(Ord. 38-64. Passed 12-22-64.)

911.14 REGULATIONS FOR TREES IN TREE LAWNS.

(a) For purposes of this section, a "tree lawn" is defined as the area located between the curb of the public street and the edge of the public sidewalk, or in the event a public sidewalk does not exist, to the edge of the public right-of-way which has been dedicated to the City for public purposes.

(b) Trees in tree lawns shall be planted at intervals of not more than thirty-five feet nor less than twenty-five feet on centers, and shall have an initial diameter of two inches, measured at six inches above ground level. Trees shall be planted at least forty feet away from street intersections.

- (c) Trees shall be planted in tree lawns in accordance with the "Planting Site Requirements for Small, Medium and Large Trees" of the Division of Forestry of the Ohio Department of Natural Resources.
- (d) The trees planted in tree lawns shall be species which are resistant to damage, insect and disease, and not interfere with underground and overhead utilities, sidewalks and street lighting.

Suggested species are:

Red Maple (*Acer Rubrum* var., including Celebration)
Sugar Maple (*Acer Saccharum* var.)
Red Oak (*Quercus Rubra* var.)
Thornless Honey Locust (*Gleditsia Tri. Inermis* var.)
American Linden (*Tillia Americana* var.)
Littleleaf Linden (*Tillia Cordata* var.)
White Ash (*Fraxinus American* var.)
Green Ash (*Fraxinus Pennsylvanica* var.)
Zelcova Tree (*Zelkova Serrata* var.)
Common Hackberry (*Celtis Occidentalis* var.)

In addition to the foregoing list, the "Master List" of Street Trees compiled by the Division of Forestry of the Ohio Department of Natural Resources shall be utilized.

(Ord. 27-96. Passed 5-14-96.)

911.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each such offense and each day during which the violation shall continue shall be held and deemed to be a separate offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 913

Use of Public Ways for Small Cell Wireless Facilities and Wireless Support Structures

- 913.01 Overview and purpose; definitions.**
- 913.02 Consent required.**
- 913.03 Permit application types.**
- 913.04 Consolidated consent applications.**
- 913.05 Application fee.**
- 913.06 Attachment fee.**
- 913.07 Required application materials.**
- 913.08 Application review.**
- 913.09 Permitting process, duration and termination.**
- 913.10 Annual registration.**
- 913.11 Nonconforming facilities.**
- 913.12 Abandoned and damaged facilities.**
- 913.13 Insurance requirements.**
- 913.14 Indemnification.**
- 913.15 Financial surety.**
- 913.16 Reserved space.**
- 913.17 Removal or relocation of facilities.**
- 913.18 Notice of work.**
- 913.19 Construction permit.**
- 913.20 Waiver.**
- 913.99 Penalties; equitable remedies.**

CROSS REFERENCES

Small Cell Design Guidelines - see S. & P.S. Ch. 915

913.01 OVERVIEW AND PURPOSE; DEFINITIONS.

- (a) The purpose of this Chapter is to:
- (1) Provide standards for the construction, installation, modification, operation, and removal of Facilities and Wireless Support Structures in the City's Right-of-Way to protect the health, safety, and welfare of the citizens of the City;
 - (2) Preserve the character of the City, including the City's neighborhoods, downtown, other business districts and historic districts and protect property values;
 - (3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically-pleasing installation of Facilities and Wireless Support Structures; and
 - (4) To exercise the City's home rule authority and, to the extent legally permitted, not to conflict with or preempt applicable state and federal law; and
 - (5) Facilitate deployment of small cell Facilities and advanced wireless communications within the City in a manner that complies with the requirements of this Chapter and does not materially inhibit such deployment or the provision or availability of advanced wireless communications.
- (b) For the purpose of this Chapter, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:
- (1) "Applicant" means any person or entity who submits an Application pursuant to this Chapter.
 - (2) "Application" means the form issued by the Commissioner of Building, Zoning and Housing, to be submitted by an Applicant to obtain a Small Cell Use Permit from the City to Collocate a Small Cell Facility and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.
 - (3) "Accessory Equipment" means equipment used in conjunction with a Small Cell Facility and generally at the same location of the Small Cell Facility, including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs.
 - (4) "City" means City of Richmond Heights.
 - (5) "Collocation" or "Collocate" means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.
 - (6) "Design Guidelines" means standards applicable to Small Cell Equipment and Wireless Support Structures in the Right-of-Way, established in Chapter 915.
 - (7) "Eligible Facilities or Eligible Support Structure Request" means any request for modification of an existing support structure or base station that does not substantially change the physical dimension of such support structure involving Collocation of new Facilities; removal of Facilities; or replacement of Facilities. A substantial change means:
 - (A) A modification that changes the physical dimension of a Wireless Support Structure by increasing the height of the Wireless Support Structure by more than ten percent (10%) or more than ten (10) feet, whichever is greater; and/or by adding an appurtenance to the body of the Wireless Support Structure that would protrude from the edge of the Wireless Support Structure by more than six (6) feet;
 - (B) The installation of more than the standard number of equipment cabinets for the technology involved or the installation of more than (4) cabinets, whichever is less;
 - (C) The installation for any new ground-mounted equipment cabinets if there are no existing ground-mounted equipment cabinets;
 - (D) Any excavation or deployment outside of the current site of the Facility;
 - (E) Removal of any concealment elements of the Facilities or the Wireless Support Structure; and
 - (F) Any change that does not comply with this Chapter, the Design Guidelines set forth in Chapter 915, or state or federal law and regulations.The threshold for measuring increases that may constitute a substantial change are cumulative, measured from the Facilities as originally permitted (including any modifications that were reviewed and approved by the City prior to the enactment of the federal Spectrum Act on February 22, 2012.)
 - (8) "Facilities" means Small Cell Facilities, Accessory Equipment, and Wireless Support Structures.
 - (9) "Facilities Operator" means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:
 - (A) Operators;
 - (B) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio Revised Code Section 4939.031(E) and who have obtained a Small Cell Use Permit; and
 - (C) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio Revised Code Section 4939.033 and who have obtained a Small Cell Use Permit.
 - (10) "Operator" means a wireless service provider, cable Operator, or a video service provider that operates a Small Cell Facility and provides wireless service, including a wireless service provider, cable operator, or a video service provider that provides information services as defined in the federal "Telecommunications Act of 1996," 110 Stat. 59, 47 U.S.C. 153(20), and services that are fixed in nature or use unlicensed spectrum.
 - (11) "Public Way" or "Right-of-Way" means the surface of, and the space within, through, on, across, above or below, 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 comparable public use, which is owned or controlled by the City or other public entity or political subdivision.
 - (12) "Small Cell Facility" means a wireless facility:
 - (A) That meets both of the following requirements:
 - (i) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and
 - (ii) 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.
 - (B) That includes a "Small Wireless Facility," which is a type of Small Cell Facility (i) in which each antenna is located within an enclosure of not more than three (3) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than three (3) cubic feet in volume, (ii) where such antenna is associated with a structure (a) fifty (50) feet or less in height, including the antenna, or (b) that is not more than ten percent (10%) taller than adjacent structures, or (c) is not extended in height by more than ten percent (10%) or to a height exceeding fifty (50) feet, whichever is greater, and (iii) which also otherwise satisfies the definition of "Small Wireless Facilities" found in the FCC's Small Cell Order adopted September 26, 2018, FCC 18-133.
 - (13) "Small Cell Equipment" means a Small Cell Facility and all Accessory Equipment.
 - (14) "Small Cell Use Permit" means the permit granted by the City authorizing the Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.
 - (15) "Wireless Support Structure" means 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 the following except in connection with a Small Wireless Facility, in which case the following are not excluded:
 - (A) A utility pole or other facility owned or operated by a municipal electric utility; and
 - (B) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleybuses.

(Ord. 52-2019. Passed 5-14-19.)

913.02 CONSENT REQUIRED.

- (a) Any person or entity seeking to Collocate a Small Cell Facility in the Right-of-Way, or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way, shall first file a written Application for a Small Cell Use Permit with the Commissioner of Building, Zoning and Housing ("Commissioner") in accordance with the requirements in this Chapter, Design Guidelines set forth in Chapter 915 of this

Code, Ohio Revised Code Chapter 4939, and all applicable state and federal laws and regulations.

(b) Applicants are strongly encouraged to contact the Commissioner and request a pre-Application conference. This meeting will provide an opportunity for early coordination regarding proposed Facilities, locations, design, Application submittal, and the approval process in order to avoid any potential delays in the processing of an Application and deployment of Facilities in the City.

(c) A Small Cell Use Permit granted under this Chapter shall not convey any right, title or interest in the Right-of-Way, but shall be deemed a permit only to use and occupy the Public Ways for the limited purposes and term stated in the permit, this Chapter, and the Design Guidelines forth in Chapter 915 of this Code. Further, no Small Cell Use Permit shall be construed as any warranty of title.
(Ord. 52-2019. Passed 5-14-19.)

913.03 PERMIT APPLICATION TYPES.

Applicants shall classify their Application as one of the following types:

- (a) Type 1: Eligible Facilities Requests.
- (b) Type 2: Application for Collocation of Small Cell Equipment on a Wireless Support Structure that does not constitute an Eligible Facilities Request.
- (c) Type 3: New Wireless Support Structure. Such applications address construction, modification, replacement, or removal of a Wireless Support Structure within the Right-of-Way. At the time of Application, Applicants shall certify that Small Cell Equipment will be placed on the Wireless Support Structure within 180 days from the date the Small Cell Use Permit is issued.
- (d) For Type 2 and Type 3 Applications, Applicants shall indicate whether the Application is or is not for a Small Wireless Facility.
(Ord. 52-2019. Passed 5-14-19.)

913.04 CONSOLIDATED CONSENT APPLICATIONS.

(a) Pursuant to Ohio Revised Code Section 4939.0312, an Applicant may file one consolidated application for up to thirty (30) individual small cell Facilities or thirty (30) individual Wireless Support Structures as long as the facilities or structures for which consent is requested are substantially similar.

- (1) Small Cell Facilities shall be considered substantially similar when the Small Cell Equipment is identical in type, size, appearance and function.
- (2) Wireless Support Structures shall be considered substantially similar when the Wireless Support Structures are identical in type, size, appearance and function and are to be located in a similar location.
- (3) Applications for Facilities and Wireless Support Structures cannot be commingled.
- (b) The City may, at its discretion, require separate Applications for any Small Cell Facilities or Wireless Support Structures that are not substantially similar.
- (c) Although applications for Small Wireless Facilities may be filed on a consolidated basis, applications involving Small Wireless Facilities may not be commingled with applications for other Small Cell Facilities or Wireless Support Structures. The limit on the number of applications that may be filed in a consolidated application pursuant to Section 913.04(a) shall not apply to applications involving Small Wireless Facilities.
(Ord. 52-2019. Passed 5-14-19.)

913.05 APPLICATION FEE.

- (a) The fee for each application is Two Hundred Fifty Dollars (\$250.00). The fee is adjusted upward by ten percent (10%) every five years, rounded to the nearest Five (5) Dollars, beginning in the year 2023.
- (b) An Application shall not be deemed complete until the fee is paid.
- (c) If Applications are consolidated, then the fee shall be the sum resulting from the fee set forth in subsection (a) multiplied by the total number of Facilities or Wireless Support Structures included in the consolidated Application.
(Ord. 52-2019. Passed 5-14-19.)

913.06 ATTACHMENT FEE.

- (a) In addition to the Application Fee, an annual fee shall be paid to the City for each Small Cell Facility attached to a municipally-owned Wireless Support is Two Hundred Dollars (\$200.00). The fee is adjusted upward by ten percent (10%) every five years, rounded to the nearest five (5) dollars, beginning in the year 2023.
- (b) The first-year attachment fee shall be paid when the collocation is complete, and no later than January 1 each year thereafter. The first-year attachment fee shall not be prorated, regardless of the date that the collocation is complete.
(Ord. 52-2019. Passed 5-14-19.)

913.07 REQUIRED APPLICATION MATERIALS.

The Applicant must submit the following documentation with each Application.

- (a) Completed Application form including the identity, legal status and federal tax identification number of the Applicant, as well as all affiliates and agents of the Applicant that will use or be, in any way, responsible for the Facilities.
- (b) The name, address, and telephone number of the local officer, agent, or employee responsible for the accuracy of the application to be notified in case of emergency.
- (c) Fully dimensional scaled site plan (scale no smaller than one inch equals forty (40) feet). The site plan must include:
 - (1) The exact proposed location of the Facilities within the Right-of-Way;
 - (2) All existing Facilities with all existing transmission equipment;
 - (3) The location of all overhead and underground public utilities, telecommunications, cable, water, sanitary sewer, and storm water drainage utilities in the Public Way within one hundred (100) feet surrounding the proposed Facilities.
 - (4) The legal property boundaries within one hundred (100) feet surrounding the proposed Facilities;
 - (5) Indication of distance between the Facilities and existing curbs, driveways, sidewalks, trees, utilities, other poles, and existing buildings within one hundred (100) feet surrounding the proposed Facilities; and
 - (6) Access and utility easements within one hundred (100) feet surrounding the proposed Facilities.
- (d) Elevation drawings (scale no smaller than one inch equals ten (10) feet) of the proposed Facilities.
- (e) Evidence that the Applicant provided notice by mail to all property owners within 300 feet of the proposed Facilities prior to submitting the Application. The notice shall include:
 - (1) Name of the Applicant;
 - (2) Estimated date Applicant intends to submit the Application;
 - (3) Detailed description of the proposed Facilities and the proposed location; and
 - (4) Accurate, to-scale photo simulation of the proposed Facilities. Scale shall be no smaller than one inch equals forty (40) feet.
- (f) A preliminary installation/construction schedule and completion date.
- (g) Structural calculations prepared, stamped and signed by an engineer licensed and registered by the State of Ohio showing that the Wireless Support Structure can accommodate the weight of the proposed small cell equipment.
- (h) Analysis demonstrating that the proposed Facilities do not interfere with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications components. It shall be the responsibility of the Applicant to evaluate, prior to making the Application for a Small Cell Use Permit, the compatibility between the existing City infrastructure and Applicant's proposed Facilities.
- (i) A landscape plan that demonstrates screening of proposed small cell equipment.
- (j) Drawings of the proposed Facilities. For all equipment depicted, the Applicant must also include, if applicable:
 - (1) The manufacturer's name and model number;
 - (2) Physical dimensions, including, without limitation, height, width, depth and weight with mounts and other necessary hardware; and
 - (3) The noise level generated by the equipment, if any.
- (k) If the Applicant is not an Operator, then the Applicant must provide proof that the Applicant has been engaged by a wireless service provider who will be the end-user of the Facilities. (Ord. 52-2019. Passed 5-14-19.)

913.08 APPLICATION REVIEW.

- (a) Applications shall be evaluated in the timeframes as follows:
 - (1) Type 1 Applications: sixty (60) days
 - (2) Type 2 Applications: ninety (90) days, except that for Small Wireless Facilities, the timeframe for a Type 2 Application shall be 60 days.
 - (3) Type 3 Applications: 120 days, except that for new Wireless Support Structures upon which a Small Wireless Facility is to be mounted, the timeframe for a Type 3 Application shall be ninety (90) days.
- (b) Applications shall be reviewed for completeness. If the Application is incomplete, then the Applicant will be notified of the insufficiency, and the timeframes set forth in subsection (a) shall be tolled until the Application is made complete, as described below:
 - (1) To toll the time period for incompleteness, the City must provide written notice to the Applicant, specifically identifying all missing documents or information, within thirty (30) days after receiving the Application, except that where an Applicant has indicated that the Application is for a Small Wireless Facility, or a Wireless Support Structure upon which a Small Wireless Facility is to be mounted, the written notice shall be provided within ten (10) days after receiving the Application.
 - (A) In the case of a proper and timely initial written notice of incompleteness provided concerning an Application involving a Small Wireless Facility pursuant to subsection (b)(1), the time period set forth in subsection (a) shall be deemed never to have started running at all until Applicant provides a supplemental submission.
 - (2) The time period set forth in subsection (a) will begin to run again when the Applicant provides a supplemental submission in response to the City's notice of incompleteness issued pursuant to subsection (b), but may be tolled again if the City notifies the Applicant in writing, within ten (10) days of receiving a supplemental submission, that the Application remains incomplete and identifies which items specified in the original notice of incompleteness are still missing. Timely notice by the City of the deficiencies in a supplemental submission tolls the time period set forth in subsection (a) until the Applicant supplies the specified information.
- (c) The timeframes set out in subsection (a) may be tolled by mutual agreement between the Applicant and the City. The timeframes in subsections (a)(2) and (a)(3) may also be tolled as follows, except that where an Applicant has indicated that the Application is for a Small Wireless Facility, the provisions of subsections (c)(1) and (c)(2) below do not apply:
 - (1) If the City receives between fifteen (15) and thirty (30) applications in a thirty-day period, then the City may toll for an additional twenty-one (21) days beginning with the sixteenth (16th) application.
 - (2) If the City receives more than thirty (30) applications in a thirty-day period, then the City may toll for an additional fifteen (15) days for every fifteen (15) applications received., up to a maximum tolling period of ninety (90) days, as indicated below:

(A) Applications 31-45:	36 additional days
(B) Applications 46-60:	51 additional days
(C) Applications 61-75:	66 additional days
(D) Applications 76-90:	81 additional days
(E) Applications 91+:	90 additional days
 - (3) When an Applicant submits an underground area waiver request pursuant to Section 913.13(d) of the Codified Ordinances, in which case the City may toll for an additional thirty (30) days.
 - (d) If two Applicants request to Collocate on the same Wireless Support Structure or two Wireless Support Structures are proposed within a distance that would violate the spacing requirements set forth in Section 913.16, then the Commissioner may resolve the conflict in any reasonable and nondiscriminatory manner.
 - (e) If a request for consent is denied, the City shall provide, in writing, its reasons for denying the request, supported by substantial, competent evidence. The denial of consent shall not unreasonably discriminate against the Applicant. Grounds for denying an Application may include, but are not limited to:
 - (1) Failure to provide information required under Section 913.07;
 - (2) Failure to comply with Design Guidelines set forth in Chapter 915;
 - (3) Failure to provide financial surety pursuant to Section 913.15;
 - (4) Failure to remove abandoned Facilities as required under Section 913.12;
 - (5) Conflict with the historic nature or character of the surrounding area;
 - (6) Conflict with planned future improvements in the Right-of-Way; and
 - (7) Failure to comply with generally applicable health, safety, and welfare requirements. (Ord. 52-2019. Passed 5-14-19.)

913.09 PERMITTING PROCESS, DURATION, AND TERMINATION.

- (a) Upon approval of its Application, an Applicant shall receive a Small Cell Use Permit indicating that the City has granted the Applicant consent to occupy the Right-of-Way.
- (b) A Small Cell Use Permit issued to an Operator shall have duration of no longer than ten (10) years. Permits may be renewed for five year terms.
- (c) A Small Cell Use Permit issued to a Facilities Operator who is not an Operator shall have a term or ten (10) years or the duration of the Facilities Operator's agreement with a wireless service provider provided pursuant to Section 913.06(k), whichever is shorter.
- (d) A Small Cell Use Permit shall not be renewed if the Facilities Operator or the Facilities are not in compliance with all applicable laws and regulations.
- (e) Pursuant to Ohio Review Code Section 4939.0314(E), a Small Cell Use Permit shall be deemed terminated if the Facilities Operator has not completed construction of the Facilities or has failed to attach Small Cell Equipment to a Wireless Support Structure within 180 days of issuance of the permit, unless the delay is caused by:
 - (1) Make-ready work for a municipally-owned Wireless Support Structure; or

- (2) The lack of commercial power or backhaul availability at the site, provided that the Operator has made a request for commercial power or backhaul services within sixty (60) days after the Small Cell Use Permit was granted.

If the additional time to complete the installation exceeds three hundred sixty days (360) after the issuance of the Permit, then the Permit shall be deemed terminated regardless of the cause of the delay.

(f) A Small Cell Use Permit for a new Wireless Support Structure shall be deemed terminated if the Facilities Operator fails to attach Small Cell Equipment to the new Wireless Support Structure within 180 days of issuance of the Small Cell Use Permit.

(g) If the Facilities Operator fails to remit the annual attachment fee required pursuant to Section 913.10, then the Small Cell Use Permit will expire on the ninetieth (90th) day from the date the annual attachment fee was due.

(h) At any time and upon service of a sixty (60)-day advance written notice to the City, a Small Cell Use Permit may be terminated by the Facilities Operator.

(i) Upon termination of a Small Cell Use Permit, the Facilities Operator shall restore and rehabilitate all City-owned Wireless Support Structures and the Right-of-Way to their former condition and utility.

(j) The City shall not issue any refunds for any amounts paid by the Facilities Operator upon termination of the Permit.

(Ord. 52-2019. Passed 5-14-19.)

913.10 ANNUAL REGISTRATION.

Facilities Operators shall comply with the annual registration requirements set forth in Section 901.03 of this Code.

(Ord. 52-2019. Passed 5-14-19.)

913.11 NONCONFORMING FACILITIES.

(a) Facilities in the Right-of-Way that are legally in existence on the date of the adoption of this Chapter but that do not comply with the requirements of this Chapter may remain in the Right-of-Way but shall be considered a Nonconforming Facility.

(b) Any person or entity who owns or operates a Nonconforming Facility shall register such facility pursuant to Section 901.03 of this Code within ninety (90) days of the date this ordinance takes effect.

(c) If a Nonconforming Facility is damaged or destroyed beyond repair, any replacement Facility must be designed in accordance with all provisions of this Chapter, the Design Guidelines established in Chapter 915, and state and federal law and regulations.

(Ord. 52-2019. Passed 5-14-19.)

913.12 ABANDONED AND DAMAGED FACILITIES.

(a) A Facilities Operator shall provide written notice to the City of its intent to discontinue use of any Facilities. The notice shall include the date the use will be discontinued. If Facilities are not removed within three hundred sixty five (365) days from the date the use was discontinued, the Facilities shall be considered a nuisance and the City may remove the Facilities at the expense of the Facilities Operator.

(b) In the event that Facilities are damaged, the Facilities Operator shall promptly repair the damaged Facilities. Damaged Facilities shall be repaired no later than thirty (30) days after obtaining written notice that the Facilities are damaged. If the damaged Facilities are not repaired within thirty (30) days, then the damaged Facilities shall be considered a nuisance and the City may repair or remove the Facilities at the expense of the Facilities Operator.

(Ord. 52-2019. Passed 5-14-19.)

913.13 INSURANCE REQUIREMENTS.

Facilities Operators shall comply with the insurance requirements set forth in Section 901.04 of this Code. (Ord. 52-2019. Passed 5-14-19.)

913.14 INDEMNIFICATION.

A Facilities Operator shall indemnify, protect, defend, and hold the City and its elected officials, officers, employees, agents, and volunteers harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees to include reasonable attorney fees and costs of defense, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury or death, property damage or other harm for which recovery of damages is sought, to the extent that it is caused by the negligence of the Operator who owns or operates Small Cell Facilities and wireless service in the Right-of-Way, any agent, officer, director, representative, employee, affiliate, or subcontractor of the Operator, or their respective officers, agents, employees, directors, or representatives while installing, repairing, maintaining or removing Facilities in the Right-of-Way.

(Ord. 52-2019. Passed 5-14-19.)

913.15 FINANCIAL SURETY.

(a) Each Facilities Operator must procure and provide to the City a bond, escrow, deposit, letter of credit, or other financial surety in an amount sufficient to cover the cost of removal of all Facilities owned or operated by the Facilities Operator.

(b) The City may, in its sole discretion, draw on the financial surety to remove abandoned Facilities, remove or repair damaged Facilities, or to repair damage to any City property caused by the Facilities Operator or its agent. In such event, the Facilities Operator shall cause the financial surety to be replenished to its prior amount within ten (10) business days after City notifies the Facilities Operator that it has drawn on the financial surety.

(Ord. 52-2019. Passed 5-14-19.)

913.16 RESERVED SPACE.

The City reserves the right to install, and permit others to install, Facilities in the Right-of-Way. The City may reserve space in the Right-of-Way and on Wireless Support Structures for future utility, safety, or transportation uses. Such space may be reserved in an ordinance or plan approved by the Mayor, City Council, Building Commissioner, or Planning Commission. (Ord. 52-2019. Passed 5-14-19.)

913.17 REMOVAL OR RELOCATION OF FACILITIES.

(a) The City may require a Facilities Operator to remove or relocate Facilities to accomplish construction and maintenance activities. The Facilities Operator shall remove or relocate the Facilities at no cost to the City. If the Facilities Operator fails to remove or relocate the Facilities within ninety (90) days of receiving a request to do so from the City, then the City may remove the Facilities at Facilities Operator's sole cost and expense, without further notice to the Facilities Operator.

(b) If the Facilities are placed in a location other than the location approved by the City, the Facilities Operator shall relocate the Facilities within thirty (30) days of receiving notice that the Facilities are located improperly.

(Ord. 52-2019. Passed 5-14-19.)

913.18 NOTICE OF WORK.

A Facilities Operator shall notify the Commissioner of all nonemergency work within ten (10) calendar days prior to performing any upgrades or maintenance on any Facilities, regardless of whether the work requires any permit or consent from the City.

(Ord. 52-2019. Passed 5-14-19.)

913.19 CONSTRUCTION PERMIT.

(a) Facilities Operators are required to obtain a construction permit pursuant to Section 901.08 of this Code prior to commencing any of the following activities:

- (1) Collocation of small cell equipment on a Wireless Support Structure;
- (2) Replacement, modification, repair, or maintenance of small cell equipment;
- (3) Construction, replacement, modification, repair, or maintenance of a Wireless Support Structure associated with a small cell facility; and
- (4) Any excavation of the Right-of-Way in connection with the activities described in this subsection (a).

(Ord. 52-2019. Passed 5-14-19.)

913.20 WAIVER.

It is within the reasonable discretion of the Mayor to waive any portion or portions of this Chapter, as permitted or warranted under state and federal law, where strict compliance with such requirements, in the judgment of the Mayor, is not necessary or appropriate to protect the City's interests and the purposes and intent of this Chapter.

(Ord. 52-2019. Passed 5-14-19.)

913.99 PENALTIES; EQUITABLE REMEDIES.

(a) Any Facilities Operator or other person or entity acting as the agent of a Facilities Operator found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be fined not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) The City may revoke the Small Cell Use Permit of any Facilities Operator who violates, disobeys, omits, neglects, or refuses to comply with any provisions of this Chapter or the Design Guidelines set forth in Chapter 915 or as promulgated by the City.

(c) Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.

(Ord. 52-2019. Passed 5-14-19.)

CHAPTER 915

Small Cell Design Guidelines

- 915.01 Overview and purpose, definitions.**
- 915.02 General standards.**
- 915.03 Specifications for collocation.**
- 915.04 Antennas.**
- 915.05 Wireless support structure-mounted equipment.**
- 915.06 Ground-mounted small cell equipment.**
- 915.07 Cables.**
- 915.08 Electrical meters.**
- 915.09 Utility lines.**
- 915.10 Specifications for replacement of wireless support structures.**
- 915.11 Specifications for new wireless support structures.**
- 915.12 Historic District regulations.**
- 915.13 Underground area regulations.**
- 915.14 Discretionary waiver.**
- 915.99 Penalties; equitable remedies.**

CROSS REFERENCES

Use of public ways for small cell wireless facilities and wireless support structures - see S. & P.S. Ch. 913

915.01 OVERVIEW AND PURPOSE, DEFINITIONS.

(a) The purpose of these Design Guidelines is to:

- (1) Protect the health, safety, and general welfare of the citizens of the City;
- (2) Preserve the character of the City's, including the City's neighborhoods, business districts and historic districts and to protect property values;
- (3) Give guidance to wireless telecommunications providers to assist such companies in the timely, efficient, safe, and aesthetically pleasing installation of Facilities; and
- (4) To exercise the City's home rule authority and, to the extent legally permitted, not to conflict with or preempt applicable state and federal laws.

(b) For the purpose of this chapter, and the interpretation and enforcement hereof, the following words and phrases shall have the following meanings, unless the context of the sentence in which they are used shall indicate otherwise:

- (1) "Applicant" means any person or entity who submits an Application pursuant to this Chapter.
- (2) "Application" means the form issued by the Commissioner of Building, Zoning, and Housing, to be submitted by an Applicant to obtain a Small Cell Use Permit from the City to Collocate a Small Cell Facility

- and/or to construct, maintain, modify, operate, or replace a Wireless Support Structure.
- (3) "Accessory Equipment" means equipment used in conjunction with a Small Cell Facility and generally at the same location as, or in proximity to, the Small Cell Facility including, but not limited to, electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs.
 - (4) "City" means City of Richmond Heights
 - (5) "Collocation" or "Collocate" means to install, mount, maintain, modify, operate, or replace wireless Facilities on a Wireless Support Structure.
 - (6) "Design Guidelines" means the standards established in this Chapter 915.
 - (7) "Facilities" means Small Cell Facilities, Accessory Equipment, and Wireless Support Structures.
 - (8) "Facilities Operator" means the person or entity responsible for the installation, operation, maintenance, replacement, and modification of Facilities. Facilities Operator includes:
 - (A) Operators;
 - (B) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio Revised Code Section 4939.031(E) and who have obtained a Small Cell Use Permit; and
 - (C) Applicants who applied for consent to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a new Wireless Support Structure pursuant to Ohio Revised Code Section 4939.033 and who have obtained a Small Cell Use Permit.
 - (9) "Historic district" means a building, property, or site, or group of buildings, properties, or sites that are either of the following:
 - (A) Listed in the national register of 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 section 149.311 of the Ohio Revised Code.
 - (10) "Operator" means a wireless service provider, cable operator, or video service provider that operates a Small Cell Facility and provides wireless service, including 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), and services that are fixed in nature or use unlicensed spectrum.
 - (11) "Public Way" or "Right-of-Way" means the surface of, and the space within, through, on, across, above or below, 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 comparable public use, which is owned or controlled by the City or other public entity or political subdivision.
 - (12) "Small Cell Facility" means a wireless facility:
 - (A) That meets both of the following requirements:
 - (i) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than six (6) cubic feet in volume; and
 - (ii) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
 - (B) That includes a "Small Wireless Facility," which is a type of Small Cell Facility (i) in which each antenna is located within an enclosure of not more than three (3) cubic feet in volume or, in the case of an antenna with exposed elements, the antenna and all of its exposed elements can fit within an enclosure of not more than three (3) cubic feet in volume, (ii) where such antenna is associated with a structure (a) fifty (50) feet or less in height, including the antenna, or (b) that is not more than ten percent (10%) taller than adjacent structures, or (c) is not extended by more than ten percent (10%) or to a height exceeding fifty (50) feet, whichever is greater, and (iii) which also otherwise satisfies the definition of "Small Wireless Facilities" in the FCC's Small Cell Order adopted September 26, 2018, FCC 18-133.
 - (13) "Small Cell Equipment" means a Small Cell Facility and all Accessory Equipment.
 - (14) "Small Cell Use Permit" means the permit granted by the City authorizing an Applicant to Collocate a Small Cell Facility or to construct, maintain, modify, operate, or replace a Wireless Support Structure in the Right-of-Way.
 - (15) "Underground Area" means an area in the Right-of-Way where existing electric utilities, cable facilities, telecommunications facilities and other facilities, other than structures and facilities owned by the City or a transit authority, are located underground.
 - (16) "Wireless Support Structure" means 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. "Wireless Support Structure" excludes all of the following, except in connection with a Small Wireless Facility, in which case the following are not excluded:
 - (A) A utility pole or other facility owned or operated by a municipal electric utility; and
 - (B) A utility pole or other facility used to supply traction power to public transit systems, including railways, trams, streetcars, and trolleys.
 (Ord. 51-2019. Passed 5-14-19.)

915.02 GENERAL STANDARDS.

- (a) Facilities shall not be installed unless the Facilities are compliant with these Design Guidelines, Chapter 913 of the Codified Ordinances and any Application requirements, and all applicable local, state, and federal laws.
 - (b) A Facilities Operator shall not construct, maintain, modify, operate, or replace any Facilities not clearly depicted in an Application for a Small Cell Use Permit.
 - (c) All work shall be performed in a professional manner consistent with the highest standards of workmanship.
 - (d) Facilities shall be maintained in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.
 - (e) Facilities shall not be installed in any location that causes any interference with the City's public safety radio system, traffic and emergency signal light system, or other City safety communications systems or system components.
 - (f) The City may propose an alternative location for proposed Facilities up to one hundred (100) feet from the proposed location or within a distance that is equivalent to the width of the Public Way, whichever is greater. The Facilities Operator shall utilize the alternative location unless the Facilities Operator shows that the alternative location is not technically feasible or would materially inhibit the provision of wireless services by the Facilities Operator within the City.
 - (g) Facilities shall not interfere with existing or planned street trees.
 - (h) Signage shall be mounted on all new Facilities providing the Facilities Operator's name, an emergency contact phone number, an informational contact number, and all other information required by law. Unless otherwise prohibited by law, signage shall be discreet in color and shall match the Facilities and surrounding area and font size used on the sign shall be no smaller than 9 point font and no larger than 14 point font.
 - (i) Unless otherwise required by law, all manufacturer stickers and decals shall be removed from Facilities.
 - (j) Facilities shall be camouflaged using existing land forms, vegetation, and structures to screen the Facilities from view and to blend in with the surrounding built and natural environment.
 - (k) The City may require the Facilities Operator to incorporate additional concealment elements before approving an Application. Concealment elements may include, but shall not be limited to, fencing, public art, strategic placement, and placement within existing or replacement street furniture.
 - (l) Facilities shall not have any flashing lights, sirens or regular noise other than a cooling fan that may run intermittently.
 - (m) All hardware, including antenna mounting brackets and hardware, antenna mounting posts, cables, shrouds and other equipment mounted shall be painted in a color designated by the City, and the color shall match the Facilities. The City may require the Facilities Operator use a different, non-matching color on a case-by-case basis when the City determines a non-matching color would better fulfil the purposes of these Design Guidelines.
 - (n) A Facilities Operator shall remove or paint over any graffiti on the Facilities at Facility Operator's sole expense as soon as practicable, but no later than ten (10) days from the date the Facilities Operator receives notice of the graffiti.
- (Ord. 51-2019. Passed 5-14-19.)

915.03 SPECIFICATIONS FOR COLLOCATION.

- (a) Small Cell Equipment shall not interfere with the primary purpose of a Wireless Support Structure.
 - (b) Small Cell Equipment to be attached to a Wireless Support Structure shall be attached at least six (6) feet above ground level. If Small Cell Equipment is projecting toward the street then the Small Cell Equipment shall be installed no less than sixteen (16) feet above ground level.
- (Ord. 51-2019. Passed 5-14-19.)

915.04 ANTENNAS.

- (a) Antennas and Accessory Equipment must be capable of fitting within an enclosure not larger than six (6) cubic feet in volume.
- (b) Antennas and Accessory Equipment shall not increase the overall height of an existing Wireless Support Structure by more than five (5) feet; provided, however, that the permissible increase in height resulting from collocation or installation of a Small Wireless Facility on a Wireless Support Structure shall be as provided in Section 915.01(b)(12) of these Design Guidelines.
- (c) Antennas mounted on a Wireless Support Structure shall be enclosed inside the Wireless Support Structure whenever possible and otherwise within a canister, shroud, or other enclosure. All Accessory Equipment associated with the antenna shall be concealed and shall not visibly protrude from the shroud or canister.
- (d) The width of the canister or other shroud encasing the antenna and Accessory Equipment shall not exceed the width of the narrowest portion of the Wireless Support Structure.
- (e) The enclosure or shroud shall be painted to match or complement the Wireless Support Structure.
- (f) Antennas shall be installed in a manner that minimizes the visual impact to the general public.
- (g) Antennas shall not impair light or views from adjacent window(s).
- (h) Antennas located on the exterior of a Wireless Support Structure shall be top-mounted on a Wireless Support Structure. The City may approve a side-mounted antenna if, in the City's discretion, the side-mounted antenna would be more appropriate given the built environment, neighborhood character, overall site appearance or would promote the purposes in these Design Guidelines. (Ord. 51-2019. Passed 5-14-19.)

915.05 WIRELESS SUPPORT STRUCTURE-MOUNTED EQUIPMENT.

- (a) All Wireless Support Structure-mounted Small Cell Equipment other than the antenna(s) and electric meter must be concealed within an equipment cabinet.
 - (b) Equipment cabinets shall be mounted flush to the Wireless Support Structure.
 - (c) Equipment cabinets shall be stacked together on the same side of the Wireless Support Structure and oriented away from any windows and doorways to minimize visual impacts thereupon.
 - (d) The equipment cabinets must be non-reflective and painted, wrapped or otherwise colored to match the Wireless Support Structure.
- (Ord. 51-2019. Passed 5-14-19.)

915.06 GROUND-MOUNTED SMALL CELL EQUIPMENT.

- (a) The City shall not approve the proposed location of ground-mounted Small Cell Equipment unless the Applicant
 - (1) Proposes the ground-mounted equipment in connection with a Collocation; and
 - (2) Shows that the equipment cannot be feasibly placed on the Wireless Support Structure or in an underground vault.
 - (b) If technically feasible, Small Cell Equipment should be located in a vault buried underground rather than being ground-mounted. If underground placement is not technically feasible or would materially inhibit the provision of wireless services by the Applicant within the City, ground-mounted Small Cell Equipment shall be contained in a shroud or cabinet.
 - (c) All ground-mounted Small Cell Equipment shall be installed in a manner that minimizes the visual and ingress/egress impact to the general public.
 - (d) Ground-mounted Small Cell Equipment shall be placed as far as practicable from pedestrian sidewalks and shall neither block nor be placed within the sidewalk in any way.
- (Ord. 51-2019. Passed 5-14-19.)

915.07 CABLES.

- (a) All cables, conduit and wiring shall be located inside conduit and inside the Wireless Support Structure or an equipment cabinet.
- (b) Excess cables and wiring shall not be spooled, coiled or otherwise stored on the exterior of the Wireless Support Structure unless within an enclosure. Cables shall not be externally visible. (Ord. 51-2019. Passed 5-14-19.)

915.08 ELECTRICAL METERS.

- (a) Facilities Operators shall use flat-rate electric service when available in order to eliminate the need for a meter.
- (b) If a meter is required, then Facilities Operators shall use the smallest and least intrusive electric meter available. If not prohibited by the electric service provider, the electric meter shall be painted to match the Wireless Support Structure.

(Ord. 51-2019. Passed 5-14-19.)

915.09 UTILITY LINES.

Service lines shall be undergrounded to avoid additional overhead lines. The undergrounded cables and wires must transition directly into the Wireless Support Structure base without any external junction box.
(Ord. 51-2019. Passed 5-14-19.)

915.10 SPECIFICATIONS FOR REPLACEMENT OF WIRELESS SUPPORT STRUCTURES.

- (a) A Facilities Operator shall be required to replace an existing Wireless Support Structure in the following circumstances:
- (1) The Wireless Support Structure upon which the Applicant has proposed to Collocate Small Cell Equipment is deemed incapable of bearing the added weight of the Small Cell Equipment; or
 - (2) An existing Wireless Support Structure is located within 100 feet or less of the proposed site of a new Wireless Support Structure but the existing Wireless Support Structure is incapable of bearing the additional weight of the Small Cell Equipment.
- (b) Designs for replacement of Wireless Support Structures shall be as architecturally similar as possible to the existing Wireless Support Structure to be replaced unless otherwise approved or required by the City.
- (1) All luminaire mast arms shall be the same length, arch, and style as the original luminaire arm, unless otherwise specified by the City.
 - (2) The City may require the Facilities Operator to install a new metal Wireless Support Structure rather than a new wood support structure.
- (c) The overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than forty (40) feet in height above ground level; provided, however, that the height of a Wireless Support Structure upon which a Small Wireless Facility is to be mounted shall be as provided in Section 915.01(b)(12) of this Chapter. Notwithstanding the foregoing limitation, the overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in the R-1 Single-Family Residential District, R-2 Single-Family Residential District, R-3 Single-Family Residential District, RTF Two-Family Residential District, RMF-1 Multiple-Family Residential District, RS Senior Housing District, O-S Office-Service District, and B-1 Local Business District, so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed replacement Wireless Support Structure; provided, however, that if a Small Wireless Facility is to be mounted upon it, the Facilities Operator may request a height consistent with Section 915.01(b)(12).
- (d) All existing signs, traffic signals, emergency signal detection units, video detection cameras, video cameras, crosswalk service buttons, crosswalk signals, and any other pedestrian or traffic devices shall be reinstalled or replaced with new units by the Facilities Operator and installed at no cost to the City.
- (e) The concrete Wireless Support Structure foundation for the original Wireless Support Structure shall be removed either partially or completely by the Facilities Operator as instructed by the City.
- (1) If partially removed, the original Wireless Support Structure foundation shall be taken back to a level that is twelve (12) inches below the existing grade and covered with four (4) inches of one-half (½) inch to three-quarter (¾) inch compose of rock material. The remaining eight (8) shall be native soil and landscaped with natural vegetation that is the same as the surrounding vegetation.
 - (2) If the entire original Wireless Support Structure foundation must be removed, then all foundation materials (concrete, rebar, metals, bolts, etc.) shall be removed. The type of backfill material and compaction required is: (a) one-half (½) sack slurry for the entire depth in paved areas, and (b) one-half (1/2) sack slurry for the entire depth except the top twelve (12) inches will be native soil in landscaped areas with natural vegetation that is the same as the surrounding vegetation.
- (Ord. 51-2019. Passed 5-14-19.)

915.11 SPECIFICATIONS FOR NEW WIRELESS SUPPORT STRUCTURES.

- (a) New Wireless Support Structures shall be designed and constructed to accommodate at least two sets of Small Cell Equipment on the same Wireless Support Structure.
- (b) New Wireless Support Structures shall maintain a distance of three hundred (300) feet from existing monopoles, or utility poles.
- (c) In non-residential districts, new Wireless Support Structures shall be located at the shared property line between two residential parcels where the parcels intersect the Right-of-Way.
- (d) In non-residential districts, new Wireless Support Structures shall be located between tenant spaces, storefront bays, or adjoining properties at the shared property lines where the parcels intersect the Right-of-Way.
- (e) New Wireless Support Structures shall not interfere with any metered parking space.
- (f) A new Wireless Support Structure shall not be located in front of a building entrance or exit.
- (g) The overall height of a new Wireless Support Structure, including proposed Collocated antenna, shall not be greater than forty (40) feet in height above ground level; provided, however, that the height of a Wireless Support Structure upon which a Small Wireless Facility is to be mounted shall be as provided in Section 915.01(b)(12). Notwithstanding the foregoing limitation, the overall height of a replacement Wireless Support Structure, including proposed Collocated antenna, shall not be more than thirty-five (35) feet in height above ground level in the R-1 Single-Family Residential District, R-2 Single-Family Residential District, R-3 Single-Family Residential District, RTF Two-Family Residential District, RMF-1 Multiple-Family Residential District, RS Senior Housing District, O-S Office-Service District, and B-1 Local Business District, so long as there is no Wireless Support Structure or utility pole taller than thirty feet located within three-hundred (300) feet of the location of the proposed new Wireless Support Structure; provided, however, that if a Small Wireless Facility is to be mounted upon it, the Facilities Operator may request a height consistent with Section 915.01(b)(12) of this Chapter.
- (h) The City may require the Facilities Operator to install a metal Wireless Support Structure rather than a wood Wireless Support Structure.
- (Ord. 51-2019. Passed 5-14-19.)

915.12 HISTORIC DISTRICT REGULATIONS.

Except antennas, all Small Cell Equipment to be located in the Right-of-Way in Historic Districts shall be located in an underground vault or shall be subject to such reasonable, technologically feasible, and non-discriminatory design or concealment measures as the City may specify, as long as such measures do not have the effect of prohibiting or materially inhibiting the Facilities Operator's provision of reasonable service in the City. Such measures are not considered part of the small cell facility for purposes of facility size restrictions in this Chapter or Chapter 913 of the Codified Ordinances. A waiver submitted pursuant to Section 913.13(d) will be considered if the requirements are shown to be technologically infeasible.
(Ord. 51-2019. Passed 5-14-19.)

915.13 UNDERGROUND AREA REGULATIONS.

- (a) Whenever any existing electric utilities, cable facilities, telecommunications facilities or other facilities are located underground within a Public Way of the City, the Facilities Operator must also locate its Facilities underground.
- (b) A Facilities Operator may replace an existing Wireless Support Structure or Collocate Small Cell Facilities on an Existing Wireless Support Structure even if the Wireless Support Structure is located in an Underground Area.
- (c) A Facilities Operator shall not install a new Wireless Support Structure in an Underground Area.
- (d) An Operator may apply to the Board of Zoning Appeals for a waiver of the underground placement requirement if the requirement prevents the Operator from achieving its service objective, the requirement has the effect of prohibiting the provision of reasonable service in the Village, and the Operator's objective of providing reasonable service in the Village cannot be met by placing Facilities at:
- (1) A location in the public Right-of-Way where the prohibition does not apply;
 - (2) A utility easement the service provider has the right to access; and
 - (3) Other suitable locations or structures made available by the City at reasonable rates, fees and terms.
- (e) Submission of a waiver request pursuant to subsection (d) is subject to the Facilities Operator's agreement to toll the timeframes set forth in Section 913.08(a) of the Codified Ordinances by thirty (30) days. (Ord. 51-2019. Passed 5-14-19.)

915.14 DISCRETIONARY WAIVER.

It is within the Mayor's reasonable discretion to waive any portion or portions of this Chapter, as permitted or warranted under state and federal law, where strict compliance with such requirements, in the Mayor's judgment, are not necessary or appropriate to protect the City's interests and the purposes and intent of this Chapter.
(Ord. 51-2019. Passed 5-14-19.)

915.99 PENALTIES; EQUITABLE REMEDIES.

- (a) Any Facilities Operator or other person or entity acting as the agent of a Facilities Operator found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this Chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each offense. A separate and distinct offense shall be deemed committed each day during or on which a violation occurs or continues.
- (b) If a Facilities Operator fails to comply with these Design Guidelines, Chapter 913 of the Codified Ordinances, or the provisions of Chapter 4939 of the Revised Code, the City may terminate the Facility Operator's Small Cell Use Permit.
- (c) Nothing in this Chapter shall be construed as limiting any judicial remedies that the City may have, at law or in equity, for enforcement of this Chapter.
(Ord. 51-2019. Passed 5-14-19.)

TITLE THREE - Utilities

Chap. 931 . Sewers.
Chap. 933 . Septic Tanks.
Chap. 935 . Water.

CHAPTER 931

Sewers

- 931.01 Sewer inspection photographs.**
931.02 Mandatory connection to public sewer.
931.03 Prohibited discharges.
931.04 Time limitation for connection.
931.05 Utility relocation costs; penalty.
931.99 Penalty.

CROSS REFERENCES

Power to license sewer tappers and vault cleaners - 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
Untreated sewage - see Ohio R. C. 3701.59
Septic tanks - see S. & P. S. Ch. 933

931.01 SEWER INSPECTION PHOTOGRAPHS.

- (a) The Director of Public Service and Properties is hereby directed, prior to final approval of any newly installed sewer system and/or reconstructed sewer, to require that any and all contractors cause to be made photographs of the entire sewer system installed, showing thereby that the sewer system has been constructed upon a sound engineering basis and that the sewer system is free of any and all accumulations of foreign substance and nature and that the passage and flow of sewage and storm water is free and clear.
- (b) Upon inspection of such photographs and if satisfied that such sewer is free and clear of all foreign substance and there is nothing present to prevent free flow of sewage and storm waters, the Director of Public Service and Properties is hereby authorized to approve the same as a final inspection, placing in safekeeping all photographs for future reference by the City.
- (c) The cost of such photographing and photographs shall be entirely paid for by the contractor or developer of such land and/or sewer system, and such photographs shall remain the property of the City.

(Ord. 35-64. Passed 10-13-64.)

931.02 MANDATORY CONNECTION TO PUBLIC SEWER.

No owner, agent, lessee, tenant or occupant of any lot or parcel of land located within the City shall establish, construct, maintain or permit to remain a privy, cesspool, septic tank or other receptacle for sanitary sewage or excreta, or a connection to a private sewer, ditch or other outlet, if such lot or parcel of land is accessible to a public sanitary sewer constructed and used for the purpose of conveying sanitary sewage. When such public sanitary sewer is available or is hereafter made available, a connection to such public sewer shall be established and used by such owner, agent, lessee, tenant or occupant, unless a specific exemption by reason of undue hardship or exceptional circumstances is granted by the Zoning Board of Appeals and confirmed by Council.

(Ord. 125-68. Passed 12-17-68.)

931.03 PROHIBITED DISCHARGES.

No owner, agent, lessee, tenant or occupant of any lot or parcel of land located within the City shall discharge into the sanitary sewers of the City any roof water, surface or subsoil drainage or other clean waste water, or discharge into the storm sewers or drains of or within the City any sanitary sewage or industrial wastes.

(Ord. 125-68. Passed 12-17-68.)

931.04 TIME LIMITATION FOR CONNECTION.

Any owner, agent, lessee, tenant or occupant of any lot or parcel of land located within the City shall have three months from the effective date of this chapter (Ordinance 125-68, passed December 17, 1968) or three months from the date a sanitary sewer becomes available to his property to comply with the provisions of this chapter before he shall be deemed to be in violation thereof, and thereafter the City shall charge the sewer rental rates established by law and applicable thereto.

(Ord. 125-68. Passed 12-17-68.)

931.05 UTILITY RELOCATION COSTS; PENALTY.

(a) Whenever it is necessary, either by reason of any directive or order from a state agency to the City or upon the determination of Council after independent study, to construct or reconstruct any storm sewer or sanitary sewer within the right-of-way of any City street in order to protect or promote the public health, safety or general welfare, any existing mains, lines or conduits of any public utility within said right-of-way shall be relocated at the sole cost of the utility to enable the construction or reconstruction of any such storm sewer or sanitary sewer.

(b) The failure of any public utility to commence the required relocation within thirty days from written notification from the City of the necessity for such relocation, or the failure of any public utility to diligently pursue the relocation, shall subject the utility to a penalty of two hundred fifty dollars (\$250.00) per day in addition to any civil remedy sought by the City.

(Ord. 122-94. Passed 12-13-94.)

931.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense. A separate offense shall be deemed to have been committed each period of twenty-four hours such violation shall continue after a period of thirty days following the original conviction. (Ord. 76-2003. Passed 9-23-03.)

CHAPTER 933

Septic Tanks

933.01 Definitions.

933.02 Approval of plans.

933.03 Issuance of permits.

933.04 Abandonment when sewer made available.

933.05 Septic tank to sanitary sewer conversion.

933.99 Penalty.

CROSS REFERENCES

Power to construct sewerage system - see Ohio R.C. 715.40, 717.01
Regulations to control house sewers and connections - see Ohio R.C. 729.51
Mandatory connection to public sewer - see S. & P. S. 931.02

933.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

- (a) "Board of Health" means the Cuyahoga County District Board of Health.
- (b) "Department of Buildings" means the Building Inspector or his authorized assistant.
- (c) "Sewage" means the liquid wastes from plumbing fixtures including the wastes from water closets, urinals, lavatories, baths, sinks, laundry tubs, floor drains and other sanitary fixtures.
- (d) "Septic tank" means a watertight receptacle for receiving sewage from a sewer to which plumbing fixtures are tributary and it is synonymous to sewage tank, water cesspool and tank.
- (e) "Leaching field" means an open, jointed system of tile through which the effluent of the septic tank is distributed beneath the surface for absorption into the soil.

(Ord. 746-58. Passed 1-20-58.)

933.02 APPROVAL OF PLANS.

No building permit shall be issued until the plans, specifications and plot plan have been submitted to the Board of Health and written approval thereof has been received from the Board by the Department of Buildings. Fees required by the Board of Health shall be paid before any action is taken on referring the matter.

(Ord. 746-58. Passed 1-20-58.)

933.03 ISSUANCE OF PERMITS.

After receipt of the approval letter from the Board of Health, the Department of Buildings may issue a building permit and a permit for the installation of a septic tank and filtration bed, providing the same does not violate any provision of this chapter or of any other ordinance of the City.

(Ord. 746-58. Passed 1-20-58.)

933.04 ABANDONMENT WHEN SEWER MADE AVAILABLE.

When a sanitary sewer is made available, septic tanks and other sewage disposal devices or equipment on such property shall be abandoned and the sewage discharged directly from the building to the sanitary sewer through a watertight connection sewer or other permitted treatment device. The abandoned septic tank or other device or equipment for treating or disposing of sewage shall be thoroughly cleaned and disinfected and filled to the ground surface with earth, ashes or other suitable filling material.

(Ord. 746-58. Passed 1-20-58.)

933.05 SEPTIC TANK TO SANITARY SEWER CONVERSION.

(a) Sewer Conversion Permit.

- (1) No person shall convert a septic tank or other private sanitary sewage system to a public sanitary sewer system without first obtaining a sewer conversion permit from the Department of Building, Zoning and Housing.
- (2) Applications for a sewer conversion permit shall be made by the owner of the subject property or by the contractor for the property owner, who shall be registered by the City, but with the property owner's signature also on the application. The application shall be accompanied by two (2) copies of a site plan identifying the location of the septic tank, and the direction and location of the proposed tie-in into the public sanitary sewer main from the building. The site plan shall identify the type of sewer pipe to be installed, the diameter of the sewer pipe, the size and location of all cleanouts and the type of bedding and backfill material.
- (3) Upon the application for a sewer conversion permit, it shall be indicated whether work in the interior of the subject building is required. If such interior work is required, two (2) copies of a detailed drawing of the scope of the interior work shall be submitted to the Building Commissioner.
- (4) Upon application for a sewer permit conversion permit, the Building Commissioner, or his/her designee, shall inform the applicant that the applicant must obtain all approvals for the connection to the public sewer from the Cuyahoga County Sanitary Engineer. Prior to issuance of the City's sewer conversion permit, the applicant must provide proof to the Building Commissioner of the approval(s) required by the Cuyahoga Sanitary Engineer.
- (5) In addition to the foregoing, and prior to the City's sewer conversion permit being issued, the applicant shall also obtain from the Cuyahoga County Board of Health a "Household Sewage System Abandonment Permit", or similar type permit, and provide proof to the Building Commissioner of said permit issuance.

(b) Inspection.

- (1) Prior to the issuance of a sewer conversion permit, an onsite inspection, which shall include an interior inspection of the subject building, must be performed by the Building Commissioner, or his/her authorized designee. After all sewer work is complete, the Building Commissioner, or his/her designee, is authorized to perform an exterior and/or interior inspection. The purpose of these inspections is to determine whether there is an interconnection between the storm water and sanitary waste removal systems. In the event testing is necessary, as determined by the sole discretion of the Building Commissioner, to ascertain whether there is said interconnection, the applicant shall be responsible for the cost of such testing in addition to the permit fee set forth in subsection (a)(1) hereof.
- (2) Upon inspection and approval of all exterior and interior work by the Building Commissioner, or his/her designee, the sewer facilities shall be backfilled and seeded.

(Ord. 77-2005. Passed 12-13-05.)

933.99 PENALTY.

Whoever installs a septic tank or other device or equipment for the treating or disposing of sewage without obtaining a permit therefor or violates any of the provisions of this chapter, or refuses to abide by any rule or regulation of the Department of Buildings or the Board of Health, as provided herein, is guilty of a misdemeanor of the first degree and each day such violation continues shall constitute a separate offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 935

Water

935.01 Water use emergency.

935.99 Penalty. (Repealed)

CROSS REFERENCES

Fluoridation - see Ohio R.C. 6111.13
Water pollution control- see Ohio R.C. Ch. 6111
Water supply - see OAC 4101: 2-51-37
Backflow - see OAC 4101:2-51-38

935.01 WATER USE EMERGENCY.

(a) Upon notice from the City of Cleveland, Division of Water of the Department of Public Utilities, that a shortage of the water supply exists which threatens the public health and safety and that the shortage makes it necessary to curtail water use within all or any part of the City, the Mayor shall proclaim a water use emergency throughout all or any part of the City.

(b) A water use emergency proclamation shall specify:

- (1) The geographic area affected by the water use emergency.
- (2) The length of time the emergency shall be in effect. Such time shall not exceed seven (7) days; and
- (3) The degree of water use curtailment.

(c) During a water use emergency, the Mayor may order a water use curtailment by prohibiting unnecessary use or consumption of water during all or specified hours of the day and/or may order that specified premises curtail unnecessary use or consumption of water on specified days only as the Mayor shall determine to be necessary.

(d) A proclamation of a water use emergency shall become effective at the time of issuance by the Mayor. Notice thereof shall be given to a newspaper of general circulation in the City and shall be reported to a local radio and television stations for broadcast.

(e) As used in this section, unnecessary use or consumption means the use or consumption of water for purposes other than personal health, safety, sanitation and bodily consumption. Unnecessary use or consumption of water includes but is not limited to sprinkling or watering lawns, other land irrigation, the washing of automobiles, houses or other structures and the use of water for recreational purposes such as the maintenance of swimming pools. The use of water for private construction such as the mixing and curing of concrete, the puddling of backfill in excavations, the moistening of masonry walls preparatory to pointing or sealing and other similar uses is not an unnecessary use or consumption of water. The use of water to scrub and rinse areas such as hardsurfaced drives, garage floors, patios and similar uses where necessary for the purpose of sanitation and the protection of health is not an unnecessary use and consumption of water.

(f) No person or entity shall, during a water use emergency, use water in violation of the terms and conditions of the Mayor's water use emergency proclamation.

(g) Whoever violates this section is guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). Whoever violates this section having been previously convicted of a violation of this section is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty (60) days, or both. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

935.99 PENALTY. (REPEALED)

(EDITOR'S NOTE: Former Section 935.99 was repealed by Ordinance 97-2023, passed June 27, 2023.)

TITLE FIVE - Other Public Services

- Chap. 951 . Garbage and Rubbish Collection.
- Chap. 952 . Branch Chipping Services.
- Chap. 953 . Kiwanis Lodge.
- Chap. 955 . Ambulance Emergency Squad Service.
- Chap. 957 . Cable Television.
- Chap. 959 . Use of Parks by Large Groups/ Organizations.

CHAPTER 951

Garbage and Rubbish Collection

951.01 Definitions.

951.02 Dumping, depositing, storage of garbage and rubbish.

951.03 Removal of garbage and rubbish.

951.04 Rules and regulations for nonburnable rubbish pickup.

951.05 Placement and storage of containers; enforcement procedure.

951.06 Refuse collection prohibited except by authorized City personnel.

951.07 Collection, disposal and recycling practices and fees.

951.08 Hours of collection and transportation.

951.99 Penalty.

CROSS REFERENCES

Collection and disposal of garbage - see Ohio R.C. 715.43, 717.01

Disposal and transportation upon public ways - see Ohio R.C. 3767.20 et seq.

Littering and deposit of garbage, rubbish, junk, etc. - see GEN. OFF. 517.08

Garbage and rubbish disposal systems - see BLDG. Ch. 1317

951.01 DEFINITIONS.

For the purposes of this chapter, the following terms, words and their derivations shall have the meanings given herein. Provided it is not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number and words used in the singular number include the plural number.

(a) "Garbage" means putrescible animal and vegetable wastes resulting from the handling, preparation, cooking and consumption of foods.

(b) "Rubbish" means all nonputrescible, combustible and noncombustible solid wastes, including paper, wrapping, cardboard, metallic and plastic containers, yard clippings, leaves, wood, glass, building materials, market and industrial wastes, tree stumps, tree limbs and logs, bedding, appliances, toys, abandoned automobiles.

(c) "Refuse" means all putrescible and nonputrescible, combustible and noncombustible solid wastes other than garbage and rubbish.

Top soil, fertilizer and soil conditioners used for gardening or farming do not constitute garbage, refuse, rubbish, litter or other waste material provided such use does not become a nuisance or menace to the public health.

(Ord. 103-2020. Passed 10-27-20.)

951.02 DUMPING, DEPOSITING, STORAGE OF GARBAGE AND RUBBISH.

(a) No person shall dump, deposit or store, or permit to be dumped, deposited or stored, any garbage, refuse, rubbish, litter or other waste material of any kind on any public or private property.

(b) Landfilling may be permitted for noncombustible, nonputrescible, nonmetallic, nonsynthetic fill material consisting of loose soil, concrete, asphalt paving materials, stone, concrete blocks and similar solid or inert material upon application to the Zoning Board of Appeals setting forth the landfill conditions, including the purpose and area to be filled, time required, and any other pertinent facts which are the basis for the request. The Board shall have the authority to provide safeguards for the Municipality by designating the length of time of such special permit; the hours and days that landfilling is permitted; prescribing of a fence or watchman; and any other conditions which may be deemed necessary in view of the nature of the individual request.

(c) The placing of garbage, refuse, rubbish, litter or other waste material in covered receptacles specifically designed for that purpose shall not constitute the deposit of garbage, refuse, rubbish, litter or other waste material on public or private property, provided such receptacles are regularly emptied and maintained and do not become a nuisance or menace to the public health.

(d) Overflowing garbage or refuse containers, scattered garbage, and rubbish piles on premises in the city are prohibited. All garbage rubbish containers and dumpsters shall be covered. Garbage, trash and refuse may not be piled so that it is above the top of the container or stored alongside any container or outside any dumpster enclosure. Premises owners and/or occupants may be cited and are responsible for a violation of this section. The city may remove or cause to remove any garbage or rubbish in violation of this section and the cost thereof shall be assessed to the owner or occupant.

(e) Notice of violation, shall be issued in accordance to Section 951.03, and will be given to the owner, occupant, tenant, manager, property manager, rental agency or other responsible person if such persons are readily known. Within any three-month period, the first notice of violation will be sent followed by citation and/or other enforcement action if the violation is not corrected or abated within twenty-four (24) hours of written notice. Additional similar violations within any three-month period will be sent a citation without notice.

(Ord. 103-2020. Passed 10-27-20.)

951.03 REMOVAL OF GARBAGE AND RUBBISH.

The owner or person in control of any private property shall at all times maintain his premises free of garbage, rubbish, refuse, litter or other waste material of any kind which is not contained in covered receptacles which are regularly emptied and maintained and which do not become a nuisance or menace to public health.

(a) Notice to Remove. The Building Inspector, Director of Public Service, Chief of Police or their authorized designees, are authorized and empowered to notify and order the owner of any property occupied or unoccupied, within the City, or the agent of such owner, to properly dispose of garbage, rubbish, refuse, litter or other waste material of any kind which was dumped, or stored by such owner or some other person in violation of Section 951.02 hereof. Such notice and order shall be delivered personally, or posted in a conspicuous place in or about the structure affected by such notice.

(b) Action Upon Noncompliance. Upon the failure, neglect or refusal of any owner or agent so notified to properly dispose of such garbage, rubbish, refuse, litter, mattresses, furniture or other waste material within twenty-four (24) hours after written notice provided for in subsection (a) herein, the Director of Public Service, or his designee, is authorized and empowered to collect or otherwise dispose of such garbage, rubbish, refuse, litter, mattresses, furniture or other waste material by the City, which will be charged to the owner as set forth in subsection (d) below. Refuse containers will be forfeited.

(c) Within any three-month period, the first notice to remove will be sent followed by citation and/or other enforcement action if the violation is not corrected or abated within 24 hours of written notice provided for in subsection (a) above. Additional violations within any three-month period will be sent a citation without notice.

(d) Charge to be Included in Tax Bill. When the City has effected the removal or collection of such garbage, rubbish, refuse, litter, mattresses, furniture or other waste material, or has contracted for its removal, the actual cost of such removal plus accrued interest at the rate of eight percent per annum from the date of completion of the removal, shall be charged to the owner of such property until paid by such owner. The property owner shall be charged a minimum charge of two-hundred and seventy-five dollars (\$275.00). In addition to the two hundred seventy-five dollar (\$275.00) minimum charge, an additional charge of seventy-five dollars (\$75.00) per man hour, (per man) will be charged until the waste, refuse or rubbish is removed from the property. The charges will also include any hauling or drive time per man hour required to remove the rubbish, litter, or refuse from the property. A bill will be posted in a conspicuous location on the property. Payment shall be made to the City of Richmond Heights within thirty (30) days of the date of the bill. Any bill that is not paid within thirty (30) days shall be charged an additional seventy-five dollar (\$75.00) administrative fee each month the bill goes unpaid until the bill is placed on the property taxes of the property owner as a tax lien for collection by the Director of Finance.

(e) Charges Constitute Lien. Where the full amount of the charges to the City provided in subsection (d) herein is not paid by such owner within thirty days from the date of the completion of the removal, then such charges assessed against such property shall become a lien thereon and shall be collected in the same manner as other special assessments according to law.

(f) Nothing herein shall be construed to limit the authority of the Director of Law to undertake any action or to seek any other remedies or sanctions available.

(Ord. 103-2020. Passed 10-27-20.)

951.04 RULES AND REGULATIONS FOR NONBURNABLE RUBBISH PICKUP.

The following rules and regulations are established for nonburnable rubbish pickup:

(a) All refuse containers shall be at the curb side for pickup by 7:30 a.m. on the day designated for pickup.

(b) Refuse containers shall be not more than the twenty (20) gallon size and weigh not more than fifty (50) pounds, tapered and with handles. Straight sided containers, such as oil or cardboard drums, shall not be permitted. Containers not of regulation type shall be picked up, disposed of and not returned.

(c) Refuse containers shall contain only nonburnables. Garbage and burnable waste shall be disposed of in dwelling incinerators. Building materials such as rock and earth are not household rubbish and will not be picked up.

(d) Grass clippings, prunings and leaves shall be placed in tapered containers for pickup with other nonburnable rubbish. Aerated containers are recommended. Plastic, canvas or burlap bags will not be returned.

(e) The City will pick up cut trees with a diameter not greater than three and one-half (3½) inches and no longer than two (2) feet in length. Branches not more than two and one-half (2½) inches in diameter and twigs must be bundled and securely tied with biodegradable twine not exceeding two (2) feet in diameter and four (4) feet in length per bundle and not more than forty (40) pounds. Bundles must be away from obstacles such as fire hydrants, utility poles and maintain a safe line of sight distance for pedestrian and vehicular traffic. Bundles must be placed between the curb and sidewalk or at the edge of the roadway, not in the curb line or on the pavement. The collection of large amounts of brush resulting from tree removal requires the use of a tree removal service or landscape service.

(f) You must notify the City of Richmond Heights trash hauler for any, large non-burnable items, such as refrigerators, washers, sinks and furniture, which shall be dismantled as much as possible for pickup.

(g) No pickup shall be made from within a home, garage or other building. All dogs on property shall be kept leashed during pickup.

(h) All rubbish should be placed on the tree lawn not later than 7:30 a.m. of the designated pickup day. Trash containers may be placed on the tree lawn the evening before pickup, but not before sundown.

(i) Empty containers must be removed from the tree lawn as soon as possible. Responsibility for containers is beyond the control of the City.

(j) The Director of Public Service and Properties is authorized to promulgate further rules and regulations not inconsistent with the foregoing to regulate nonburnable rubbish pickup. All such rules and regulations are to be approved by the Mayor.

(Ord. 103-2020. Passed 10-27-20.)

951.05 PLACEMENT AND STORAGE OF CONTAINERS; ENFORCEMENT PROCEDURE.

(a) Placement of Refuse Containers. Collection shall be one day per week only at the curbside of dedicated public streets on the days designated by the Director of Service. Containers must be placed for collection at the curbside in the tree lawn area adjacent to the premises to be served on the day of collection designated for each such premises and each of such containers shall not exceed fifty (50) pounds in combined weight of container and contents. Containers shall not be stacked one on top of the other and shall not be placed upon any public curb, street, sidewalk, driveway or private yard or walk area, but shall be arranged in clusters extending not more than five (5) feet parallel to the curb in the tree lawn area and with access aisles extending on both sides of each cluster in the tree lawn area at least five (5) feet parallel to the curb of the dedicated public streets. On the day of garbage collection, animals which annoy, harass or threaten the collector must be confined.

(b) Refuse containers, waste or rubbish not placed in containers shall not be placed for collection in front of any building, by the owner, agent, lessee or occupant of that building, prior to 6:00 p.m. on the evening immediately preceding the day for refuse collection.

(c) Empty refuse containers are not permitted to remain in the front of any building by the owner, agent, lessee or occupant of that building for a period in excess of twelve (12) hours from the time of collection by the City.

(d) Refuse containers may not be stored along or in front of any building line which is parallel with any street line on which the building fronts, except after 6:00 p.m. on the evening immediately preceding the day for refuse collection and for twelve (12) hours immediately following refuse collection by the City or its agent. During the months of November through March, waste containers may be placed for collection after 4:00 p.m. in the evening immediately preceding the day for refuse collection.

(e) Rubbish, refuse or garbage not placed in containers shall be stored in the rear of the residence or in a location and manner where they cannot be seen from the street, where practical.

(f) No owner, operator, occupant of any property or any other responsible party shall violate subsections (a) through (e) of this section. If there is a violation, the violation shall be enforced as follows:

(1) The Building Inspector, Director of Public Service, Chief of Police or their authorized designees, are authorized to issue notices and citations to the owner, operator, occupant, of any property maintained in violation of this section, or to any other responsible party.

(2) The official shall personally deliver the notice of violation or post the notice of violation in a conspicuous location on the property. The notice shall state the time when the notice was issued and shall indicate the nature of the violation and that the violation must be corrected within twenty-four (24) hours after posting.

(3) No person who has been issued such a notice shall fail to comply with said notice.

(4) Whenever an owner, operator, occupant of any property or any other responsible party fails to comply with the notice within twenty-four (24) hours, the City is authorized to remove and dispose of the waste and/or empty waste containers. Waste containers will be forfeited. The property owner shall be charged a minimum charge of two-hundred and seventy-five dollars (\$275.00). In addition to the two hundred seventy-five dollars (\$275.00) minimum charge, an additional charge of seventy-five dollars (\$75.00) per man hour, (per man) will be charged until the waste, refuse or rubbish is removed from the property. The charges will also include any hauling or drive time per man hour required to remove the rubbish, litter or waste from the property. A bill will be posted in a conspicuous location on the property. Payment shall be made to the City of Richmond Heights within thirty (30) days of the date of the bill. Any bill that is not paid within 30 days shall be charged an additional seventy-five dollar (\$75.00) administrative fee each month the bill goes unpaid until the bill is placed on the property taxes of the property owner as a tax lien for collection by the Director of

Finance.

(g) Charges Constitute Lien. Where the full amount of the charges to the City provided in subsection (f)(4) herein is not paid by such owner within thirty days from the date of the completion of the removal, then such charges assessed against such property shall become a lien thereon and shall be collected in the same manner as other special assessments according to law.

(h) Nothing herein shall be construed to limit the authority of the Director of Law to undertake any action or to seek any other remedies or sanctions available.
(Ord. 103-2020. Passed 10-27-20.)

951.06 REFUSE COLLECTION PROHIBITED EXCEPT BY AUTHORIZED CITY PERSONNEL.

(a) No person, except personnel authorized by the City, shall collect rubbish, garbage or paper placed on the tree lawn of the streets of the City by householders residing thereon, for City collection.

(b) No person shall remove, appropriate or otherwise take any garbage, refuse, rubbish or other materials deposited on or around tree lawns for collection by the Municipal residential curbside recycling program except for authorized agents of the Municipality.
(Ord. 103-2020. Passed 10-27-20.)

951.07 COLLECTION, DISPOSAL AND RECYCLING PRACTICES AND FEES.

(a) All garbage, rubbish and refuse accumulated in the Municipality by occupants of one-family, two-family and attached one-family dwellings, as defined in Section 1223.03 of the City's Planning and Zoning Code, shall be accumulated by the occupants and collected by the authorized collection entity holding a contract with the City, and the City is authorized to charge, or cause to be charged, a fee to the owners of the single-family, two-family and attached one-family dwellings for such collection and for the disposal and/or recycling of such garbage, rubbish, and refuse.

(1) Direct Billing for Collection Fee. The collection fee, provided for in subsection (a) above, may be invoiced to the owners of the residential dwellings. If the owner of the residential dwelling fails to make payment of any fee charged for garbage, rubbish and refuse collection within sixty (60) days of the date of an invoice to the owner for such fee:

A. The Director of Finance shall report to the City Council the failure by the owner to make payment and the amount owed; and

B. Upon its receipt of the report of the amount owed in subpart (A) above, the Council shall make written return to the Fiscal Officer of Cuyahoga County of the City's action to collect the owner's past due payment for garbage, rubbish, and refuse collection with a statement of the amount owed for said service, plus a fifty dollar (\$50.00) administrative fee, and a description of the premises of the owner for which the service was rendered for the purpose of making the same a lien upon the lands of said premises and to be collected as other taxes and returned to the General Fund of the City.
(Ord. 66-2012. Passed 9-11-12.)

(2) Collection, Disposal and/or Recycling Fees Placed on Tax Duplicate. Notwithstanding the provisions of subsection (1) above, the City shall be authorized to certify any collection, disposal and/or recycling fees provided for in subsection (a), regardless of amount commencing with such fees to be incurred by the City on and after January 1, 2013, to the Fiscal Officer of Cuyahoga County to be placed on the tax duplicate for each single-family, two-family and attached one-family dwelling in the City for the purpose of making the same a lien upon the lands of said premises and to be collected as other taxes and returned to the General Fund of the City. The Director of Finance shall, no later than the date required by the County Fiscal Officer for receipt of certification of assessments each year, advise Council of the next year's estimated costs for collection, disposal and/or recycling and the projected assessment for each premises. In calculating said costs, the Director of Finance may factor in the delinquency percentage experienced by the County Fiscal Officer in the prior tax collection cycle. A listing of all parcels and collection, disposal and/or recycling fees shall be certified to the County Fiscal Officer in time for such fees to be added to the tax duplicate and collected in the next tax collection cycle.
(Ord. 86-2019. Passed 9-10-19.)

(b) Notwithstanding the other provisions of this section, the City has in the past and may continue to place a condition upon the approval of certain residential housing developments to the effect that the City shall not be responsible for the collection and disposal of garbage, rubbish and refuse from the dwellings in such developments, and the cost thereof, and may require such developments to include such a provision in the covenants, restrictions, rules and/or regulations of governing the development.

(c) All other garbage, rubbish and refuse accumulated at properties with other than single-family, two-family or attached one-family dwellings including, but not limited to, those residences subject to subsection (b) hereof, commercial, industrial, institutional, and other business establishments, and apartment buildings, shall legally and appropriately dispose of their own garbage, rubbish and refuse at their own expense.

(d) The method of accumulation, keeping and disposition of garbage, rubbish and refuse shall be in accordance with the terms and provisions of this chapter regardless of how the costs of disposition of the same are paid.
(Ord. 66-2012. Passed 9-11-12.)

951.08 HOURS OF COLLECTION AND TRANSPORTATION.

(a) No person owning or driving a vehicle hauling solid waste shall cause the collection, transportation or transfer of such waste other than between the hours of 6:00 a.m. and 7:00 p.m. No collection, transportation or transfer shall occur on Saturdays after 4:00 p.m. or on Sundays. Application for exceptions to this provision may be made to the Director of Public Service, on a form provided by the Director. Such exceptions shall be granted only where the applicant is able to demonstrate circumstances of great practical difficulty in the collection and transportation of solid waste in areas where there is heavy daytime vehicular and pedestrian traffic and a concentration of commercial activity.

(b) Whoever violates any provision of Section 951.08 or participates in such violation shall be fined not more than two hundred fifty dollars (\$250.00) for a first offense and not more than five hundred dollars (\$500.00) for a second or additional offense.
(Ord. 103-2020. Passed 10-27-20.)

951.99 PENALTY.

(a) Whoever violates any provisions of Section 951.02, Section 951.05 or Section 951.06 (a) or participates in such violation is guilty of a misdemeanor of the first degree. Each separate dumping, depositing, collecting or storage of garbage, rubbish, refuse, litter or other waste material of any kind shall be considered a separate offense. The offender shall in addition to any fine or other penalty imposed be required to pay the costs of removal of such garbage, rubbish, refuse, litter or other waste material.

(b) Whoever violates Section 951.06 (b) or participates in such violation is guilty of a misdemeanor of the first degree. Each separate removal, appropriation or other taking shall be considered a separate offense.
(Ord. 103-2020. Passed 10-27-20.)

CHAPTER 952

Branch Chipping Services

952.01 Branch chipping services.

952.02 Branch chipping service fee.

952.01 BRANCH CHIPPING SERVICES.

(a) The City will provide branch chipping services to residents for disposal of tree limbs from single-family residential properties resulting from residential yard work and that have fallen from severe storm damage. All by-products from a contractor or tree service shall be disposed of by the contractor or tree service. Branch chipping by the City is subject to weather conditions and the availability of City equipment and service crews. Residents may be required to pay a fee for branch chipping pursuant to Section 952.02.

(b) Chipping services are subject to the following:

(1) Branches shall be placed in the tree lawn and shall not obstruct the sidewalk or views for traffic safety purposes;

(2) Branches shall be no larger than three and one half (3 ½) inch in diameter;

(3) Branches shall be of a size that is manageable for one person;

(4) Branches shall be stacked reasonably untangled, with all branches facing in one direction;

(5) Shrubbery with roots, stumps, vines, thorny plants, lumber, posts and other non-tree material shall not be placed in the pile with branches for chipping;

(6) No material generated at a location other than the residence from which it is collected shall be placed on the tree lawn in front of that residence for purposes of branch chipping.

(c) Residents shall notify the Department of Public Service when they have branches to be chipped. The Department of Public Service will advise the resident that branch chipping may be subject to a fee under Section 952.02.

(1) If branches are placed on the tree lawn but the Department of Public Service has not been notified by a resident that the branches are to be chipped, then the Department of Public Service may chip the branches only if chipping is not subject to a fee under Section 952.02.

(2) If branches are placed on the tree lawn, the Department of Public Service has not been notified by a resident that the branches are to be chipped, and chipping the branches would likely result in assessment of a fee under Section 952.02, then the Director of Public Service or his/her designee shall cause written notice to be served upon the owner, lessee, agent or tenant of the property along with an estimated City fee for chipping. The notice shall notify the resident to either: (i) contact the Department of Public Service and affirmatively consent to branch chipping for a fee under Section 952.02; or (ii) immediately remove the branches from the tree lawn. Such notice shall be delivered either personally to the owner of the property or a person of suitable age at the subject property, by regular, first-class mail, or by posting the notice at a conspicuous place upon the subject property. If consent to chipping is not provided and the branches are not removed within five (5) days after service of the notice, then the City may charge a fee for chipping the branches pursuant to Section 952.02(c).

(d) Any materials placed out for collection shall be presumed to belong to and be the responsibility of the owner, tenant or occupant of any dwelling or premises in front of which, or adjacent to which, the materials are placed.
(Ord. 143-2017. Passed 2-13-18.)

952.02 BRANCH CHIPPING SERVICE FEE.

(a) The fee for branch chipping shall be twenty five dollars (\$25.00) for every fifteen (15)-minute block of time the branch chipping service is being provided or rendered. The Mayor or Director of Public Service may suspend the fee for good cause, at their sole discretion, such as when extreme weather conditions result in excessive amounts of downed branches.

(b) No fee shall be charged if the total time of service is fifteen (15) minutes or less unless:

(1) The branches are a by-product of a contractor's services or a tree service.

(2) Material placed for branch chipping does not meet the specifications of Section 952.01(b).

(c) Residents who have consented to or requested a branch chipping service or who have failed to remove branches from their tree lawn five (5) days after receiving notice pursuant to Section 952.01(c) shall be invoiced for branch chipping services on a monthly basis via regular, first-class mail. Residents shall pay the invoice no later than thirty (30) days of receipt. If the services are not paid after the resident has been invoiced for at least three (3) consecutive months, then, upon the receipt of a statement of costs incurred, Council shall give written notice to the Fiscal Officer of Cuyahoga County with a statement of the charges for its services, the amount paid for the performing of the labor and a proper description of the premises for the purpose of making the same a lien upon the lands and to be collected as other taxes and returned to the Municipality for placement into the General Fund.
(Ord. 143-2017. Passed 2-13-18.)

CHAPTER 953

Kiwanis Lodge

953.01 Definitions.

953.02 Organizations permitted to use facilities.

953.03 Priority use of Lodge.

953.04 Prohibited uses.

953.05 Permit required; applications.

953.06 Auxiliary police; fees.

953.07 Fees.

953.08 Rules and regulations.

953.09 Janitorial services.

953.99 Penalty.

CROSS REFERENCES

Recreation Board - see ADM. Ch. 151

Disorderly conduct and peace disturbance - see GEN. OFF. Ch. 509

Littering - see GEN. OFF. 521.08

Criminal damaging or endangering - see GEN. OFF. 541.03

Criminal mischief - see GEN. OFF. 541.04

953.01 DEFINITIONS.

As used in this chapter:

- (a) "Meeting" means an assembly for the sole purpose of conducting business.
- (b) "Engagement" means any activity, including meetings.
- (c) "Resident" means, with respect to an individual, an applicant who lives in the City or is a full-time employee of the School Board or City of Richmond Heights.
- (d) "Sanctioned organization" means a group or organization as defined in Section 953.02 .
- (e) "Lodge" means the City-owned and operated community building located at the north end of Richmond Heights Park known as the Kiwanis Lodge. The Kiwanis Lodge contains the following distinct rentable spaces:
 - (1) South Wing: The original building, called the Kiwanis Hall;
 - (2) North Wing: The upper level, being the 1978/1979 addition, called the Senior Hall;
 - (3) Basement: The lower level of the 1978/1979 addition.
- (f) "Administrative Authority" means the Richmond Heights Mayor or his designated representative.
(Ord. 65-91. Passed 9-10-91.)

953.02 ORGANIZATIONS PERMITTED TO USE FACILITIES.

The following sanctioned organizations serving the City of Richmond Heights are eligible to use the Kiwanis Lodge of the City:

- (a) Recreation Board Programs.
- (b) Youth Groups:
 - Richmond Heights: Little League
 - Key Club
 - Amateur Sports
 - Boy Scouts, Cub Scouts, Indian Guides, Girl Scouts, Brownies, Campfire Girls, Bluebirds and Midget Football League, Richmond Heights Schools.
- (c) Church Groups Serving Richmond Heights:
 - Armenian Apostolic
 - Bethel Full Gospel
 - Church of the Nazarene
 - Faith United Church of Christ
 - Jehovah's Witnesses
 - Monticello Gospel Hall
 - Suburban Christian
 - St. Felicitas
 - St. Paschal
 - Cleveland Christian Assembly Church
 - Chinese Church of Cleveland
 - Paul J. Hallinan Assembly of the Knights of Columbus, 4th Degree
 - And all religious organizations and groups associated with or connected with these churches.
- (d) School Auxiliary Organizations.
 - All Richmond Heights school system auxiliary organizations, including the P.T.A.

(Ord. 65-91. Passed 9-10-91.)

- (e) Civic Organizations.
 - Adult members or counselors of the youth groups listed in subsection (b) hereof
 - Amateur Sports
 - American Legion Post 775
 - Auxiliary Police
 - Boosters Club
 - The Richmond Heights Civic League
 - Civil Air Patrol
 - Democratic Club
 - Firemen's Association
 - Garden Club
 - Hillcrest Optimist Club
 - Hospital Volunteers
 - Kiwanis Club
 - Organized Street Block Parties
 - Red Cross, including Blood Bank
 - Republican Club
 - Richmond Heights Senior Citizens Club
 - Welcome Wagon
 - Richmond Heights Alumni Class Reunions
 - Lions Club of South Euclid
 - Hillcrest League of Women Voters.
 - Richmond Heights - Monday
- (f) Departments of the City of Richmond Heights. Any individual resident of the City shall also be so eligible, subject to the approval of the Administrative Authority and subject to the conditions hereinafter provided in this chapter. A resident is one who lives in the City six months or longer, and is twenty-one years of age or older. For purposes of this chapter only, any business entity located in the City shall be eligible to use the Lodge for social and recreational or educational activity.
(Ord. 65-91. Passed 9-10-91.)

953.03 PRIORITY USE OF LODGE.

Sanctioned organizations shall have preferential privilege regarding the scheduling of meeting or engagement dates, provided that these organizations submit a calendar of requested dates one year in advance on an annual rolling calendar basis. In the event of conflict, the following organizations shall have priority:

- (a) First, Senior Citizens;
- (b) Second, American Legion Post 775; and
- (c) Third, Kiwanis.

Any other conflicts in scheduling shall be subject to the decision of the Administrative Authority.

(Ord. 44-80. Passed 4-8-80.)

953.04 PROHIBITED USES.

The Administrative Authority will, when determined necessary, require as a condition of issuing a permit for the use and rental of the facilities in the Lodge upon a reasonable belief that the purpose for which the premises are sought to be used and rented would be prohibited by law, that such use and occupancy by the applicant would result in excessive noise or damage to real or personal property in or about such premises, or that such use and rental would be detrimental to the health, safety and welfare of the City and the inhabitants thereof.

(Ord. 23-80. Passed 2-26-80.)

953.05 PERMIT REQUIRED; APPLICATIONS.

- (a) The Administrative Authority is hereby authorized to issue a permit for the use and rental of the facilities in the Lodge, upon written application therefor in such form as is prescribed by the Authority, upon the terms and conditions and subject to charges hereinafter provided in this chapter.
- (b) All applications for a permit shall be subject to the approval of the Administrative Authority after an application is properly completed.
- (c) An application containing false information or any false statements regarding the application by the applicant will render the application invalid.

(Ord. 65-91. Passed 9-10-91.)

953.06 AUXILIARY POLICE; FEES.

(a) The Administrative Authority will, when determined necessary, require as a condition of issuing a permit for the use and rental of the facilities of the Lodge that one or more auxiliary policemen of the City shall be hired by the applicant to be present during the hours specified by the Administrative Authority and such auxiliary policemen shall be paid at the rates set forth herein. Notwithstanding the foregoing, an auxiliary policeman of the City shall be hired by the applicant to be present at all times during all events which commence after 3:00 p.m. and any use of the facilities at which over 100 persons attend shall require the applicant to hire two (2) auxiliary policemen to be present at all times, which auxiliary policemen shall be paid at the rates set forth herein. The Administration Authority may waive this requirement in its sole discretion upon special written request by an applicant.

(b) In the event auxiliary police are required as set forth in this section and appear at the time of the scheduled event, they shall receive a minimum of three hours of the applicable rate in any case where the event meeting or engagement is cancelled. Any amounts required to be paid to auxiliary police in accordance with the rates set forth herein shall be paid in advance and shall be paid directly to the auxiliary policemen in attendance.

(Ord. 88-00. Passed 12-12-00.)

- (c) The rate of compensation for the use of auxiliary policemen is hereby established at sixteen dollars (\$16.00) per hour for each officer.

(Ord. 49-2006. Passed 6-27-06.)

953.07 FEES.

- (a) The fees set forth in this section shall be charged for use of Lodge facilities. The fee will cover a rental of the facilities for a maximum of ten (10) consecutive hours, including set up and clean up time.

(Ord. 88-00. Passed 12-12-00.)

- (b) Deposits set forth in 953.07 (h) shall accompany the permit application and shall be retained to cover additional cleaning charges or damages. The balance shall be refunded upon the approval of the Administrative Authority.

(c) All fees shall be paid to the City at the time the application is approved or is determined by the Administrative Authority. "Sanctioned organizations" who use the Lodge at a "no cost" fee shall be required to pay opening and closing costs.

(d) The organization or individual holding a permit may cancel the same by giving notice, in writing, to the Administrative Authority one month in advance of the date and time for which the permit is issued. If such advance notice is not given, the organization or individual to whom the permit is issued shall forfeit the deposit.
(Ord. 65-91. Passed 9-10-91.)

(e) The fees for the use of the Lodge shall be as set forth in the following table:

<u>Fees for "sanctioned organizations", Monday through Thursday.</u>				
	<u>Kiwanis Hall</u>	<u>Senior Hall</u>	<u>Vets Hall</u>	
A. Recreation Board programs	N/C	N/C	N/C	
B. Youth groups (953.02)	N/C	N/C	N/C	
C. Church groups (953.02)	\$40.00	\$60.00	\$50.00	
D. All Richmond Heights school system auxiliary organizations	40.00	60.00	50.00	
E. Civic organizations	40.00	60.00	50.00	
F. Departments of the City of Richmond Heights	40.00	60.00	50.00	

<u>Fees for "sanctioned organizations", Friday, Saturday, Sunday.</u>				
	<u>Kiwanis Hall</u>	<u>Senior Hall</u>	<u>Vets Hall</u>	
A. Recreation Board programs	N/C	N/C	N/C	
B. Youth groups	N/C	N/C	N/C	
C. Church groups	\$85.00	\$150.00	\$125.00	
D. All Richmond Heights school system auxiliary organizations	85.00	150.00	125.00	
E. Civic organizations	85.00	150.00	125.00	
F. Departments of the City of Richmond Heights	85.00	150.00	125.00	

- (3) Fees for additional openings and closings. Fees for openings and closings of the Lodge shall be twenty dollars (\$20.00) for each opening or closing after the initial opening and closing.
- (4) Fees for additional time exceeding the ten-hour maximum. An additional fee shall be paid for any time the Lodge facilities are used beyond the ten (10)-hour maximum rental time established in subsection (a) above as follows:
- A. \$25.00 per hour, or portion thereof, for use of the Kiwanis Hall;
 - B. \$40.00 per hour, or portion thereof, for use of the Senior Hall; and
 - C. \$50.00 per hour, or portion thereof, for use of both the Kiwanis Hall and the Senior Hall.

(Ord. 88-00. Passed 12-12-00.)

(f) The Senior Citizens Club of Richmond Heights shall be exempt from all fees. For services rendered in the construction of the Lodge addition, the American Legion Post 775 shall be exempt from fee charges for use of the basement and the Kiwanis Club shall be exempt from fee charges for use of the Kiwanis Hall and shall have priority use of such rooms.

- (Ord. 65-91. Passed 9-10-91.)
- (g) The following fees shall apply to "resident private engagements":

<u>Day of Use</u>	<u>Kiwanis Hall</u>	<u>Senior Hall</u>	<u>Both Halls</u>
Monday through Thursday	\$150.00	\$300.00	\$400.00
Friday, Saturday, Sunday and holidays	200.00	350.00	500.00

- (Ord. 49-2006. Passed 6-27-06.)
- (h) Deposits:

<u>Day of Use</u>	<u>Kiwanis Hall</u>	<u>Senior Hall</u>	<u>Both Halls</u>
Monday through Thursday	\$ 50.00	\$ 50.00	\$ 75.00
Friday, Saturday, Sunday	250.00	250.00	400.00

- (Ord. 2-02. Passed 1-15-02.)
- (i) The following civic organizations shall be allowed two events per year without charge for the community's benefit:

Richmond Heights:	Boosters Club
	Parent Teacher Organization
	Kiwanis Club
	American Legion Post 775

- (Ord. 65-91. Passed 9-10-91.)
- (j) All users of the Lodge facilities, other than the "sanctioned organizations" set forth in Section 953.02, shall pay an extra fee of \$100.00 for use of kitchen/food preparation facilities. (Ord. 18-2009. Passed 3-10-09.)

- 953.08 RULES AND REGULATIONS.**
- The following rules and regulations shall govern the use of the Lodge and/or the adjacent picnic and parking facilities.
- (a) Any devices, such as electrical, plumbing or otherwise, brought on or added by the organization or persons using the Lodge, may be added or connected only with the permission of the Director of Public Service and Properties or the Mayor.
 - (b) All interior furnishings or equipment shall be kept inside and used only for the purpose intended. All exterior furnishings or equipment shall be used only for the purpose intended.
 - (c) No decorations, furniture or special equipment by the group or organization using the building shall be permitted in or about the premises unless approved by the Director of Public Service and Properties or the Mayor.
 - (d) The kitchen, if used, and all papers, garbage or rubbish shall be neatly cleaned up and put in the containers provided outside. All furniture or special equipment furnished by the group or organization using the building shall be removed on the same date that the building is used by such group or organization.
 - (e) Vehicular parking for members of groups using the Lodge shall be limited to the parking areas designated.
 - (f) All youth activities shall be adequately chaperoned with adult supervision.
 - (g) Any permit issued shall be governed by the current set of rules established by the City and posted at the Lodge. A copy shall be provided with each permit issued.

- (Ord. 102-85. Passed 10-8-85.)
- (h) Rowdiness, disorderly conduct, discourteous behavior of attendees toward others, including City employees, and malicious destruction of property in or about the building are hereby prohibited. At the sole discretion of the Administrative Authority, such actions may result in the denial of future use and rental of the Lodge facilities by the permit holders and/or attendees involved in such actions.

- (Ord. 88-00. Passed 12-12-00.)
- (i) The maximum capacity of the Lodge when used pursuant to the provisions of this chapter shall be as provided in the following table:

<u>Facility</u>	<u>Use</u>	
	<u>Concentrated</u>	<u>Unconcentrated</u>
	<u>(chairs only, nonfixed)</u>	<u>(tables and chairs)</u>
Kiwanis Hall	240	100
Basement	360	185
Senior Hall	390 (including dance area)	164
		300 (including dance area)

- (Ord. 49-2006. Passed 6-27-06.)
- (j) Charitable organizations may lawfully conduct gambling activities provided it meets each and every following condition:
- (1) It has in its possession (and produces a copy of the same) a letter from the U.S. Internal Revenue Service stating that the charitable organization is exempt from Federal income taxes under Section 501(a) of the Internal Revenue Code at the time of the gambling event.
 - (2) Only the price of the prizes won by participants are deducted from the gambling proceeds.
 - (3) All other gambling proceeds are used by or transferred to a tax exempt organization having Section 501(a) certificate or as described in Section 501 of the Internal Revenue Code.
 - (4) The event is not conducted within ten hours of a bingo game conducted on the premises for amusement purposes only pursuant to Ohio R.C. 2915.02(D)(1) or Richmond Heights Codified Ordinances Section 517.02 (c).

- (5) The activity or game of chance does not include craps for money, roulette for money or the use of slot machines, all of which are illegal.
- (k) A charitable organization, as defined in Section 501(a) of the Internal Revenue Code, may conduct poker games, use punch boards or conduct other games of chance (except craps for money, roulette for money or the use of slot machines) provided it meets all of the following conditions:
 - (1) The organization has in its possession a letter from the Internal Revenue Service saying that it is exempt from Federal income taxes (under Section 501(a) IRC) at the time of the event.
 - (2) The games/events are held at a festival of the organization that lasts four consecutive days or less and occurs not more than twice a year.
 - (3) Only the price of the prizes won by participants is deducted from the gambling proceeds.
 - (4) All of the rest of the money is used by or transferred to a tax exempt organization (under Section 501(a) IRC or described in Section 501 IRC).
 - (5) The event is not conducted within ten hours of a bingo game conducted for amusement purposes.
 - (6) The charitable organization does not pay the operators, conductors or assistants operating or conducting the gambling any compensation or gratuity.

(Ord. 102-85. Passed 10-8-85.)

- (l) The sale of alcoholic beverages shall be permitted at the Lodge only by groups or organizations who have obtained and submitted a permit for the sale under existing Ohio Liquor Laws. Any event, meeting or engagement at the Lodge facilities at which alcoholic beverages are being consumed shall cease service of any alcoholic beverages no later than 11:30 p.m. and the event, meeting or engagement must end no later than 12:00 midnight.

(Ord. 49-2006. Passed 6-27-06.)

- (m) Any person desiring to rent any of the Lodge facilities must be twenty-one years of age or older.

- (n) Any right or privilege granted to any person, persons or organization to use the Kiwanis Lodge or any part thereof is personal and exclusive and shall not be transferred to any other person or organization.

(Ord. 9-88. Passed 5-24-88.)

- (o) Any individual household of the City or business entity located in the City shall be eligible to use the Lodge and apply for a permit for such use for only two engagement dates during any calendar year. This provision shall not apply to the sanctioned organizations listed in Section 953.02 .

(Ord. 10-02. Passed 4-9-02.)

953.09 JANITORIAL SERVICES.

The Administrative Authority is hereby authorized to contract for part-time janitorial services as needed for necessary maintenance of the Kiwanis Lodge. Such janitor shall be paid for actual hours worked and as approved in writing by the Director of Public Service and Properties.

(Ord. 65-91. Passed 9-10-91.)

953.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 955

Ambulance Emergency Squad Service

955.01 Services in exchange for insurance company proceeds.

955.02 Ambulance Billing Service Fund.

CROSS REFERENCES

Emergency medical service - see Ohio R.C. 4731.82 et seq.

Vehicle operation at stop sign or signal - see TRAF. 331.20

Right of way - see TRAF. 331.21

Pedestrians to yield - see TRAF. 371.08

955.01 SERVICES IN EXCHANGE FOR INSURANCE COMPANY PROCEEDS.

The City will provide ambulance emergency squad services for a City resident or nonresident of the City. Effective June 1, 2002, the City will provide ambulance emergency squad services in exchange for an assignment of insurance company proceeds available to users of the service who are City residents, and for City residents, will accept as full payment the amount set forth on the Medicare fee schedule or the fee schedule of the resident's insurance plan for the services provided. The City will not charge or collect any amount of money from City residents in excess of the insurance payments received. The City will charge nonresidents of the City the City's usual and customary fee.

(Ord. 38-2002. Passed 4-23-02.)

955.02 AMBULANCE BILLING SERVICE FUND.

- (a) The Finance Director shall establish an enterprise fund, to be called the Ambulance Billing Service Fund, into which all sums collected pursuant to this chapter will be deposited. Disbursements from such Fund shall be used for operating expenses and capital expenditures associated with the Division of Fire. Notwithstanding the foregoing, fifty thousand dollars (\$50,000.00) shall be retained in such Fund for necessary capital expenditures.

(Ord. 11-2009. Passed 2-10-09.)

- (b) "Capital expenditures," as used in this section, means expenditures for items having a value of one thousand dollars (\$1,000) or more, with an estimated useful life greater than one year. Capital expenditures are expected to include replacement of Fire Division vehicles, emergency medical equipment, building renovations associated with ambulance services and communication systems of ambulance services.

(Ord. 38-2002. Passed 4-23-02.)

CHAPTER 957

Cable Television

957.01 Adoption of FCC rate regulation rules and customer service standards; comment at public hearings or meetings.

957.02 Confidential operator information procedures.

957.03 Procedural rules and regulations for implementation of rate regulation and penalties.

957.04 Cable television customer protection standards and penalties.

CROSS REFERENCES

Unauthorized connections - see Ohio R.C. 4933.42

957.01 ADOPTION OF FCC RATE REGULATION RULES AND CUSTOMER SERVICE STANDARDS; COMMENT AT PUBLIC HEARINGS OR MEETINGS.

There is hereby adopted for enforcement by the City the Federal Communications Commission Rate Regulation Rules as amended on August 27, 1993, and the Customer Service Rules as amended on April 7, 1993, pursuant to the Communications Act, or the most current amendments thereof, including all additions, deletions, and amendments made subsequent hereto. Any interested party may comment on these rules and procedures at any public hearing or meeting called to supplement or amend said rules for customer service and basic rate regulation.

(Ord. 14-94. Passed 5-10-94.)

957.02 CONFIDENTIAL OPERATOR INFORMATION PROCEDURES.

There is hereby adopted by the City the confidential operator information procedures contained in 47 CFR Section 0.459 and as hereafter amended for purposes of audits authorized by any present or future cable franchise authorized by the City and basic rate regulation by the City. The City shall be substituted for the Commission therein. The Mayor shall be substituted for the Bureau or Office Chief therein. The Law Director shall be substituted for the General Counsel therein.

(Ord. 14-94. Passed 5-10-94.)

957.03 PROCEDURAL RULES AND REQUIREMENTS FOR IMPLEMENTATION OF RATE REGULATION AND PENALTIES.

- (a) There are hereby established the following procedural rules and requirements for all cable television franchisees operating within the City of Richmond Heights on and after the effective date of this chapter:

- (1) The following procedures shall only apply to the regulation of basic rates and services and the equipment and installation used to receive basic services. Hereinafter the term "rates" shall mean cable television charges for basic services and equipment and installation used to receive basic services.
- (2) Thirty days prior to any increase in rates, the company shall notify the Mayor and Council and all affected subscribers in writing of the proposed rate increase. All necessary supporting documents showing why the increase is necessary shall be provided at this time.
- (3) The franchising authority shall review the information and notify the cable company within thirty days that the request is either approved, disapproved, or that additional time and/or additional information is required before a decision can be made. If additional time is needed, the franchising authority shall have an additional ninety days to act if the cable company requests an increased based on the benchmark rates, or an additional 150 days to act if the request is based on a cost of service showing. Proper notice shall be provided of the franchising authority's decision.
- (4) Any interested party may provide written comment regarding the proposed rates after the Mayor has received notice of a proposed rate increase and before the franchising authority makes a final determination concerning the proposal.
- (5) The rate increase cannot take effect while the City is reviewing the request.
- (6) If the franchising authority requests additional information as to the proposal, the cable company must provide said information within five calendar days.
- (7) All information provided to the franchising authority shall be considered public unless the cable company requests the information to be kept confidential and said request is consistent with State and Federal law and Section 957.02 .
- (8) The franchising authority shall make its decision in writing, notify the cable company of its decision, and post a public notice of said decision. No retroactive rate increases are permitted without prior approval of the Federal Communications Commission.

- (b) Increasing rates or eliminating long-standing discounts without the franchising authority's permission shall be punishable by a fine of one thousand dollars (\$1,000) per day of each violation and a full credit with interest to all affected subscribers.

(Ord. 14-94. Passed 5-10-94.)

957.04 CABLE TELEVISION CUSTOMER PROTECTION STANDARDS AND PENALTIES.

- (a) All cable operators within the City of Richmond Heights shall be subject to the following customer service standards:

- (1) **Cable system office hours and telephone availability.**
 - A. The cable operator shall maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week. Trained company representatives will be available to respond to customer telephone inquiries 24 hours a day.
 - B. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.
 - C. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
 - D. Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.
 - E. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located. "Conveniently located" means no more than a 15-minute drive in each direction to the office. To meet this requirement, satellite bill-paying and equipment drop-off locations can be used by the cable operator.
- (2) **Installations, outages and service calls.** Under normal operating conditions, each of the following four standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis.
 - A. Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
 - B. Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The

- cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
- C. The "appointment window" alternatives for installations, service calls and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
- D. An operator may not cancel an appointment with a customer after the close of business on the business day prior to the schedule appointment.
- E. If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at the time which is convenient for the customer.
- (3) Communications between cable operators and cable subscribers.
- A. Notifications to subscribers.
- The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
 - Products and services offered;
 - Prices and options for programming services and conditions of subscription to programming and other services;
 - Installation and service maintenance policies;
 - Instructions on how to use the cable service;
 - Channel positions of programming carried on the system; and
 - Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
 - Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty days in advance of any significant changes in other information required by the preceding paragraph.
- B. Billing.
- Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bill will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
 - In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty days.
- C. Refunds. Refund checks will be issued promptly, but no later than either:
- The customer's next billing cycle following resolution of the request or thirty days, whichever is earlier; or
 - The return of the equipment supplied by the cable operator if service is terminated.
- D. Credits. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted. Credits shall be automatically given for all service interruptions as soon as the cable operator is informed of the interruption and can verify it. A separate telephone call to ask for the credit will no longer be necessary.
- (4) Late Fees. Late fee charges will be the same as other utility companies charge in this area, but not greater than one and one-half percent (1.5%) per month on the outstanding balance. No other late fee shall be charged.
- (5) Definitions.
- A. "Normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
- B. "Normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
- C. "Service interruption" means the loss of picture or sound on one or more cable channels.
- (b) The penalties and remedies for a violation of the above standards shall be as follows:
- For service interruptions as defined above, automatic credit or a refund, equal to not less than ten dollars (\$10.00), shall be provided to any and all affected subscribers;
 - For any violation of the above standards, specific performance and reimbursement to the franchising authority for all legal and/or administrative expenses in compelling specific performance;
 - Intentional violations of the above standards not corrected within thirty days shall be regarded as a failure to perform a material term of the franchise agreement and shall be considered within the franchise performance evaluation portion of the franchise renewal process;
 - Any other penalty or remedy afforded by local, state, or federal law or regulation.
- (c) The foregoing cable television customer service standards shall be effective at the earliest time permitted by law.
- (Ord. 14-94. Passed 5-10-94.)

CHAPTER 959

Use of Parks by Large Groups/Organizations

- 959.01 Definitions.**
- 959.02 Organizations eligible to use facilities.**
- 959.04 Permit required; applications.**
- 959.05 Prohibited uses.**
- 959.06 Auxiliary police; fees.**
- 959.07 Fees.**
- 959.08 Rules and regulations.**
- 959.09 Cleanup.**
- 959.99 Penalty.**

Regulations - see ADM. 151.05

CROSS REFERENCES

959.01 DEFINITIONS.

As used in this chapter:

- "Meeting" means an assembly for the sole purpose of conducting business.
- "Engagement" means any activity, including meetings.
- "Resident" means, with respect to an individual, an applicant who lives in the City or is a full-time employee of the School Board or City of Richmond Heights.
- "Sanctioned organization" means a group or organization as defined in Section 959.02.
- "Parks" means Richmond Park on Highland Road (except the Kiwanis Lodge) and DeSan Park on Trebisky Road or some portion of these Parks.
- "Administrative Authority" means the Mayor of the City or his/her designated representative.
- "Playing Field(s)" means any outdoor open area(s) in a Park which is used for a team sporting event. (Ord. 96-2016. Passed 10-25-16.)

959.02 ORGANIZATIONS ELIGIBLE TO USE FACILITIES.

The following sanctioned organizations serving the City of Richmond Heights are specifically eligible to reserve Park facilities or a portion thereof for an engagement by a group of thirty (30) or more persons:

- City Recreation Board Programs.

- Youth Groups:

Richmond Heights: Little League
Key Club
Amateur Sports

Boy Scouts, Cub Scouts, Indian Guides, Girl Scouts, Brownies, Campfire Girls, Bluebirds and Midget Football League, Richmond Heights School.

- Church Groups Serving Richmond Heights:

Armenian Apostolic
Bethel Full Gospel
Church of the Nazarene
Faith United Church of Christ
Jehovah's Witnesses
Monticello Gospel Hall
Suburban Christian
St. Felicitas
St. Paschal
Cleveland Christian Assembly Church
Chinese Church of Cleveland

Paul J. Hallinan Assembly of the Knights of Columbus, 4th Degree.

All religious organizations and groups associated with or connected with these churches.

- School Auxiliary Organizations.

All Richmond Heights school system auxiliary organizations, including the P.T.A.

- Civic Organizations.

Adult members or counselors of the youth groups listed in subsection (b) hereof

Amateur Sports
American Legion Post 775
Auxiliary Police
Boosters Club
The Richmond Heights Civic League
Civil Air Patrol
Democratic Club
Firemen's Association
Garden Club
Hillcrest Optimist Club
Hospital Volunteers
HRCC
Kiwanis Club
Organized Street Block Parties
Red Cross, including Block Parties

Republican Club
Richmond Heights Senior Citizens Club
Rotary Club
Welcome Wagon
Richmond Heights Alumni Class Reunions
Lions Club of South Euclid
Hillcrest League of Women Voters

(f) Departments of the City of Richmond Heights.

(g) Any individual resident of the City who will be present at the Park, with a group of thirty (30) or more persons shall also be eligible, subject to the approval of the Administrative Authority and subject to the conditions hereinafter provided in this chapter. A resident is one who lives in the City six months or longer, and is twenty-one years of age or older. For purposes of this chapter only, any business entity located in the City with a group of thirty (30) or more persons shall also be eligible to use and reserve Park facilities for social, recreational or educational engagements.

(Ord. 43-2004. Passed 5-11-04.)

959.04 PERMIT REQUIRED; APPLICATIONS.

(a) Any group of persons eligible to use a Park that is greater than thirty (30) persons, or any other group regardless of size using a Playing Field at a Park, shall have been issued a permit therefor prior to use of a Park in compliance with this section.

(b) Any group of persons eligible to use the Parks, or a portion thereof, that exceeds seventy-five (75) persons on a weekend or legal holiday or exceeds one hundred (100) persons on any other day must also apply for and reserve the Kiwanis Lodge at Richmond Park pursuant to the requirements of Chapter 953.

(c) The Administrative Authority is hereby authorized to issue a permit for the use of Park facilities upon written application therefor in such form as is prescribed by the Administrative Authority and upon the terms and conditions and subject to charges hereinafter provided in this chapter.

(d) All applications for a permit shall be subject to the approval of the Administrative Authority after an application is properly completed.

(e) An application containing false information or any false statements regarding the application by the applicant will render the application invalid.

(Ord. 96-2016. Passed 10-25-16.)

959.05 PROHIBITED USES.

The Administrative Authority shall have the right to reject an application for use of the Park facilities upon a reasonable belief that the purpose for which the Park is sought to be used would be prohibited by law, that such use and occupancy by the applicant would result in excessive noise or damage to real or personal property in or about such premises, or that such use and rental would be detrimental to the health, safety and welfare of the City, the inhabitants thereof, or the users of the Parks.

(Ord. 43-2004. Passed 5-11-04.)

959.06 AUXILIARY POLICE; FEES.

(a) The Administrative Authority may, when determined necessary by the Administrative Authority, require as a condition of issuing a permit for the use of the Park facilities that one or more auxiliary police officers of the City be hired by the applicant to be present during the hours specified by the Administrative Authority, and such auxiliary police officers shall be paid at the rates set forth herein. Notwithstanding the foregoing, an auxiliary police officer of the City shall be hired by the applicant to be present at all times during all engagements which commence after 3:00 p.m. Any use of the parks at which over 100 persons attend shall require the applicant to hire two auxiliary police officers to be present at all times, which auxiliary police officers shall be paid at the rates set forth herein. The Administrative Authority may waive this requirement only in writing and in its sole discretion upon special written request by an applicant.

(b) In the event auxiliary police are required as set forth in this section and appear at the time of the schedule event, they shall receive a minimum of three hours at the applicable rate in any case where the event, meeting or engagement is cancelled or the duration of which is less than three hours. Any amounts required to be paid to auxiliary police in accordance with the rates set forth herein shall be paid in advance and shall be paid directly to the auxiliary police officers in attendance.

(c) The rate of compensation for the use of auxiliary police officers is hereby established at fifteen dollars (\$15.00) per hour for each officer.

(Ord. 43-2004. Passed 5-11-04.)

959.07 FEES.

(a) No fees shall be charged for the use of Park facilities, except for fees for use of the Kiwanis Lodge building, and for fees for use of any Playing Field which shall be established by the Administrative Authority.

(b) A deposit of \$100.00 shall accompany the permit application and shall be retained to cover additional cleaning charges or damages. The balance shall be refunded upon the approval of the Administrative Authority.

(c) All deposits shall be paid to the City at the time the application is approved or is being determined by the Administrative Authority.

(d) The organization or individual holding a permit may cancel the same by giving notice, in writing, to the Administrative Authority one month in advance of the date and time for which the permit is issued. If such advance notice is not given, the organization or individual to whom the permit is issued shall forfeit the deposit.

(Ord. 96-2016. Passed 10-25-16.)

959.08 RULES AND REGULATIONS.

The following rules and regulations shall govern the use of the Parks and/or the adjacent picnic and parking facilities.

(a) Any devices, such as electrical, plumbing or otherwise, brought on or added by the organization or persons using the Parks, may be added or connected only with the permission of the Director of Public Service and Properties or the Mayor.

(b) Vehicular parking for members of groups using the Parks shall be limited to the parking areas designated.

(c) All youth activities shall be adequately chaperoned with adult supervision at a minimum ratio of one adult for every twenty children or, if the Administrative Authority so determines, a lesser number of children per adult chaperone.

(d) Any permit issued shall be governed by the current set of rules established by the City. A copy shall be provided with each permit issued.

(e) Rowdiness, disorderly conduct, excessive noise, discourteous behavior of attendees toward others, including City employees, and malicious destruction of property in or about the Parks are hereby prohibited. At the sole discretion of the Administrative Authority, such actions may result in the denial of future use of the Parks by the permit holders and/or attendees involved in such actions.

(f) The maximum capacity of the facilities when used pursuant to the provisions of this chapter shall be as determined by the Administrative Authority.

(g) The Administrative Authority has the discretion to designate certain areas of the Parks for picnicking, games and other activities by a sanctioned organization that is subject to the permit required by this chapter.

(h) Sanctioned organizations that are subject to the permit required by this chapter are also subject to all other park regulations of the City, including but not limited to Section 151.05.

(Ord. 43-2004. Passed 5-11-04.)

959.09 CLEANUP.

All cleanup of the Park shall be completed by the permittee immediately at the conclusion of the engagement and subject to forfeiture of the deposit for failure to do so.

(Ord. 43-2004. Passed 5-11-04.)

959.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a minor misdemeanor.

(Ord. 42-2009. Passed 7-14-09.)

CODIFIED ORDINANCES OF RICHMOND HEIGHTS PART ELEVEN - PLANNING AND ZONING CODE

TITLE ONE - Platting

- Chap. 1101 . General Provisions and Definitions.
- Chap. 1103 . Specifications for Public and Private Roads.
- Chap. 1105 . Administration, Enforcement and Penalty.
- Chap. 1107 . Preliminary Plan Procedure.
- Chap. 1109 . Final Plat Procedure.
- Chap. 1111 . Design Standards and Details.
- Chap. 1113 . Required Improvements.

TITLE FIVE - Zoning Code

- Chap. 1121 . Administration.
- Chap. 1123 . Definitions.
- Chap. 1125 . Districts and Map.
- Chap. 1131 . PF Public Facilities District.
- Chap. 1135 . R-1 and R-2 Single-Family Residential Districts.
- Chap. 1139 . R-3 Single-Family Residential District.
- Chap. 1143 . RTF Two-Family Residential District and RMF-1 Multiple-Family Residential District - Low Rise.
- Chap. 1144 . RS Senior Residence District.
- Chap. 1147 . RMF-2 Multiple-Family Residential District - Medium Rise.
- Chap. 1151 . O-S Office-Service District, B-1 Local Business District and B-2 Regional Business District.
- Chap. 1165 . Gasoline Service and Filling Stations.
- Chap. 1167 . I-1 Office-Industrial District.
- Chap. 1169 . Conditional Uses.
- Chap. 1171 . I-2 Industrial District.
- Chap. 1172 . Wireless Telecommunication Tower Overlay District.
- Chap. 1173 . General Provisions; Schedule of Regulations.
- Chap. 1174 . Heliports and Helistops.
- Chap. 1175 . Off-Street Parking.
- Chap. 1177 . Walls, Landscaping and Ecological Preservation.
- Chap. 1179 . Signs.
- Chap. 1180 . Regulated Uses.
- Chap. 1181 . Nonconforming Uses.
- Chap. 1183 . Conditional Zoning.
- Chap. 1185 . Zoning Board of Appeals.
- Chap. 1187 . Enforcement and Penalties.
- Chap. 1189 . Amendments.

TITLE SEVEN - Storm Water Management

- Chap. 1190 . Definitions.
- Chap. 1191 . Administration.
- Chap. 1192 . Disclaimer of Liability.

Chap. 1193. Conflicts, Severability, Nuisances and Responsibility.
Chap. 1194. Illicit Connections and Discharges.
Chap. 1195. Erosion and Sediment Control.
Chap. 1196. Comprehensive Stormwater Management.
Chap. 1197. Riparian Areas and Wetlands.
Chap. 1198. Protected Hillside Zone.

CODIFIED ORDINANCES OF RICHMOND HEIGHTS
PART ELEVEN - PLANNING AND ZONING CODE
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Chap. 1101. General Provisions and Definitions.
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Chap. 1109. Final Plat Procedure.
Chap. 1111. Design Standards and Details.
Chap. 1113. Required Improvements.

CHAPTER 1101

General Provisions and Definitions

1101.01 Short title.
1101.02 Application.
1101.03 Interpretation; conflicts.
1101.04 Purpose.
1101.05 Amendments.
1101.06 Definitions.
1101.07 Separability.

CROSS REFERENCES

Plat and subdivision defined - see Ohio R.C. 711.001
Zoning definitions - see P. & Z. Ch. 1123

1101.01 SHORT TITLE.

This Title One shall be known and may be cited as the "Subdivision Regulations of the Municipality" or just "these Regulations."
(Ord. 120-91. Passed 8-9-93.)

1101.02 APPLICATION.

The rules and regulations governing plats and subdivisions of land contained herein shall apply within the corporate limits of the Municipality.
(Ord. 120-91. Passed 8-9-93.)

1101.03 INTERPRETATION; CHAPTER.

The provisions of these Regulations shall be held to be the minimum requirements adopted for the promotion of the health, safety and welfare of the people of the Municipality. These Regulations are not intended to repeal, abrogate, annual or in any manner interfere with any existing laws, zoning ordinances, covenants or rules, provided, however, that where these Regulations impose a greater restriction that is required by such existing laws, covenants or rules, the provisions of these Regulations shall govern.

(Ord. 120-91. Passed 8-9-93.)

1101.04 PURPOSE.

These Regulations are adopted to secure and provide for the coordination of streets within a subdivision with existing streets, roads or highways, for the proper amount of open spaces for traffic, circulation and utilities, and for the avoidance of future congestion of population detrimental to the public health, safety or welfare; to provide for the construction of streets and other facilities deemed necessary or appropriate in the public interest; to insure and promote sound community growth; to protect against deterioration and obsolescence and to safeguard the interests of the owners or occupants of property, the subdividers and local government.
(Ord. 120-91. Passed 8-9-93.)

1101.05 AMENDMENTS

These Regulations may be amended from time to time as provided by law.
(Ord. 120-91. Passed 8-9-93.)

1101.06 DEFINITIONS.

As used in these Regulations:

- (a) "Building setback line" means the line indicating the minimum horizontal distance between the street and line and building or any covered porch extending in front of the main foundation wall, not including steps.
- (b) "Engineer" means the Municipal Engineer or other designated person or persons officially authorized to represent the Municipality.
- (c) "Planning Commission" or "Commission" means the Planning and Zoning Commission of the Municipality.
- (d) "Easement" means a grant by a property owner of the use, for a specific purpose or purposes, of a strip or parcel of land to the general public, a corporation or to a certain person or persons.
- (e) "Lot," "sublot" and "inlot" means a piece or parcel of land abutting on a street whose area is sufficient to furnish an appropriate building site for the intended use in conformity with the requirements of the Zoning Code and those of these Regulations and which is shown on the final record plat.
- (f) "Outlot" and "fractional lot" means a piece or parcel of land forming a part of the tract being withheld and not intended as an inlot but shown on the final record plat.
- (g) "Master Plan" means the comprehensive plan or a part thereof as adopted by the Planning Commission, providing recommendations for the location and development of major streets, local streets, public parks, building sites and utilities and indicating other community objectives.
- (h) "Street Plan or Thoroughfare Plan" means the official plan of highways, primary and secondary thoroughfares and parkways, designated as such on the Land Use Plan adopted by the Planning Commission, and including the proposed opening, widening or extension of any streets or roads which have been declared necessary by Council in the public interest.
- (i) "Park and Playground Plan" means the official plan of parks, playgrounds or other open public grounds, designated as such on the Land Use Plan adopted by the Planning Commission.
- (j) "Arterial street" means a public street which is primarily for moving fast or heavy traffic between large or intensively developed districts.
- (k) "Collector street" means a street supplementary to and connecting arterial streets to local streets.
- (l) "Local street" means a street primarily for access to abutting residential properties and to serve local needs.
- (m) "Plat" means a map of a tract or parcel of land.
- (n) "Subdivision" means:
 - (1) The division of any parcel of land shown as a unit or as contiguous units on the last preceding tax roll, into two or more parcels, sites or lots, any one of which is less than five 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 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
 - (2) The improvement of one or more parcels of 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 private streets serving industrial structures; the division or allocation of land as open spaces for common use by owners, occupants or leaseholders or as easements for the extension and maintenance of public sewer, water, storm drainage or other public facilities.
- (o) "Person" means any individual, firm, partnership, association, corporation, company or organization of any kind.
- (p) "Subdivider" mean a person who has applied for approval of or has duly recorded a plat for the subdivision of a tract of land.
- (q) "Mayor" means the Mayor of the Municipality as provided by the Charter.
- (r) "Preliminary plan" means the preliminary drawings indicating the proposed layout of a subdivision to be submitted to the Commission for its approval.
- (s) "Subdivision Regulations" or "these Regulations" means the ordinances codified herein as Title One of this Part Eleven, Planning and Zoning Code.
- (t) "Zoning Code" means those ordinances codified herein as Title Five of Part Eleven, Planning and Zoning Code.
(Ord. 120-91. Passed 8-9-93.)

1101.07 SEPARABILITY.

If any section, paragraph, subdivision, clause, phrase or provision of these Regulations is adjudged invalid or held unconstitutional, the same shall not affect the validity of these Regulations as a whole or any part or provision thereof other than the part so decided to be invalid or unconstitutional.
(Ord. 120-91. Passed 8-9-93.)

CHAPTER 1103

Specifications for Public and Private Roads

1103.01 Improvements required before dedication.
1103.02 Improvement of private ways.
1103.03 Inspections; deposit fund.
1103.04 Definitions.
1103.05 Pavement specifications.
1103.06 Water specifications.
1103.07 Sewer specifications.
1103.08 Sidewalks, trees and street lights.
1103.09 Underground facilities in new subdivisions; bond.
1103.99 Penalty.

CROSS REFERENCES

Sprinkling - see Ohio R. C. 723.16 et seq.
Surface treatment - see Ohio R.C. 723.23, 723.31
Changing established grade - see Ohio R. C. 727.07
Street and sidewalk areas - see S. & P. S. - Title One
Sewers - see S. & P. S. Chap. 931
Proposed street improvement requirements - see P. & Z. 1101.03

1103.01 IMPROVEMENTS REQUIRED BEFORE DEDICATION.

No road, street, highway, lane, boulevard or other way may be accepted for dedication within the City unless it has been improved in accordance with the specifications hereinafter set forth.

(Ord. 538-55. Passed 4-4-55.)

1103.02 IMPROVEMENT OF PRIVATE WAYS.

No person, firm or corporation shall lay out any private road, street, highway, lane, boulevard or other way for access to more than one dwelling house or to one or more apartment buildings, or sell or offer for sale without deed restriction prohibiting use for residential or apartment purposes, more than one lot or parcel of land fronting on any private road, street, highway, lane or boulevard, until such private road, street, highway, lane or boulevard has been improved with five foot sidewalks, street lights, trees, pavement, water mains and sewers built or installed in conformity with the standard specifications for same on file in the office of the Engineer, as hereinafter set forth.

(Ord. 11-64. Passed 4-21-64.)

1103.03 INSPECTIONS; DEPOSIT FUND.

(a) The Engineer shall review and approve all plans, profiles, cross-sections, specifications and other pertinent work details before any pavement, water, sewer or utility construction has begun, and shall periodically field inspect such construction in progress. The owner, contractor, developer or utility, prior to the commencement of any construction hereunder, shall deposit with the Director of Finance an amount equal to the estimated cost of review and inspections, or a minimum amount of five hundred dollars (\$500.00) to cover review and inspection costs, unless such minimum deposit is reduced by written approval of the Engineer due to the size of the project. Whenever the balance of the deposit is reduced below three hundred dollars (\$300.00), to pay the cost of the Engineer's review and inspections, an additional deposit shall be made by such owner, contractor, developer or utility.

(b) During construction projects reviewed and/or inspected by the Engineer, the Engineer shall submit a monthly report on a form deemed appropriate by the Engineer and the Director of Finance of all the hours of professional services performed by the Engineer for the project, including the hours spent performing inspections. The Director of Finance shall maintain records of professional services rendered by the Engineer, including all invoicing. When the project is completed, the Engineer shall submit a final invoice indicating the complete engineering costs associated with the project to the Director of Finance.

(c) Upon receiving written notification of completion of the project from the owner, contractor, developer or utility and only after obtaining approval from both the Engineer and the Commissioner of Building, Zoning and Housing, the Director of Finance shall refund any unused portions of the deposit.

(d) In the event that the necessary funds are not submitted as herein described for the review and inspection services set forth above, or in cases where the cost of the Engineer's review and inspections has exceeded the deposited amount, the Commissioner of Building, Zoning and Housing shall cause an invoice for services rendered to be served upon the owner of record via regular, first-class mail in the amount reported by the Engineer, plus a charge of \$75.00 for the administrative costs incurred by the Division of Building, Zoning and Housing, the Department of Finance, and various legal costs for each invoice so served. The Commissioner shall also report all unreimbursed engineering and inspection expenses and administrative charges to Council at an appropriate time.

(e) Upon the receipt of the statement of unreimbursed costs incurred and administrative charges, Council shall make written notice to the Fiscal Officer of Cuyahoga County of the City's action under the preceding subsection with a statement of the unreimbursed costs for the Engineer's services and any administrative charges under this section and a proper description of the premises for the purpose of making the same a lien upon the lands and to be collected as other taxes and returned to the City to be deposited in the City's Inspection Deposit Fund and/or the General Fund.

(Ord. 144-2017. Passed 3-13-18.)

1103.04 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply:

- (a) "City" means the City of Richmond Heights, Ohio.
- (b) "Engineer" means the Engineer of Richmond Heights.
- (c) "Inspector" means an Inspector appointed by the City.
- (d) "Owner" means any person, firm or corporation as outlined in Section 1103.03 .

(Ord. 538-55. Passed 4-4-55.)

1103.05 PAVEMENT SPECIFICATIONS.

(a) Variations. Should the owner elect any other type of base or wearing surface than that set forth herein, or elect to change any other specification contained herein, the owner shall submit to the Engineer a complete detailed specification, prepared by a registered engineer, covering the desired changes. Any such change shall only be used after it has been approved in writing by the Engineer and by resolution of Council. The owner shall deposit with the Clerk a certified check in the amount determined by Council as sufficient to pay all charges by the Engineer for inspection and approval of plans and of construction.

(b) Drainage. The owner shall, before beginning construction work, furnish definite plans and profiles satisfactory to Council and the Engineer showing the definite location of work to be done, a lay-out of the street drainage system and materials to be used and profiles showing gradients of street drainage ditches and structures, together with limits of areas draining into such ditches and structures. All plans, specifications, profiles, determinations of drainage sizes, etc. must be prepared by a registered engineer evidenced by affixing of his official seal thereto.

(Ord. 538-55. Passed 4-4-55.)

(c) Drainage Structures. The owner shall construct, at intervals of not more than 350 feet apart, on the high side of street intersections and at low spots, drainage structures as shown on a typical cross-section or an equal approved by Council. Should the topography of surrounding territory preclude removal of storm water at locations specified above, the owner's plan shall show a storm sewer system which shall be satisfactory to the City and the Engineer. On any ditches having gradients of over two percent, the owner shall provide suitable means, satisfactory to the City and the Engineer, to prevent erosion in such ditches. Ditches shall be allowed only as swales for the collection of rear yard run-off.

(Ord. 11-64. Passed 4-21-64.)

(d) Grading. The owner shall grade the street to the width shown on the cross-section including slopes and subgrade for pavement. All old pavement, shale, rock, slag, cinders, concrete or asphalt driveways included with the limits of construction, trees, stumps, sod, loam, old culvert walls, sluices or any other objectionable materials encountered during the progress of work shall be removed from the roadway area, including returns, to the full depth of subgrade. Grading shall include formation of all slopes, embankments and filling as herein specified and as shown on such cross-section.

- (1) Waste. If the amount excavated is in excess of the amount required in embankments and for authorized filling on adjacent lands, the excess material shall be disposed of by the owner in other places, outside the limits of the work, having first obtained permission from the recipient for such disposal.
- (2) Rolling. All earth filling and embankments in the road bed shall be thoroughly consolidated by rolling in layers not exceeding one foot in depth. Both filling and embankments and the subgrade shall be compacted with an approved roller weighing not less than ten tons, except upon the subgrade, where, in the opinion of the Engineer, such a roller can not be satisfactorily operated, in which case a lighter roller, meeting the approval of the Engineer, may be used, and tamping in such a manner and to such extent that additional rolling and tamping do not add to the density of the subgrade. The roller shall be so operated as to roll the entire roadway, returns and intersections at least three times and additional operations where ordered.
- (3) Subgrade. If any spongy, vegetable or any other objectionable matter is found in the road bed below the subgrade, such material shall be removed and the space filled with stone fragments, slag, sand or gravel and shall be carefully rammed or rolled in order to make such filling compact, solid and true to the surface of the subgrade.
- (4) Template. The subgrade shall be brought to the required crown by use of suitable tools and checked with the template furnished by the owner. The template used in checking the cross-section of the subgrade shall conform to the specified cross-section of the roadway, shall be of a design and construction satisfactory to the Engineer and must be operated by guides to insure uniformity of elevations. The area in intersections shall be graded by staking into sections not more than ten feet square and conforming the subgrade to such governing points.

(Ord. 538-55. Passed 4-4-55.)

- (5) Completion and approval of subgrade. Upon completion and approval of the forming of the subgrade, a four-inch I-22 granular sub-base shall be placed in conformance with Ohio State Highway Material and Specifications requirements.

(Ord. 11-64. Passed 4-21-64.)

(e) Reinforced Concrete Pavement. Upon the prepared subgrade, as herein specified, there shall be laid a reinforced concrete pavement, true to line, grade and camber shown on the cross-section, and the thickness shown on the plans or proposal.

- (1) Cement. The cement used in concrete shall be of approved brand and shall meet the requirements of the Tentative Specifications for Air-Entraining Portland Cement for Concrete Pavements of the American Society for Testing Materials, Designation C 175 (Type 1A). The tensile strength requirements shall govern. When the cement is delivered in packages, the name and brand of the manufacturer of the cement and the type shall be plainly marked thereon. A sack of cement shall contain ninety-four pounds and a barrel of cement shall consist of 376 pounds net.
- (2) Sand. The sand used for concrete shall be natural sand composed of clean, hard, durable, uncoated particles of stone, well graded from coarse to fine, free from lumps of clay and all organic matter. It shall show not over four percent loss on decantation by weight. It shall be uniformly graded from that which will pass a No. 4 sieve to that which will not pass a No. 100 sieve and at least one-third of the material shall be retained upon a No. 30 sieve.
- (3) Coarse aggregate. The coarse aggregate shall consist of crushed limestone or air-cooled blast furnace slag having clean, hard, strong, durable and uncoated particles. It shall be free from an injurious amount of soft, friable, thin, elongated or laminated particles or pieces, alkali, organic or other deleterious matter. The maximum percentages of such deleterious substances shall not exceed one percent which can be removed by decantation nor more than five percent, in total, of coal, clay lumps, soft fragments, alkali, friable or laminated pieces.
 - A. Physical properties. The percentage of wear shall not be over six percent for limestone or fifteen percent for slag; modified abrasion loss shall not be over twenty-four percent for both limestone and slag.
 - B. Soundness. When tested in accordance with the Tentative Method of Test for Soundness of Aggregates by Use of Sodium Sulfate, American Society for Testing Materials Designation C88, the weighted average loss in five cycles shall not exceed twelve percent for both limestone and slag.
 - C. Coarse aggregate shall be mechanically crushed and screened into No. 3 and No. 4 sizes, Ohio State Highway Specifications, and combined by weighing each size into the batch separately with size No. 4 having a ratio of from thirty-five percent to fifty percent of the total. The weight of slag per cubic foot, in compacted aggregate, shall not be less than sixty-five pounds.
- (4) Mix. Concrete shall consist of a mixture of Air-Entraining Portland Cement, coarse aggregate, sand and water, proportioned in accordance with the requirements of this specification. Cement shall be measured by weight and shall be weighed on a balance or scale separate from those used to weigh the other ingredients. Aggregates shall be measured by weight. Batch weights shall be based on surface dried materials and shall be corrected to take into account the weight of surface water contained in the aggregates. Water shall be measured by volume or weight. Total or maximum water shall be considered as that including added water and absorbed (surface) water in aggregates. Concrete shall be Class "D", Ohio State Highway Specifications, and shall be proportioned as follows:

Minimum cement, bags per one cubic yard of concrete	6-1/2
Maximum water, gallons per bag of cement	5-1/2
Minimum compressive strength, pound per square inch at twenty-eight day	3,500
Proportion by volume, cement to total aggregate	1 to 5-1/4

The weights in pounds of dry aggregates per sack (ninety-four pounds) of Air-Entraining Portland Cement shall be as follows:

	Fine Aggregate (lbs.)	Coarse Aggregate (lbs.)	Total (lbs.)
Limestone	180	300	480
Slag	195	245	440

The weights used in this table of aggregates are based on specific gravities of 2.65 for sand and limestone and of 2.30 for slag.

The slump range in inches, shall be not less than two inches nor more than three inches when finished by ordinary methods and shall be not less than one inch nor more than one and one-half inches when finished by use of a vibrating machine. Slump shall be determined in accordance with the Standard Method of Slump Test for Consistency in Portland Cement Concrete, American Society for Testing Materials Designation C 143.

- (5) Concrete test specimens. Two test cylinders, six inches in diameter and twelve inches high shall be made from each 2000 square yards of pavement or fraction thereof, placed each day from concrete which is being incorporated in the work, if so ordered by the Engineer. These cylinders shall be made and tested by a reputable laboratory selected by the Engineer, shall be made in accordance with the Standard Method of Making and Storing Compressing Test Specimens of Concrete in the Field, A.S.T.M. Designation C 31, and then tested in accordance with the Standard Method of Test for Compressive Strength of Molded Concrete Cylinders, A.S.T.M. Designation C 39. The minimum compressive strength of concrete at twenty-eight days shall be 3, 500 pounds per square inch. The owner shall pay all costs for such tests.
- (6) Type of concrete. Only ready-mixed concrete will be used and allowed in the concrete pavement. In this operation the cement, sand and limestone or slag shall be loaded and mixed with water added. All concrete shall be thoroughly mixed in a batch-type mixer of approved type for at least one and one-half minutes. Only enough water shall be used to secure hydration and the batch shall be of uniform and workable consistency and in no case shall the slump be less than two inches nor more than three inches except when vibrating machines are used, in which case the slump shall be not less than one inch nor more than one and one-half inches. The concrete mixture shall be transported to the site of work in portable-type mixers mounted on motor trucks. The mixing device shall be operated so as to revolve at the rate of from twelve to twenty-four revolutions per minute. There shall be no segregation of the mixed concrete when it is delivered on the site of work. Concrete shall be mixed not to exceed one hour before placing, unless otherwise permitted by the Engineer. If ordered by the Engineer, the owner must provide planking over which the concrete mixer trucks can back over the prepared subgrade. Any rutting of the subgrade must be repaired by reshaping the surface, filling any depressions with fine granulated slag or slag screenings and then thoroughly rolling to firm compaction.
- (7) Work in freezing weather. Unless otherwise specified, concrete when deposited shall have a temperature of not less than fifty degrees Fahrenheit, nor more than 115 degrees Fahrenheit. In freezing weather, suitable means shall be provided for maintaining the concrete at a temperature of forty-five degrees Fahrenheit for a period of not less than seven days. Construction must stop if the temperature falls to thirty-six degrees Fahrenheit. No frozen materials shall be used in the concrete nor shall concrete be laid on frozen ground. Any concrete which may be damaged by frost action shall be replaced by the owner at his own expense.
- (8) Forms. The owner must use steel forms of an approved section for both straight and radial work, if concrete integral curb is used or if the owner elects to install sandstone curb after the concrete pavement is constructed. The steel forms must be clean and coated with a suitable oil before the placing of concrete. The forms must be securely braced and held to the exact line and grade of street and when tested with a ten-foot straight-edge shall show no variance of more than one-eighth of an inch from true plane. The forms must be supported on thoroughly compacted material for their entire length. The space to be filled with concrete must be free from all rubbish or debris at the time the concrete is placed. The forms shall not be removed until twenty-four hours after the concrete pavement has been placed.
- (9) Checking subgrade. The owner shall furnish and use a subgrade template, as described in subsection (d)(4) herein, upon the road bed immediately ahead of the concrete work. Any corrections in the surface of the subgrade must be made with hand tools and the filling of depressions must be made with concrete, crushed stone or slag. Earth or other soft material shall not be used in rectifying subgrade depressions after rolling has been completed. This checking of subgrade shall be a part of the owner's obligation and must at all times be kept at least twenty feet ahead of the concrete being laid.
- (10) Spraying. During dry weather the subgrade shall be kept moist by spraying, but on clay soil such operations must be done during the noon period or after the day's work, in order to allow excess water to be absorbed. Whenever spraying is specified it contemplates the use of a device that will throw finely divided jets of water over relatively large areas. The flooding of materials of surfaces by solid streams of water will not be allowed.
- (11) Placing. Upon the prepared subgrade, and only when the subgrade is moist, the mixed concrete shall be deposited rapidly to the required depth and for the entire width of the pavement sections in successive batches and in a continuous operation. The use of intermediate forms or bulkheads between joints will not be permitted except as shown on the plans or otherwise specified. While being deposited the concrete shall be vigorously manipulated with spades or other suitable tools to prevent the formation of voids or honeycombed sections. Special attention shall be given to the compacting of the concrete against forms, curbs, street castings and joints. In the event of an interruption in the delivery of concrete or any mechanical difficulties which result in stopping concrete operations for more than thirty minutes, a transverse construction joint shall be formed as specified. Any concrete which has been delivered in quantities in excess of that needed to form this intermediate transverse joint shall not be used. Before any reinforcing fabric is placed, the concrete shall be struck off so that its surface will conform to a surface parallel with and two inches below the finished surface of the pavement. On this surface the welded wire fabric reinforcement shall be placed and so securely held that it shall remain to a uniform depth of two inches below the finished surface during the placing of the subsequent concrete. Immediately after the placing of the welded wire fabric reinforcement, the top two inches of concrete shall be placed. In no event shall more than forty-five minutes elapse between the placing of the concrete below the reinforcement and that above the reinforcement. Sufficient concrete shall be used so that after being thoroughly consolidated by tamping, ramming, machine or hand finishing, as specified in subsections (e)(12) and (e)(15) herein, the concrete shall have a depth of at least the thickness shown on the plans or proposal.
- (12) Machine finishing. Unless otherwise specified or permitted, and immediately after the concrete is placed, the surface of the concrete shall be brought to the proper grade and crown and thoroughly compacted by a mechanical, self propelled finishing machine of the type approved by the Engineer and meeting the requirements of Section CE-9 of the Construction and Material Specifications of the Ohio Department of Highways, a copy of which is on file in the office of the Engineer. The finishing machine shall be operated over each section of the pavement two or more times and at such intervals as are required to produce the specified results. During the operation of striking off the concrete surface, a uniform grade of concrete approximately three inches in depth shall be maintained ahead of the strike-off for its entire width. The finishing machine shall not be operated beyond the point where the three-inch depth of the surplus concrete can be maintained except where necessary in making joints. After the first operation of the finishing machine, additional concrete shall be added as required, porous spots shall be redressed, and the surface restrocked by the finishing machine. Porous spots shall not be eliminated by tamping or grouting. The elevation and arrangement of the strike-off and spreads shall be such that a finished pavement having the specified crown and thickness will be secured. The concrete adjacent to transverse joints shall be thoroughly compacted by means of an approved internal vibrator. The vibrators used for this purpose shall be of the pneumatic, gas-driven or electric type and shall be operated at a frequency of not less than 3200 pulsations per minute. At the time the concrete is placed and spread, it shall be thoroughly spaded and vibrated at the forms, curbs, bulkheads, center joints and elsewhere unless otherwise specified or permitted. The surface of the concrete shall be tested before the final belting, using an approved standard straight-edge, ten feet in length, and a template cut to the proper section. Irregularities exceeding one-fourth of an inch shall be corrected before the initial set has developed in the concrete. After the compacting of the concrete and when the surface has been brought to the proper grade, cross-section and smoothness, it shall be finished by the use of a canvas or rubber belt, or a thin wooden board not less than eight inches in width and approximately one foot shorter than the width of the pavement slab. The finishing belt may be either hand or mechanically operated. The finishing belt or board shall be worked with a crosswise and longitudinal motion until all surface irregularities are eliminated and all surplus water removed. Care shall be observed in the use of the finishing belt or board not to permit the edges to dig into the surface of the concrete or to work the crown out of the pavement. The finished surface of the concrete shall not vary more than one-fourth of an inch from the specified contour. In rainy weather the concrete shall be protected as soon as it is finished with canvas supported above the surface of the pavement. As soon as the concrete has hardened sufficiently, the edges of the longitudinal, construction and expansion joints shall be carefully finished with an edging tool having a radius of one-fourth of an inch except as otherwise directed.
- (13) Broom finish. After the edging of the joints has been completed and before the concrete has had its initial set, the surface of the pavement shall be given a broom finish. The broom shall be of an approved type, not less than eighteen inches in width, of fiber or flat wire, and not more than five inches in length. The strokes shall be from center to edge of slab, one stroke per width of broom, with adjacent strokes slightly overlapped. The broom shall be operated so as not to tear the concrete and as to produce regular corrugation not over one-eighth of an inch in depth. The surface of the concrete, after completion of the brooming, shall be uniform in appearance and shall be to the specified grade, elevation and contour. It shall be free from surplus water, rough or porous spots, irregularities or depressions and any objectionable features resulting from the operation of the broom.
- (14) Surface gauge. The top surface of concrete pavement must conform with a template having the camber shown on the cross-section plan for improvement. The template must be set with reference to forms or curbs and be supported upon them while in use. The setting of subgrade and surface templates must be checked by staking gutters, the center of the pavement and intermediate points every two feet for concrete depth, using the curb or form for grade and placing stakes to indicate the full thickness of concrete. The finished surface of the concrete pavement shall not vary more than one-fourth of an inch from the specified contour nor more than one-fourth of an inch when tested with a ten-foot straight-edge laid parallel to the center line of pavement. Irregularities exceeding one-fourth of an inch shall be immediately corrected. All depressions or projections discovered shall be corrected before the initial set has developed in the concrete.
- (15) Hand finishing. When specifically permitted by the Engineer, the concrete pavement may be finished and brought to the proper crown and grade by the use of a strike-board or template. Immediately after the concrete is placed, it shall be thoroughly consolidated by ramming, using iron-faced tampers of approximately thirty-six square inches in surface area and weighing not less than forty pounds. The concrete shall then be finished and thoroughly compacted by tamping with a heavy steel-shod wooden template and the entire surface shall be worked over until a uniform consolidation is obtained. After the compacting of the concrete has been completed, the striking template shall be operated forward with a combined longitudinal and transverse motion, without raising either end off the side forms, producing an even surface true to line and grade. The surface shall then be finished as specified above under subsection (e)(13) herein.
- (16) Curing. Within one hour after the concrete has been tamped and gauged for the cross-section and longitudinally, the owner shall cover the surface with heavy burlap or canvas and keep such protective covering in place and well moistened for at least twenty-four hours. The concrete surface shall be kept damp by spraying with water after 4:00 p.m. each day for one week after the concrete has been laid. Forenoon spraying will be ordered for the first three days if it is hot and dry. No traffic shall be permitted upon the surface of the concrete pavement for seven days after the base has been laid. The owner must maintain suitable and adequate barricades and red lights at night during this period. When the average temperature is below fifty degrees Fahrenheit, sprinkling may be discontinued except when the surface shows signs of drying too rapidly. If at any time the temperature is apt to drop below thirty-six degrees Fahrenheit, any completed pavement, laid less than ten hours, shall be protected by placing a covering of canvas, straw or other suitable material over the newly laid concrete in such a manner as to leave an air space between the surface or concrete and protective cover. Disturbance of the enclosed air shall be prevented as much as possible by weighing the canvas or other covering with timbers, sand or earth. (Ord. 538-55. Passed 4-4-55.)
- (17) Transparent film method of curing. After the concrete has been properly placed and finished as specified, and when so permitted by the Engineer or specified, concrete pavements shall be cured by the use of an epoxy chlorinated rubber curing compound meeting the requirements of Tri-Kote Concrete Treatment (TK-18) or equal and shall contain a fugitive die. This material shall also meet both Type 1 and Type 2 of New Interim Federal Specifications, (TT-C-00800) (GSA-FSS). The preliminary curing by the use of wet burlap or canvas may be omitted when this type of curing is followed. The curing material shall be supplied uniformly by means of an approved pressure spray distributor at the rate of one gallon to each 300 square feet of surface, and it shall be so applied that the concrete surface is completely coated and sealed at one application and is not marred. The curing material shall be applied immediately after the concrete surface to be cured has been finished and before any marked hydration has occurred. After the surface has been coated, it shall be protected from all traffic or abrasive action from any source. Complete duplicate spraying outfits shall be on the site of the work where this method of curing is adopted before concreting is started. Before the curing compound is sprayed upon the pavement, the owner must cover all joints with a strip of burlap not less than twelve inches wide and shall then cure the concrete in and adjacent to the joint by the method of water curing as specified in subsection (e)(16) herein. The rest of the pavement may then be cured by the transparent film method. The owner shall erect suitable barricades and take adequate precautions to keep all traffic or paving operations off the concrete until the expiration of seven days from the time of application of the curing compound. (Ord. 66-66. Passed 7-11-66.)
- (18) Depth. The concrete pavement shall have a thickness or depth of at least the thickness shown on the plans or proposal, with its top surface, as specified, to finished grade, but in no case less than seven inches, except industrial roads which shall in no case be less than nine inches.
- (19) Width. The minimum pavement widths for the finished grade of road from curb line to curb line shall be as follows:

	Feet
Residential road	26
Arterial residential road	28
Industrial road	28
Apartment road	26
Arterial apartment road	2 roads 18-feet wide and separated by a 10-foot wide median.

(Ord. 11-64. Passed 4-21-64.)

(f) Steel Reinforcement. The steel reinforcement shall be of the open mesh type welded wire fabric manufactured for concrete reinforcement, with the cross ties firmly welded to the longitudinal wires, and meeting the requirements of the Standard Specifications for Welded Steel Wire Fabric for Concrete Reinforcement, A.S.T.M. Designation A 185. This mesh must weigh at least fifty-eight pounds per hundred square feet. It shall be thoroughly cleaned of mill rust and scale and of coatings that will destroy or reduce the bond. It shall be cut into sections, flattened and have all bends and buckles smoothed out before placing it in the concrete base. Successive sheets of mesh must be overlapped at least one-half the distance between wires. The width and length of reinforcement shall clear the edge of the concrete slab and all contraction and expansion joints by three inches. The contract price per measured square yard for reinforced concrete pavement of the specified thickness shall cover all cost of material and the placing of same in the concrete pavement.

(g) Joints. Expansion, contraction, longitudinal key and construction joints shall be made in accordance with the standard and detail plans and as herein specified. The plane of all joints shall be at right angles to the surface of the pavement.

(1) Longitudinal key joints. These specifications contemplate the construction of the concrete base in two halves by separate concreting operations, and longitudinal joints of the key type shall be installed along the center line of the pavement. This type of joint shall be constructed by the use of a form either of metal or other suitable material to the dimensions shown on plan. Maximum error in alignment is one-half of an inch in fifty feet.

Tie bars of five-eighths of an inch round, deformed bars, of billet steel shall be installed at intervals of five feet along such center line of pavement, except where such location coincides with transverse joints. They shall be held firmly in place by means of a device satisfactory to the Engineer. They shall be four feet along extending two feet on each side of the center line pavement and shall be placed in the center of the concrete slab and at right angles to the center line of the pavement. The tie bars must be straight when placed. Prior to placing concrete for the adjacent half of the pavement, any bent bars shall be straightened by means of a pipe slipped over the free end of the bar. Key joints shall be painted with two coats of bituminous material as per the requirements of the State Highway Specifications, Section M-5.6 F-2 before the second half of the pavement is poured.

(2) Construction joints. At the end of each day's concreting operations or at any time when the placing of the concrete is suspended for forty-five minutes or more, transverse construction joints shall be constructed. These joints shall be formed by means of a well-braced bulkhead, conforming to the camber of the cross-section, constructed so as to permit dowel bars to extend through the joint. The dowel bars shall be three-fourths of an inch round, straight, smooth bars free from buring and flattening at the ends, with one half coated with suitable bituminous material or with an oil such as 600 W. No dowel socket or expansion cap will be required when used in such construction joints. No construction joint shall be placed closer than seven and one-half feet to a parallel joint. The dowels shall be fifteen inches long, extending seven and one-half inches on each side of the joint, and shall be held by proper supports so as to be in the center of the concrete slab and perpendicular to the joint. They shall be spaced fifteen inches on centers with end spaces not less than three inches nor more than ten and one-half inches.

(3) Transverse contraction joints. Impressed contraction joints shall be constructed at forty-foot intervals from the expansion joints with not less than seven nor more than fifteen joints constructed between expansion joints. No such contraction joint shall be placed closer than seven and one-half feet to a construction joint. In such cases the construction joint shall take the place of the contraction joint.

The contraction joint shall be of the impressed type made by forming in the surface of the slab a slot one-fourth of an inch wide at the bottom and three-eighths of an inch wide at the top. The slot shall be two and three-fourths inches in depth. The impressing device shall be removed as soon as the concrete has set sufficiently to preclude the possibility of injury to the concrete.

The groove formed by the impressing device shall be kept free from dirt or foreign matter until the filler is placed as hereinafter directed. Dowel bars shall be used and installed as specified in subsection (g)(2) herein.

(4) Transverse expansion joints. Transverse expansion joints shall be placed at intervals of from 280 feet to 600 feet in length. Dowel bars, as specified in subsection (g)(2) herein, shall be used, but for the expansion joint shall be equipped with a neat fitting metal cap at one end.

The joint shall be constructed of a premolded bituminous material meeting with the requirements of the State Highway Specifications Section M-10.01, having a width of three-fourths of an inch, and shall be constructed in such a manner that the finished joints will be perpendicular to the center line of the street and to the surface of the pavement. The premolded material shall be installed before the concrete is placed and shall be held rigidly in position by any means acceptable to the Engineer that will conform to these requirements. Extreme care shall be observed in placing concrete on both sides of all joint material, and any device used in maintaining such material in position shall be carefully withdrawn before the concrete has attained a hardened condition. Load transfer devices shall be placed as shown on the detailed plans. Unless otherwise specified, plain dowel bars filled with caps shall be placed on fifteen-inch centers and shall be firmly held in alignment by suitable chairs or other acceptable supporting devices.

(5) Sealing joints. All joints shall be sealed with bituminous filler meeting the requirements of the State Highway Specifications Section M-5.6 F-1. Immediately before pouring the bituminous seal material, an application of kerosene shall be made to the area of the concrete that will be in contact with the seal material. The application of kerosene shall be by pressure spray, brush or swab.

(h) Integral Concrete Curb. Integral concrete curbs shall be constructed in accordance with the Standard Specifications for Concrete Curb but modified to meet the dimensions as shown on detail plans.

When the integral curbs are constructed, all transverse joints shall be spaced the same as and shall be continuous with the joints in the pavement. Integral curb shall be dropped four inches at all driveway openings.

Concrete for integral curb shall be placed when the concrete in the pavement is still plastic and the concrete curb and the concrete pavement shall be firmly bonded together. In cases where it is not practicable, on account of the presence of finishing equipment to place integral curb while the pavement concrete is still plastic, bond may be secured by means of steel dowels placed vertically at one-foot centers and in a line at the center of the proposed integral curb. These dowels shall be five-eighths of an inch round, deformed bars of billet steel and shall extend to within one and one-half inches of the subgrade and four inches above the pavement surface when placed.

As soon as the concrete has set sufficiently to avoid being displaced, but before it has become hardened, the concrete surface shall be removed for a depth of one inch below the pavement surface and for a width of the proposed curb plus the width of the fill between the curb surface and the pavement surface.

Immediately before placing the concrete for the curb, the surface upon which the curb is to be placed shall be carefully treated with a one part Portland Cement to two parts sand mortar carefully worked into the surface by brushing.

(i) Curb Drains. After the pavement has been constructed, drains shall be constructed in a trench excavated along the outer edge of pavement to the depth shown on plans or otherwise ordered.

The drain shall be four-inch vitrified sewer pipe, hub and spigot pattern, conforming to all the requirements of the "Specification for Standard Strength Clay Pipe" A.S.T.M. Designation C 13 and shall be laid to a true line and grade. The soil at the bottom of trench shall be shaped to give full support to the lower quarter of the pipe. Care shall be observed to excavate bell holes and in all cases "first class bedding" will be required.

Joints in bell and spigot drain pipe shall be wrapped with a strip of coarse burlap eight inches wide and long enough to encircle the pipe and leave a lap of eight inches, which lap must come on top of the pipe.

After laying the pipe and properly protecting the joints, as above specified, the trench shall be filled with No. 46 broken stone or slag to within four inches of the surface of the ground. This filling must be carefully and thoroughly tamped as placed, special care being taken to work the filling around the pipe.

All drains shall be connected with catchbasins by means of a four-inch vitrified sewer pipe curve and a four-inch vitrified sewer pipe.

(j) Resetting Street Castings. Street castings, such as manhole and catchbasin rings and covers, valve box tops, etc., which are found not to conform with the finished grade of pavement shall, when so ordered by Engineer, be reset to such grade. This work shall include removing the casting, trowelling sufficient mortar, composed of one part Portland Cement and three parts sand, to bring the casting, when reset to proper line and grade, or to remove the present mortar or top course of brick and then bring the casting to proper line and grade with sufficient mortar as above specified, or to add additional course or courses of brick and then bring the casting to a proper line and grade as aforesaid.

(k) Special Requirements.

(1) Patents. All compensation for any patented invention, article or arrangement that is used upon, or in anyway connected with the construction, erection or maintenance of the work, or any part thereof, embraced in this contract and these specifications, shall be included in the prices stipulated in this contract for this work and the owner must protect and save harmless the City, in which this work is being done, against any and all demands of such claims.

(2) Water. Should the owner require water from existing mains for the construction of any part of the work specified herein, he shall make application to the proper authority to obtain such water and shall conform to all regulations governing quantity, method of measurement and payment for water used.

(3) Street openings. The City, in which the work included in this contract is located, shall have the right to remove any pavement, to lay or relay any gas, water, sewer lines, conduits or connections or to build or rebuild any sewers, catchbasins, water mains or conduits during the progress of the work, before its completion or during the period of paving guarantee after its completion.

(4) Flushing. The owner shall, at his own expense, sweep or flush the pavement as directed by the Engineer, for the purpose of inspection after completion of and again before release from guarantee.

(5) Barricades. The owner must maintain barricades at all cuts in the pavement or grade and at all materials, rollers or other equipment standing in the roadway. Red lights must be maintained upon barricades and at all other danger points between the hours of sunset and sunrise. The owner will be held responsible for all neglect that leads to damage or injury to person or property by reason of the construction herein contemplated.

(6) Inspection. An inspector for this construction will be appointed by the City. Before commencing work on this construction, the owner must give two days notice to the Engineer. The Inspector must be on the job at all times while construction is being carried on and check every operation.

(Ord. 538-55. Passed 4-4-55.)

1103.06 WATER SPECIFICATIONS.

(a) Cast-Iron Water Pipe and Fittings.

(1) All water pipe and fittings shall be of a pattern and character approved and adopted by the Departments of Water and Heat of the City of Cleveland and must be of a superior quality of iron, tough and even grain, free from cracks, sand holes or defects of any nature.

(2) All pit-cast pipes shall be manufactured in all respects in accordance with, and shall meet the requirements of, the latest "Standard Specifications for Cast-Iron Pipe and Special Fittings", as adopted by the American Water Works Association, which specifications unless hereinafter modified are made a part of these specifications.

(3) All pit-cast pipes and fittings shall be of the size and classes noted on the respective contract drawings.

(4) In lieu of pit-cast pipe above, the owner will be permitted to furnish centrifugal cast pipe. The metal shall have a modulus of rupture of not less than 18,000 pounds and a tensile strength of not less than 40,000 pounds and shall be for Class 200 or 250 pipe. Pipe may be furnished in twelve, sixteen or eighteen-foot lengths.

(5) All cast-iron pipe and fittings, unless otherwise shown or required, shall have mechanical type joints similar to the U. S. Joint, American Cast Iron Pipe Company, Doublex Simplex Joint, Clow National "C. N. " Joints, or equal. Lugged pipe shall be used where "tied distances" are shown on the alignment drawings. High Strength Cast Iron Tee Head Bolts, Hex Nuts and Glands shall be furnished and used in these joints. The cast-iron bolts shall have a minimum tensile strength of 50,000 pounds per square inch.

(6) Gaskets shall be of rubber with a duck tip or other equally effective protection against uneven distortion of the gasket.

(7) All specials, valves, hydrants and other accessories shall have bell and spigot caulked lead joints.

(8) Where fittings are shown which are not covered by the above specifications they, in such particulars as are lacking thereon, shall conform to the dimensions and otherwise meet the specifications for the respective type which are carried in the latest revisions to the latest edition of the "Handbook of Cast Iron Pipe Research Association" or which are otherwise shown on the contract drawings.

(9) In case centrifugal pipe is used, the owner shall provide for the proper type bells and spigots to secure standard joints of the same depth and thickness as provided by the standard pit-cast pipe.

(10) Wherever changes in line and grades of the main as shown on the drawings are not standard fitting deflections, the owner will be permitted to submit details using combinations of standard fittings and small deflections (not to exceed a maximum of one-half inch joint opening) in the adjoining lengths of pipe. Pipe to be installed with air-cocks or drains shall be cast with bosses thereon, and drilled and tapped for two-inch connections, and plugged in the shop with cast iron threaded plugs, before shipment.

(11) Closure pieces shall be accurately measured and cut in the field and installed using solid type long pattern sleeves as shown or as required.

(12) Tests, inspection, reports and analyses of tests of samples for all materials shall be furnished by The City of Cleveland Department of Water and Heat. The owner shall furnish the Engineer with a list of inspected and numbered pipe and fittings.

(b) Special Castings.

(1) Weight. No special castings shall be accepted, the weight of which shall be less than Class "D", standard weight, as adopted by the Cleveland Water Department, by more than ten percent.

(2) Payments. All castings, upon which a price is not fixed by this contract, shall be paid for at the contract price per pound. The contract price for special castings shall be additional to the measurement of pipe line, which measurement shall be continuous and inclusive of all special castings on such line.

(c) Coating: Applications. All water pipe and special castings, after thorough cleaning, shall be coated inside and outside with a suitable asphaltum or other approved impervious preparation applied at a temperature of 300 degrees Fahrenheit. The pipe shall be handled in such a manner that a minimum amount of damage to the coating will result. All cast iron pipe or fittings, the coating of which has been damaged in shipping or handling, shall have the damaged portion well cleaned and painted with three field coats of Inertel 50 or Bitumestec 50 or equivalent before being placed in the work. The owner shall thoroughly coat all exposed parts of nuts and bolts, as above specified, after the pipe has been laid and before backfilling has been placed. All field coating shall be furnished by the owner.

(d) Alignment and Grade.

(1) General. All water pipe shall be laid and maintained to the required lines and grade, with fittings, valves and hydrants at the required locations, with the joints centered and spigots home and with all valve and hydrant stems plumb. All necessary lines and grades shall be given to the owner by the Engineer within a reasonable time after notice by the owner of the time and place he intends to work. All

- stakes, once set by the Engineer, must be protected by the owner and if it is necessary to reset and regrade any stakes which have been disturbed, the owner must pay to the Engineer all such costs.
- (2) Subsurface explorations. The owner, at his own expense, shall determine the location of existing subsurface structures within the limits of the water trench by such explorations and excavations as may be necessary after he has made an examination of all available records.
 - (3) Grade bars and depth of cover. The owner shall furnish all material and labor to set grade bars every fifty feet. Every pipe shall be laid at each end to line and grade indicated by a line drawn between the grade bars. Unless otherwise indicated on the plan, all water pipe shall be laid to a depth of six feet measured from the established street grade or the surface of the permanent improvement to the top of the pipe.
- (e) Excavation and Preparation of Trench.
- (1) Width. The minimum width of unsheeted trench shall be eighteen inches and, for water pipe ten inches or larger, at least one foot greater than the diameter of the pipe. The maximum clear width of trench shall be not more than two feet greater than the diameter of the pipe except by consent of the Engineer.
 - (2) Pipe foundation. Unless otherwise specified, the trench shall have a flat bottom conforming to grade so that the barrel of pipe shall have full bearing throughout its length. If subgrade is soft and cannot support the pipe, the objectionable subgrade material shall be removed and replaced with suitable fine earth or bank sand thoroughly compacted.
 - (3) Pipe clearance in rock. Ledge rock, boulders, large stones and shale shall be removed to a clearance of at least six inches below all parts of the pipe, valves or fittings and to a clear width of six inches on each side of all pipe and appurtenances. Excavations below subgrade shall be refilled to subgrade with fine earth or bank sand thoroughly compacted.
 - (4) Blasting procedure. Blasting for excavation will be permitted only after securing the written approval from the Police Chief of the City who shall fix the time during which blasting may be done and what protective measures must be used to insure safety to adjacent property. The owner shall be responsible for any damage resulting from blasting. The owner's method of procedure relative to blasting shall conform to State laws and to local City ordinances.
 - (5) Bell holes required. Bell holes of ample dimensions shall be dug in earth trenches at each joint to permit the jointing to be made properly. Adequate clearance for properly jointing pipe in rock or shale trenches shall be provided at bell holes.
 - (6) Braced and sheeted trenches. Wherever necessary to prevent caving, excavations in sand, gravel, sandy soil or other unstable material shall be adequately sheeted and braced. Where sheeting and bracing are used, the trench width shall be increased accordingly. Trench sheeting shall remain in place until the pipe has been laid, tested for defects and repaired, if necessary, and the earth around it compacted to a depth of one foot over the top of the pipe. Sheetting left in the trench by order of the Engineer will be paid for at price bid per 1,000 (M) feet.
 - (7) Drainage. The owner shall, when ordered by the Inspector, construct tight bulkheads across the trench and provide pumps suitable for the removal of any water which may be encountered or which may accumulate in the trenches. In no case shall trench water be permitted to rise upon or flow through the water main.
 - (8) Existing water courses. The owner shall, at his own expense, provide for the protection and securing of a continuous flow in any open water courses, ditches or pipes encountered during the progress of the work and shall repair any damage that may be done by reason of them.
 - (9) Road surfaces, curbing, driveways and sidewalks. The owner shall remove all pavements, road surfaces, curbing, driveways and sidewalks within the line of excavation. The owner shall make all cuts by channeling machine, hand-operated pneumatic tools or by such other methods as will furnish a clean cut in the pavement and base without undue shattering. All concrete curbing, driveways or sidewalks within the lines of excavation shall be broken at the owner's expense and in accordance with the rules and regulations of the City in which the work is done. The use of a "pear" or weight dropped on the pavement for breaking will not be allowed except by written permission of the Engineer.
 - (10) Excavating by machine or by hand. The use of excavating machinery will be permitted except in places where operation of the same will cause damage to trees, buildings or existing structures above or below ground; in which case hand methods shall be employed. All work must be done in open trench. No tunneling, boring or forcing will be allowed without special permit. The excavated material must be so piled as to not endanger the work, obstruct driveways and sidewalks nor interfere with proper drainage.
 - (11) Barricades, guards and safety provisions. In order to protect persons and property, adequate barricades, construction signs, torches, red lanterns and guards as required, shall be placed and maintained during progress of construction work and until it is safe for traffic to use the trenched highway. The work shall be conducted so that the least interference with traffic will result. Suitable bridges shall be provided over open trenches at street intersections and driveways.
 - (12) Operating valves. The operation of all gate valves on existing mains for making connections, tests or for any other cause shall be done by the City in which the work is located or by the Water Department of the City of Cleveland. The owner shall give sufficient notice to the City or to the Division of Water so that the work may be done with the minimum of inconvenience to the public and delay to the owner. All consumers affected by such operation shall be notified by the owner at least one hour before the operation and advised of the probable time when the service will be restored.
- (f) Laying Cast Iron Pipe.
- (1) General. The owner shall provide proper implements, tools and facilities for the safe and convenient prosecution of the work. All pipe and fittings shall be carefully lowered into the trench by means of derricks, ropes or other suitable equipment so as to prevent damage to the pipe, fittings or the coating. Before lowering and while suspended the pipe shall be inspected for defects and rung with a light hammer to detect cracks. Any defective, damaged or unsound pipe and fittings shall be rejected and replaced with a sound pipe or fitting in a satisfactory manner by the owner at his own expense. All dirt or foreign matter shall be removed from pipe before being lowered into the trench and shall be kept clean during and after laying.
 - (2) Laying the pipe. The spigot shall be centered in the bell, the pipe shoved into position and brought into true alignment, secured there with earth tamped around the pipe except at the bell holes. Bells shall face the direction of laying, however, on appreciable grades, they shall face uphill. Where necessary to deflect pipe from a straight line, either vertical or horizontal, the degree of deflection shall be approved by the Engineer. Whenever it is necessary to cut the pipe, this shall be done in a neat and workmanlike manner without damage to the pipe, leaving the end smooth and at right angles to the axis of the pipe. No payment will be made for the portion of the pipe cut off and not used in the line. At times when the pipe laying is not in progress, the open ends shall be closed by approved means and no trench water shall be permitted to enter the pipe.
- (g) Lead Joints.
- (1) General. Before laying the pipes, all lumps, blisters and excess coating material shall be removed from both bell and spigot ends, wire brushed and wiped clean and dry. Sterilized yarning material, as above specified handled to avoid contamination, shall be applied dry and firmly pressed into the joint. The yarning material shall be long enough to reach entirely around the pipe with ends overlapping not less than two inches. The ends shall meet on opposite sides of the pipe and not on the top or bottom. If necessary, successive strands of yarning material shall be driven home separately, thoroughly packed and hammered into the joint.
 - (2) Depth of jointing material. For lead joints, a space of not less than two and one-half inches in depth shall be left in the bell in a pipe of twenty inches or less. Lead joints in sleeves shall be cast solid to the full length of the sleeve.
 - (3) Specifications for lead. Lead shall be used for caulking purposes and shall contain not less than 99.73 percent pure lead. Impurities shall not exceed the following limits:
- | Impurities | Percent |
|-----------------------------------|---------|
| Arsenic, antimony, tin (together) | 0.015 |
| Copper | 0.08 |
| Zinc | 0.002 |
| Iron | 0.002 |
| Bismuth | 0.25 |
- The producer's name or identifying mark shall be cast or stamped on each piece of lead.
- (4) Proper heat for lead. Lead shall be heated in a melting pot kept near the joint to be poured, brought to a proper temperature such that when stirred it will show a rapid change of color and that when poured into the joint space it will insure a perfect joint. Before pouring the lead, all scum shall be removed.
 - (5) Position of joint runner. The joint runner shall fit snugly against the face of the bell and the outside of the pipe and shall be dammed with clay at the pouring gate to provide for filling the joint even with the top of the bell.
 - (6) Caulking lead joints. Each joint shall be made with one pour, filling the joint space. After cooling to the temperature of the pipe, lead joints shall be caulked by means of pneumatic or hand tools, by competent workmen, until thoroughly compacted, making watertight joints without overstraining the bells.
- (h) Line Valves.
- (1) Type and fittings. Line valves shall be set at points indicated on plans. All valves shall be of a pattern approved and adopted by the Water Department of the City of Cleveland, and fitted with boxes having square caps marked "Water Valve" and set to the established grade of the street. No. 2 bases will be required for all valve boxes ranging from four inches to eight inches. No. 3 bases must be used on boxes ranging from ten to sixteen inches.
 - (2) Setting valves, valve boxes, fittings and blow-offs. Gate valves and pipe fittings shall be set by the owner and jointed to new pipe as heretofore specified. Cast iron valve boxes shall be firmly supported and maintained centered and plumb over the wrench nut of the gate valve with the box cover flush with the surface of the finished pavement or such other level as directed. All geared valves and such other valves as may be designated on contract drawings shall be set in masonry valve vaults with the wrench nuts readily accessible for operation through the manhole opening. Vaults shall be constructed in a manner that will permit minor valve repairs and afford protection to the pipe from impact where it passes through the pit walls.
- (i) Hydrants.
- (1) General. The four-inch or six-inch hydrants shall be City of Cleveland standard and shall conform to the City's specifications on file in Room 605 Auditorium Garage Building, Cleveland 14, Ohio.
 - (2) Location. When placed behind the curb, the center of the hydrant barrel shall be at least three feet from the gutter face of the curb. When set in lawn space, between the curb and sidewalk, or between the sidewalk and property line, there shall be a clearance of at least six inches between the sidewalk and any portion of the hydrant or nozzle cap.
 - (3) Position of nozzles. All hydrants shall stand plumb with the nozzle pointing toward the curb and at an angle of forty five degrees therefrom. Where the hydrant branch piping is parallel with, or not at right angles to the curb, the owner shall release the swivel head bolts and adjust the hydrant nozzles to face the curb at a proper angle. Hydrants shall be set to conform with the established grade with the top of the frost casing at least four inches above grade.
 - (4) Connection to main. Each hydrant shall be connected to the main pipe with a cast iron branch controlled by an independent gate valve of the same size as the hydrant. Drainage shall be provided at the base of each hydrant by filling around the elbow with coarse gravel or crushed stone to at least six inches above the waste opening. Wherever hydrants are set in rock, clay or other impervious soil, the trench shall be widened and deepened on each side of the hydrant base and this space filled compactly with coarse gravel or broken stone mixed with coarse sand of sufficient quantity to absorb all water to be drained from the hydrant when the valve is closed. Each hydrant shall be set on a stone slab or similar foundation and the base of the hydrant well braced against unexcavated earth at the end of the trench with stone slabs or concrete backing, or it shall be tied to the pipe with suitable rods or clamps as directed by the Engineer. Hydrants shall be thoroughly cleaned of dirt or foreign matter before setting. All hydrants must conform with specifications of the Cleveland Water Department and are subject to its detailed test and inspection.
- (j) Plugging Dead Ends. Standard plugs shall be inserted into the bell ends of pipes, tees, crosses and caps jointed to spigot ends of pipes and fittings in the manner specified above and secured with clamps where directed by the Engineer.
- (k) Connections to Existing Mains. Wherever new mains are to be interconnected with existing mains, the owner shall remove plugs, caps from outlet fittings or ends of existing distribution mains, and where necessary cut out a portion of the existing main for such purpose. The owner shall install all pipe required to complete the connection to the new main and to restore service in the existing main. Where the connection is to be by means of a pressure tap, branch sleeve and valve, the owner shall do all necessary excavation and backfilling and arrange with and pay the Water Department of the City of Cleveland for all necessary labor and material to make such a connection. The price bid by the owner shall include all such costs.
- (l) Anchorage of Bends, Tees and Plugs. Reaction or thrust backing shall be applied on all pipe lines eight inches or larger in diameter at all tees, plugs, caps and at bends deflecting twenty-two and one-half degrees or more, and movement prevented by attaching suitable steel rods or clamps as directed by the Engineer. Reaction or thrust backing shall be of Class "A" concrete and be placed between solid ground and the fitting to be anchored. The area of bearing on pipe and on ground in each instance shall be that required by the Engineer. All such costs shall be included in the price bid for a special or fitting.
- (m) Hydrostatic Tests.
- (1) General. After the pipe has been laid complete with all fittings and specials properly caulked and before backfilling is placed around the joints, it shall be subjected to a hydrostatic test pressure of at least seventy-five pounds per square inch above normal operating pressure but not less than 100 pounds per square inch. This test shall continue for at least thirty minutes and be maintained until a thorough examination of all joints has been made.
 - (2) Procedure. Each valved or otherwise isolated section of pipe shall be slowly filled with water and the specified test pressure, measured at the point of lowest elevation, shall be applied by means of a pump connected to the pipe in such a manner satisfactory to the Engineer. The tests shall be made by an inspector from the Cleveland Water Department which shall supply the gauges and meters. The pump, pipe connection and all other apparatus shall be furnished by the owner. All air shall be expelled from the pipe before applying test pressure.
 - (3) Examination Under Pressure. During the test all pipe, fittings, specials and joints shall be carefully examined. Any joints showing leakage shall be recaulked until tight. Cracked or defective pipe, fittings or

specials discovered in consequence of this test shall be removed and replaced with sound material and the test repeated until satisfactory to both the inspector from the Cleveland Water Department and the Engineer.

- (4) Draining main after testing. After a section of pipe has been tested satisfactorily, the owner shall drain the same. In cold weather, immediately after testing a section of pipe, the owner shall open all valves, air-cocks, by-passes and drain bonnets of all valves and take all other precautions necessary to prevent freezing.
- (n) Preliminary Flushing Procedure. Before being placed in service, all dirt and foreign matter shall be removed from the new water main or extensions to existing mains by a thorough flushing through the hydrants or by other approved means. Each valved section of newly laid pipe shall be flushed independently. This shall be done after the pressure test and may be done before or after the trench has been backfilled.
- (o) Chlorination.
- (1) General. Following preliminary flushing, the newly laid water pipe shall be chlorinated. The processes of chlorinating, the method of procedure, the chlorinating agent and the rate of application shall be determined by the Cleveland Water Department. The owner shall pay to the Division of Water of the City of Cleveland for chlorination or sampling of the water the rate of five cents (5¢) per linear foot for the first thousand feet, and three cents (3¢) per foot thereafter of the water main proper, with a minimum charge of twenty-five dollars (\$25.00). The owner shall furnish the necessary labor for excavating and backfilling which will be required for the installation of taps for injecting the chlorine solution operating pumps and flushing mains.
- (2) Final flushing and testing. Following chlorination, all treated water shall be thoroughly flushed from the newly laid pipe at its extremities until the replacement water throughout its length shall, upon test both chemically and bacteriologically, be proven equal to the water quality served the public from the existing water supply system. All costs for chlorination and flushing of mains shall be at the expense of the owner.
- (p) Curb Connections.
- (1) General. In such locations as may be indicated by the Engineer, the owner shall excavate for house connection between the water main and a point three three feet beyond the curb line. The connection shall be standard extra heavy lead pipe or copper pipe conforming in all respects to the specifications and requirements of the Cleveland Water Department and of the size indicated on the plan or bid blank.
- (2) Tapping. The owner shall arrange with the Water Department of the City of Cleveland to make the pressure tap, install the corporation cock and furnish any other material which the Department elects to supply. The connection shall be blocked up with stone, brick or concrete to insure a firm support for such coupling and resist all settlements in backfilling. The blocking shall be held firmly in place by fine dry earth firmly tamped around it. Where excavation is in sand, clay or light earth, the water curb connection must be laid in a trench separate from any sewer lines. In rock or shale the water curb connection may be laid in the same trench which contains the sewer pipe providing the trench is of sufficient width and an eight-inch shelf is provided on which to lay the connection. At the curb end of the connection, a shut-off valve shall be connected, mounted on a blocking of stone, brick or concrete to resist settlement and with the curb box mounted and maintained plumb over the gate valve nut, with the top of box at the finished grade of lawn space.
- (q) Backfilling.
- (1) Exempt of backfill. The backfill includes all backfilling, ramming, puddling or rolling as required, the regrading of adjacent disturbed areas, the replacing of drains and other surface and subsurface structures, the placing and maintaining of temporary sidewalks and driveways, furnishing of suitable backfill material if necessary, reseeding lawns and replacing of trees and shrubbery damaged by the owner and all appurtenant work incidental thereto.
- (2) Backfill material. Backfill may be made from excavated material from the trench if the same is satisfactory to the Engineer. Only fine dry earth or bank sand shall be used under, around and to a depth of at least two feet above any pipe, fitting, special or curb connection. No slag, ashes, rubbish, broken concrete, stones larger than three inches in greatest dimension or other deleterious or objectionable material may be used in backfill. No backfill shall be done during freezing weather except by permission of the Engineer and no backfill shall be made when the material already in the trench is frozen nor shall frozen material be used in backfill.
- (3) Sand backfill. Where ordered by the Engineer the excavated material shall be removed from the site of work and bank sand, containing not more than ten percent by weight of loam or clay and free from all deleterious or objectionable material used. If required, this sand backfill shall be thoroughly compacted by mechanical tamping in layers of not more than six inches or by flooding as may be directed by Engineer. Sand for backfill, if ordered, will be paid for at the contract price set forth in the proposal.
- (r) Additional Concrete. Whenever, in the opinion of the Engineer, additional concrete is required over and above that required by the plans or specified elsewhere herein, he may order the owner to install or place additional concrete and when so ordered the same shall be placed and paid for under the item "additional concrete".
- (s) Clearing Street and Repairs.
- (1) General. Upon completion of backfilling, or at such other time as ordered by the Engineer, the owner shall remove from the site of the work all surplus material, tools, equipment and construction sheds. All surplus excavated material shall be removed and deposited upon lands abutting the improvement if such fill is requested by the property owner. If no filling of abutting property is desired, the owner shall dispose of such surplus wherever he can arrange for rights to fill. The surface of the street shall be left smooth.
- (2) Repairs. The owner, at his own expense, shall repair any and all damage he has caused to the street or adjoining property and shall save free and harmless the principal in this contract from all suits for damages to persons or property arising from or caused by this construction.
- (t) Restoration of Sidewalks, Curbing and Paving. All pavements, road surfaces, sidewalks, driveways or curbs which the owner is required to replace shall, at the expiration of the period of maintenance, be replaced in the same manner as the original installation or as specified by the Engineer and the cost of such replacement shall be borne by the owner, unless otherwise specified.
- (u) Final Repairs. Four months after the final measurements have been taken, the Engineer shall make an examination of all surfaces where water mains have been constructed and shall note any depressions due to breakage, settlements, washouts or other causes that may be attributed to the construction of water mains. Upon written order from the Engineer, the owner shall again go over the work and repair breaks, refill depressions, remove any surplus that has previously been left upon the trenches or make other repairs or replacements which are necessary to place all the work in a first class condition.
- (v) Special Requirements.
- (1) Protection of underground and surface structures. Unless otherwise specified or shown on the plans, the owner shall, at his own expense, support, protect, maintain and, if necessary, repair or replace to the complete satisfaction of the owners thereof, all underground and surface utility structures, drains, sewers, culverts, water pipes and other such obstructions encountered in the progress of the work which cross the sewer trench or which run parallel with and outside the limits of the sewer trench as described in Section 1103.07 (c). Such responsibility on the part of the owner shall be in effect whether or not such obstructions are shown on the plans. Unless otherwise specified, all underground utility structures, drains, sewers, culverts, water pipes and other such obstructions which run substantially parallel with the sewer trench and which are encountered within the limits of the sewer trench and which are not shown on the plans shall be replaced or repaired by the owner at the expense of the owners thereof at prices to be agreed upon in writing by the Engineer and owner.
- (2) Care of work. The work must be prosecuted and material placed in such a manner as to offer the least possible obstruction to traffic. All pipe lines shall be securely plugged at the close of each day's work to avoid any earth, rock or refuse entering the pipe.
- (3) Conformance with regulations. The owner shall conform to all rules and regulations pertaining to laying and care of water pipes as adopted by Council and the Water and Heat Departments of the City of Cleveland. The work will be subject at all times to inspection by such Water Department and the inspector.
- (4) Time. The owner shall proceed with the construction of the water main as soon as practicable and shall proceed with the time specified in this contract.
- (5) Use of Main. The City authorities shall have the right to connect, or to grant permits to connect houses with the water main, as soon as such main shall have been laid and given the initial test. The granting of such permits for the use of mains shall not be construed as an acceptance of the work nor shall the owner be allowed special compensation for connections made with such mains or for other use of the mains by the City or authorized individuals before final acceptance of the work.
- (Ord. 538-55. Passed 4-4-55)

1103.07 SEWER SPECIFICATIONS.

- (a) Materials.
- (1) General. Unless otherwise specified, all materials used in the work shall conform to the requirements of the current specifications of the American Society for Testing Materials, and shall be tested in accordance with the current specifications or current methods of testing of the American Society for Testing Materials, where specifications and methods of testing have been adopted, revised or proposed for such materials. It is understood that wherever the word "current" is used relative to the specifications and methods of testing of the American Society for Testing Materials, it refers to the standard or tentative standard of that Society bearing the latest date.
- No material shall be used until it has been inspected and approved on the site of the work. When required by the Engineer, any or all materials entering into the construction of any work under this contract shall be tested by a reputable testing laboratory at the owner's expense. Such inspection shall not relieve the material or workmanship which may have passed the Engineer and shall be at all times liable to rejection when discovered, until the final completion of the work.
- (2) Portland Cement. Portland Cement furnished or used shall conform to the following requirements:
- A. Portland Cement for general construction purposes shall conform to the requirements specified for Type I of the "Standard Specifications for Portland Cement", A.S.T.M. Designation: C 150.
- B. Portland Cement - High Early Strength shall conform to the requirements specified for Type III of the "Standard Specifications for Portland Cement", A.S.T.M. Designation: C 150.
- C. Portland Cement - Air-Entraining shall conform to the requirements specified for Type IA of the "Tentative Specifications for Air-Entraining Portland Cement", A.S.T.M. Designation: C 175.
- Portland Cement shall be delivered to the site of the work in unbroken cloth or paper sacks, with the name and brand of the manufacturer and the type under these specifications, marked thereon. Cement shall be stored in such a manner as to fully protect it from moisture and exposure to the weather. Cement which has become caked, partially set or otherwise deteriorated or contaminated shall not be used in the work.
- (3) Mortar sand. Mortar sand shall be composed of clean, hard, durable particles of stone, uncoated with clay or organic matter and free from lumps of these materials. It shall conform to the following specific requirements for grading:

Sieve Passing No.	Percent
4	100
16 not less than	95
100 not over	10
and Clay and Silt, by weight not over	3

- (4) Concrete sand. Concrete sand shall be composed of clean, hard, durable particles of stone uncoated with clay or organic matter and free from lumps of such materials. It shall conform to the following requirements for grading:

Sieve Passing No.	Percent
3/8	100
4	95 to 100
16	45 to 95
50	10 to 30
100	2 to 10
and Clay and Silt, by weight not over	3

- (5) Coarse aggregate. Coarse aggregate for concrete work may be broken stone, blast furnace slag or gravel. It shall be clean, free from loam, clay, silt, organic matter or other injurious impurities. Stone shall be hard limestone, trap rock or granite. Slag shall be air-cooled blast furnace slag, clean, sound, uniform in density and free from thin, elongated or glassy pieces and must weigh not less than 1800 pounds per cubic yard. Gravel shall be clean silica, screen-washed, sound and hard and acceptable to the Engineer. Any material used shall be so placed when delivered that it will not become contaminated by earth, grass or other foreign substance. For use in concrete pipe or in work less than eight inches thick, all aggregate shall pass a one-inch screen and be retained on a one-quarter inch screen. For larger work the aggregate shall range from a size which will pass a two-inch screen and be retained on a one-quarter inch screen. The voids in loosely placed aggregate shall not exceed forty-five percent.
- (6) Cinders. Cinders shall be only those from a power plant and not those from stoves or household furnaces. They shall be black and free from clinkers, unburned coal, glue dust and rubbish.
- (7) Water. All water required in the execution of this contract must be provided by the owner at his own expense. Water containing sewage, clay, oil or filth must not be used.
- (8) Brick. Brick used in the construction of catchbasins, manholes, inverts, junctions and sewers shall be smooth, sound, tough, with straight sharp edges, flat surfaces and shall be uniform in quality, cross-section and dimensions. If made from surface clay or fire clay, they shall be burned hard entirely through the brick. If No. 2 shale brick is used, it shall be thoroughly vitrified, and shall show not to exceed eight

percent absorption when kiln dried then immersed in water for twenty-four hours. All brick shall be thoroughly sprinkled with water before laying. All sewer brick shall have a width of four inches, a length of eight and one-half inches and a depth of two and one-half inches, three inches or three and one-half inches. Lugged brick, cored brick or brick having recesses or openings extending through or partly through the body of the brick may not be used.

- (9) Vitrified sewer pipe. All vitrified sewer pipe, slants and specials shall be of the bell and spigot pattern, salt-glazed, circular, vitrified earthenware made from shale or fire clay, free from fire-checks, blisters or other imperfections. Unless otherwise specified, all pipe, slants and specials shall conform to the requirements specified in the "Standard Specifications for Standard Strength Clay Sewer Pipe", A.S.T.M. Designation: C-13. Where specified or called for in the plans, all pipes, slants and specials shall conform to the requirements specified in the "Standard Specifications for Extra-Strength Clay Sewer Pipe", A.S.T.M. Designation: C-200.
- (10) Lumber. Lumber for sheeting, sheet piling, forms, bracing or bridging must be of good quality and of a size and strength suitable for properly protecting the work and workman from danger, and for securing the best possible conditions for construction. Any material deemed unsuitable or unsafe by the Engineer must be removed at once from the work. Lumber for grillage under the foundation of the sewer must be of good quality, hardwood lumber, sound, square-edged and free from warp, loose knots or other defects.
- (11) Reinforcing steel. Reinforcing steel shall conform to all the requirements of "Standard Specifications for Billet Steel Bars for Concrete Reinforcement", A.S.T.M. Designation: A-15, or to the requirements of "Standard Specifications for Rail Steel Bars for Concrete Reinforcement", A.S.T.M. Designation: A-16. All reinforcing bars shall be deformed, in conformance with the requirements of "Tentative Specifications for Minimum Requirements for the Deformation of Deformed Steel Bars for Concrete Reinforcement", A.S.T.M. Designation: A 305. Welded steel wire fabric shall conform to all the requirements of "Standard Specifications for Welded Steel Wire Fabric for Concrete Reinforcement", A.S.T.M. Designation: A-185. All reinforcing steel shall be of new stock and free from scale, rust, oil, paint or coatings of any kind.
- (12) Manhole and catchbasin castings. Castings for manhole caps and covers and for catchbasin tops shall conform in design to the standard plans on file in the office of the Engineer. All castings shall be true to pattern and free from cracks, gas holes, flaws and excessive shrinkage. Surfaces shall be free from burnt-on sand and shall be reasonably smooth. Runners, fins, risers and other risers and other cast-on pieces shall be removed. All castings shall be tough and of even grain. All parts of castings shall be thoroughly coated with a suitable asphaltum or other impervious preparation as may be acceptable to the Engineer. All castings shall be commercially machineable and, in case of manholes and catchbasins, the frame and cover shall, if necessary, be so machined that it will be impossible to rock the cover after it has been sealed in the proper position in the frame.
- (13) Cast iron manhole steps. Manhole steps furnished under these specifications shall conform in design to the standard plans on file in the office of the Engineer. They shall be true to pattern and surfaces shall be free from cracks, flaws, fins and burnt-on sand, and shall be reasonably smooth. They shall be coated with a suitable asphaltum or other impervious preparation acceptable to the Engineer. Cast iron for manhole steps shall conform to all the requirements of Class 30 of "Standard Specifications for Gray Iron Castings", A.S.T.M. Designation: A 48.
- (14) Cast iron pipe. Cast iron pipe and fittings shall be bell and spigot pattern, flanged or standardized mechanical joint, as specified or called for on the plans. All cast iron pipe and fittings shall conform to the "Standard Specifications of the American Water Works Association" or to the requirements of "Federal Specifications for Cast Iron Pipe", No. WW-P-421. All cast iron pipe shall be of the class, weight or type as called for on the plans or otherwise specified.
- (15) Joining material for bell and spigot cast iron pipe. Yarn for lead joints shall be of the best quality jute or oakum, closely twisted in one piece for each joint. Lead for pipe joints shall be pure, soft and malleable, free from dross and capable of being caulked into the joints without cracking.
- (16) Concrete pipe.
A. Nonreinforced concrete pipe. Concrete pipe furnished or used under this classification shall conform to the requirements of the "Standard Specifications for Concrete Sewer Pipe", A.S.T.M. Designation: C 14.
B. Reinforced concrete sewer pipe. Concrete pipe furnished or used under this classification shall conform to the requirements of the "Standard Specifications for Reinforced Concrete Sewer Pipe", A.S.T.M. Designation: C 75.
C. Reinforced concrete culvert pipe. Concrete pipe furnished or used under this classification shall conform to the requirements of the "Standard Specifications for Reinforced Concrete Culvert Pipe", A.S.T.M. Designation: C 76.
(Ord. 538-55. Passed 4-4-55.)
- (17) Joining material for concrete pipe. All storm sewer and sanitary sewer pipe shall have premium joints.
- (b) Alignment, Grade and Design.
(1) General. All sewer pipe shall be laid and maintained to the required lines and grade, with "Y" branches, "T" Branches, slants and openings left for manholes at the required locations and with all joints centered and all spigots home. All necessary lines and grades shall be given to the owner by the Engineer within a reasonable time after notice by the owner of the time and place he intends to work.
(2) Grade bars. The owner shall furnish all material and labor to set grade bars every fifty feet. Every pipe shall be laid at each end to line and grade indicated by a line drawn between the grade bars, by using a rod or pole of fixed length as a gauge between the working line and the pipe in the trench. A plumb bob shall be used to check the line of pipe. If the grades are flat and the Engineer so orders, the owner shall place intermediate bars between those set at the stakes of the Engineer, to avoid sag in the working line.
(3) Design. The storm frequency design criteria for storm sewers shall be as follows:

Frequency (years)

Commercial, industrial, apartments

10

Residential

5

(Ord. 11-64. Passed 4-21-64.)

(c) Excavation and Preparation of Trench.

- (1) Width. The minimum width of unsheeted trench shall be at least one foot wider than the outside diameter of pipe at the spring line. The maximum clear width of trench shall be not more than two feet greater than the outside diameter of the pipe at the spring line except by consent of the Engineer.
- (2) Depth. The depth of the excavation for the sewer or other structure herein specified shall be such that they can be built to proper grade, due allowance being made for the bottom masonry work and timber foundations. Where grillage is used, the bottom excavation shall be level transversely and have the same longitudinal inclination as that of the sewer. In order to place the longitudinal stringers or sleepers, only enough excavation shall be done to place the same in position, the earth between such sleepers in no case is to be excavated deeper than the bottom of grillage planks. When no grillage is used, the bottom excavation shall be such as to exactly fit the wooden invert, the outside contour of the masonry, or be left horizontal transversely. Should the owner excavate beyond the limits herein specified, the space so caused alongside or below the masonry of the sewer shall be completely filled with masonry, if such is used in the sewer construction, or with class "C" concrete and the cost of such masonry or concrete shall be included in the contract unit price for the sewer complete in place.
- (3) Blasting procedure. Blasting for excavation will be permitted only after securing the written approval from the Chief of Police who shall fix the time during which blasting may be done and what protective measures must be used to insure safety of adjacent property. The owner shall be responsible for any damage resulting from blasting. The owner's method of procedure relative to blasting shall conform to State Laws and to local City ordinances.
- (4) Braced and sheeted trenches. Wherever necessary to prevent caving, excavations in sand, gravel, sandy soil or other unstable material shall be adequately sheeted and braced. Where sheeting and bracing is used, the trench width shall be increased accordingly. Trench sheeting shall remain in place until the pipe has been laid and the earth around it compacted to a depth of one foot over the top of pipe. Sheetting left in the trench by order of the Engineer will be paid for at price bid per 1000 (M) feet.
- (5) Drainage. The owner shall, when ordered by the inspector, construct tight bulkheads across the trench and provide pumps suitable for the removal of any water which may be encountered or which may accumulate in the trenches. In no case shall the water be permitted to rise upon or flow through the sewer until permitted by the inspector.
- (6) Existing watercourses. The owner shall, at his own expense, provide for the protection and securing of a continuous flow in open watercourses, ditches or pipes encountered during the progress of the work and shall repair any damage that may be done by reason of them.
- (7) Road surfaces, curbing, driveways and sidewalks. The owner shall remove all pavements, road surfaces, curbing, driveways and sidewalks within the lines of excavation. The owner shall make all cuts by a channeling machine, hand operated pneumatic tools or by such other methods as will furnish a clean cut in the pavement and base without undue shattering. All concrete curbing, driveways or sidewalks within the lines of excavation shall be broken up and removed by the owner. All such work as above designated shall be done at the owner's expense and in accordance with the rules and regulations of the City in which the work is done. The use of a "pear" or weight dropped on the pavement for breaking will not be allowed except by written permission of the Engineer.
- (8) Excavation by machine or by hand. The use of excavation machinery will be permitted except in places where the operation of the same will cause damage to trees, buildings or existing structures above or below ground; in which case hand methods shall be employed. All work must be done in open trench, no tunneling, boring or forcing will be allowed without a special written permit from the Engineer. The excavated material must be so piled as not to endanger the work, obstruct driveways and sidewalks nor interfere with proper drainage.

(d) Laying Vitrified Pipe.

- (1) General. All vitrified pipe for use in sanitary or storm sewers shall conform to the specifications for vitrified pipe in subsection (a)(9) herein. Unless otherwise specified or called for on the plans, all vitrified pipe shall be "standard strength", A.S.T.M. Designation C-13. All vitrified pipe shall be carefully laid to the lines and grades given by the Engineer, without offsets or unevenness at the joints. Grades shall be taken from established batter boards and a "top line", and the owner shall always maintain the "top line" for a distance covering three grade stakes, and shall also maintain three adjacent batter boards in place. A straight planed measuring pole, about one and one-half inches square, with an iron bracket on the bottom, shall be furnished by the owner at each place where pipe laying is in progress, together with strong "top line" cord and plumb bob. All pipe shall be laid with bells uphill.
- (2) Joints. Unless otherwise specified or called for on the plans, all vitrified pipe shall be joined with precast bituminous joints, made in the following manner:
Each pipe shall be fitted with a die-cast tapered collar of an approved bituminous compound on the spigot end of the pipe, and a die-cast lining or ring of similar compound in the socket of the pipe. The collar and ring shall be of such size as to assure a tight fit when the spigot is shoved firmly into the socket portion of the pipe. All pipe must be dry and clean when the lining and collar are cast, and the compound must be poured at a temperature high enough to procure proper adhesion to the pipe.
All collars and rings shall be inspected before the pipes are laid, and no pipe shall be used if either collar or ring shows any void or unfilled space. No jute or other caulking material will be permitted. When laying the pipe, the lining and collar shall be painted with an adhesive or solvent which shall cause their surfaces to become plastic or tacky and, when the pipes are shoved firmly together, solvent, congeal and become one homogenous body. The collar and ring shall be free from any foreign material which will prevent proper adhesion of the bituminous surfaces forming the joint. The die-cast bituminous joint shall be that manufactured under the name of "Slipseal", or an approved equal.
- (3) Construction; single pipe sewers. In earth excavation, unless otherwise specified or called for on the plans, the bottom of the trench shall be excavated to fit the outside periphery of the lower quarter of the pipe, with holes being dug for the bells, and the pipe having full bearing on the bottom of the trench throughout its length. Should the trench not be excavated neatly, all space below the pipe must be filled with Class "C" concrete, extending up around the sides of the pipe so that the lower third of the pipe is supported its entire length, and the cost of such concrete bedding shall be included in the contract unit-price for the sewer complete in place.
In no case shall material be placed under the bell to secure proper grade.
In case of eighteen-inch pipe or larger, a suitable device shall be used to maintain the pipe in a horizontal position while entering the spigot into the bell of the preceding pipe.
In rock, shale or any unyielding material, or where called for on the plans or when ordered by the Engineer, the bottom of the trench shall be excavated at least three inches below the bottom of the pipe, and the pipe shall then be bedded in Class "C" concrete extending up around the sides of the pipe so that the lower third of the pipe is supported its entire length. Where ordered by the Engineer or where specified or called for on the plans, the entire pipe shall be encased in Class "C" concrete. Such concrete encasement shall have minimum dimensions of three inches below and above the outside of the pipe, and extending laterally to the walls of the trench as excavated. Payment for such concrete bedding or encasement shall be made at the contract unit price for concrete bedding. Care shall be taken to prevent the precast bituminous joints from coming into contact with the fresh concrete until after they have been joined.
The trench space each side of the pipe and for a distance of twelve inches above the top thereof shall be backfilled with suitable fine earth, slag or bank sand and thoroughly compacted before any backfilling by machinery is allowed.
The draining of the trench shall be so effected that no water can run through newly laid pipe, nor accumulate in the trench until after the concrete has thoroughly set. All concrete work shall be set up hard before any backfilling work is started.
In no case shall more than 200 feet of trench be opened in advance of pipe laying operations, unless ordered by the Engineer.
All sewers shall be tightly closed at open ends at the completion of each day's work.

(e) Laying Concrete Pipe.

- (1) General. All concrete pipe for use in sewers shall conform to the specifications for concrete pipe in subsection (a)(16) herein and shall be of the class or type called for on the plans, or otherwise specified.
- (2) Joints. Unless otherwise specified or called for on the plans, all concrete pipe shall be joined with an approved plastic bituminous jointing compound as specified in subsection (a)(17) herein.
- (3) Construction; single pipe sewers. Except as otherwise specified herein, concrete pipe shall be laid in accordance with specifications for vitrified pipe in so far as the same may be applicable. Satisfactory means shall be used to hold the pipe in line while the pipes are being joined, and due precaution shall be taken to insure that the spigot end of the pipe being laid is pushed home into the groove of the preceding pipe. A derrick with an approved hoisting lift and hook shall be used to lower concrete pipe into the trench. In earth excavation, unless otherwise specified or called for on the plans, the bottom of the trench shall be nearly formed to fit the contour of the pipe. Should the trench not be excavated neatly, all space below the pipe must be filled with Class "C" concrete, extending up around the sides of the pipe so that the lower third of the pipe is supported its entire length, and the cost of such concrete bedding shall be included in the contract unit price for the sewer complete in place.
- In rock, shale or any unyielding material, or where called for on the plans, or where ordered by the Engineer, the bottom of the trench shall be excavated at least three inches below the bottom of the pipe, and the pipe shall then be bedded in Class "C" concrete extending up around the sides of the pipe so that the lower third of the pipe is supported its entire length. Payment for such concrete bedding shall be made at the contract unit price for concrete bedding set forth in the proposal.
- Tongue and groove pipe shall be laid with the groove end upstream. The groove end of the first pipe shall be thoroughly cleaned and a layer of bituminous jointing compound applied to the lower half of the groove. The tongue end of the second pipe shall then be inserted into the groove end of the first pipe and shoved home. Sufficient jointing compound shall be used to cause the compound to be squeezed out on the interior and exterior surfaces of the pipes when the pipes are shoved together, and all of the angular space of the joint must be completely filled. The joints shall be troweled smooth, on both interior and exterior surfaces of the pipe, throughout their circumference. In applying the bituminous jointing compound, no admixtures of any kind, such as cement or sand, shall be added to or mixed with the compound. The Compound shall be prepared or mixed strictly in accordance with the manufacturer's directions. Proper precautions shall be taken to prevent water, mud, fresh concrete, or other foreign substances from coming into contact with the jointing compound during jointing operations. All pipe joints must be dry when the compound is applied.
- Previous to being lowered into the trench, each pipe shall be carefully inspected and those not meeting the specified requirements shall be either destroyed or immediately removed from the site of the work. Pipes having minor defects not sufficiently serious to cause rejection shall be so laid as to bring such defects in the top half of the sewer. No pipe shall be laid within ten feet of the machine excavating the trench nor within forty feet of any place where blasting is being done. The trench space each side of the pipe, and for a distance of twelve inches above the top thereof, shall be backfilled with suitable fine earth, slag or bank sand and thoroughly compacted before any backfilling by machinery is allowed.
- (f) Dual Sewer Construction. In the construction of dual sewers, the sanitary and storm sewers shall be constructed as above specified for vitrified pipe and concrete pipe, or as shown on the plans. The sanitary sewer trench outside the pipe shall be completely filled with Class "C" concrete, with a minimum of three inches of concrete below the bottom of the pipe, and a minimum of six inches of concrete on each side of the pipe, and extending up to the bottom of the storm sewer. The storm sewer pipe shall be laid on a cradle of Class "C" concrete, with a minimum of three inches below the bottom of the pipe, and extending up around the sides of the pipe to the limits shown on the plans. If the sanitary or storm sewer trench is excavated below or beyond the limits above specified, the entire space so excavated shall be filled with Class "C" concrete.
- In dual sewer construction, the sanitary and storm sewers shall be laid with a horizontal distance of eight inches between the outsides of the pipe barrels.
- The sewer trench shall be backfilled with fine earth, slag or bank sand of thoroughly compacted, to a height of twelve inches above the top of the storm sewer, before any backfilling by machinery is allowed.
- In placing concrete cradles or fill, the methods used shall be such as to prevent mud, earth, clay or other foreign materials from becoming mixed with the concrete.
- In no case shall "dry-mix" concrete be placed in the trench without permission of the Engineer.
- The cost of concrete bedding or encasement for dual sewers shall be included in the contract unit price paid for sewers, and no additional compensation will be allowed for this item.
- (g) Backfilling.
- (1) Extent of Backfill. The backfilling includes all backfilling, ramming, puddling or rolling as required, the regrading of adjacent disturbed areas, the replacing of drains and other surface and subsurface structures, the placing and maintaining of temporary sidewalks and driveways, furnishing of suitable backfill material if necessary, reseeding lawns and replacing trees and shrubbery damaged by the owner and all appurtenant work incidental thereto.
- (2) Backfill material. Only fine earth, slag or bank sand shall be used for backfilling along the sides of the sewer, and to a height of twelve inches over the top of the sewer. Should, in the opinion of the Engineer, the material excavated from the trench be unsuitable for backfilling immediately over the sewer, the owner shall, at his own expense, secure suitable material from other sources. The backfilling material shall be brought up evenly on both sides of the sewer and thoroughly compacted by tamping or ramming before any dumping from cars or buckets is permitted.
- All backfilling must be laid in horizontal layers, of a depth required by the Engineer, and thoroughly compacted by methods satisfactory to the Engineer. No pieces of rock larger than one cubic foot in volume shall be used in backfill, and all rock particles used in backfill shall be entirely surrounded by fine material. If ordered by the Engineer, the entire trench shall be puddled by flooding with water from a fire hose or conducted along the sewer trench by means of a ditch excavated for that purpose, or by addition of water during backfilling.
- No backfilling shall be made during freezing weather except by permission of the Engineer, and no fill shall be made when the material already in the trench is frozen, nor shall frozen material be used in backfilling.
- (3) Sand backfill. Where ordered by the Engineer, the excavated material shall be removed from the site of the work and bank sand containing not more than ten percent by weight of loam or clay and free from all deleterious or objectionable material shall be used for backfilling. If required, this sand backfill shall be compacted by tamping in layers of not more than six inches, or by flooding, as may be directed by the Engineer. Sand for backfill, when ordered by the Engineer, will be paid for at the contract price set forth in the proposal.
- (h) Disposal of Surplus Excavated Material. All surplus excavated material shall be removed and deposited upon lands abutting the improvement if such fill is requested by the property owners. If no filling of abutting property is desired, the owner shall dispose of such surplus wherever he can arrange for rights to fill.
- (i) Drainage of Trenches. The sewer trench must in all cases be kept substantially free from storm, surface and subsoil water or sewage, so that all masonry and joints may have ample time to set and harden. No joints shall be made under water. If necessary to accomplish this, in the opinion of the Engineer, the owner shall fill the bottom of the trench with a three-inch layer of crushed slag or stone screenings and install a tile underdrain, embedded on all sides in not less than three inches of crushed slag or stone screenings. All joints of this drain shall be covered with strips of burlap or other cloth of proper porosity. This work shall be paid for at the price bid for the same only when installed upon the written order of the Engineer.
- (j) Manholes. All manholes shall be built in accordance with construction plans on file at the office of the Engineer. They shall be built of two and one-half by four by eight and one-half inches shale brick laid in Portland Cement mortar with bricks arranged radially as headers, forming a wall nine inches thick. In deep manholes the wall shall be thirteen inches thick below a point twelve feet from the surface. All brick composing manholes shall be laid in full mortar beds with no mortar joint appearing on the inner surface of the manhole exceeding three-eighths of an inch thick.
- The top of the walls of manholes shall be properly leveled off with mortar so as to form a flat surface upon which the cast iron manhole ring is to rest and the manhole shall be carried to proper height above the sewer.
- The entire outer surface of manholes shall be plastered with a smooth coating of Portland Cement mortar at least one-half inch in thickness.
- The owner shall furnish and set in mortar, upon the top of each manhole, a cast iron manhole ring and cover, ventilated or solid as required, circular in form and cast with the word "sewer" in raised letters. Unless otherwise specified, or shown on the plans, the design, dimensions and weight of the manhole ring and cover shall conform with the standard plans on file in the office of the Engineer.
- Cast iron steps, as specified in subsection (a)(13) herein, shall be built into each manhole and shall be continued downward along the interior side of the manhole to a level three feet above the bottom of the sewer. Such steps shall be built into the brick work in a manner satisfactory to the Engineer and shall be spaced not more than fifteen inches apart.
- (k) Drop Manholes. Where shown on the plans, drop manholes of the design shown shall be constructed. Drops shall be encased in concrete to the full dimensions shown and the cost of such concrete encasement shall be included in the contract unit price for the manhole, complete in place.
- (l) Catchbasins. Catchbasins shall be built in accordance with the plans for the same on file in the office of the Engineer. Brick used in constructing them shall be of shale as specified for manholes.
- Unless otherwise specified, or shown on the plans, the design, dimensions and weight of catchbasin covers shall conform with the standard plans on file in the office of the Engineer.
- The catchbasins and connections shall be cleaned out before final acceptance of the work. The owner shall test the catchbasin with water when so directed by the Engineer.
- (m) Inlets. Inlets shall be built in accordance with the standard plan on file in the office of the Engineer. The cover shall be the same as used on catchbasins, unless otherwise specified.
- (n) Bulkheads. Bulkheads shall be constructed by the owner at such locations along the sewers as shown on construction plans. They shall be built of brick masonry, nine inches thick, unless otherwise specified.
- (o) Mortar. Cement mortar used in brick masonry, stone masonry, foundations and all underground construction, unless otherwise specified, shall be composed of one part Portland Cement and three parts sand. Mortar for grouting shall be composed of one part Portland Cement and two parts sand.
- The ingredients must be proportioned by measurement and not by estimation. They must be thoroughly mixed dry in a suitable tight box, after which the proper quantity of clean water shall be gradually added and then hoed or worked until a uniform mixture is secured. No greater quantity of mortar is to be prepared than is required for immediate use, and any that has set shall not be retempered or used in any way.
- No lime or other admixtures of any description shall be used unless so specified or permitted by the Engineer.
- (p) Concrete.
- (1) General. Concrete shall consist of a mixture of Portland Cement, aggregates and water, proportioned in accordance with the requirements of this specification.
- (2) Proportions. In proportioning concrete materials, one bag (sack) of cement shall be considered as being one cubic foot volume and ninety-four pounds weight.
- Total maximum water shall be considered as that including added water and absorbed (surface) water in the aggregates.
- Cement shall be measured by weight and shall be weighed on a balance or scale separate from those used to weigh the other ingredients.
- Aggregates shall be measured by weight. Batch weights shall be based on surface-dried materials and shall be corrected to take into account the weight of surface water contained in the aggregates.
- Water shall be measured by volume or weight. Concrete shall be of two classes, Class "A" and Class "C", and shall be proportioned as follows:

	Class "A"	Class "C"
Maximum water, gallons per bag of cement	6-3/4	8
Minimum cement, bags per one cubic yard of concrete	5-3/4	4-1/2
Minimum compressive strength, pounds per square inch at twenty-eight days	3,000	2,000
Proportion by volume, cement to total aggregate	1 to 5-1/4	1 to 7

The proportions of fine and coarse aggregates shall be such as to produce the maximum density consistent with proper workability.

Class "A" concrete shall be used for all retaining walls, culverts, special structures, manhole and catchbasin base slabs, and where otherwise specified or shown on the plans.

Class "C" concrete shall be used for all sewer pipe bedding or cradles, concrete filling and where otherwise specified or shown on the plans.

- (3) Mixing. All concrete shall be thoroughly mixed in a batch mixer of approved type for at least one and one-half minutes. By permission of the Engineer, a hand mixing may be done in case of emergency or when small quantities of concrete are required and where the use of a mixer is impracticable. The use of "ready-mixed" concrete will be permitted, providing it conforms with all the specifications for concrete contained herein. Concrete so mixed must be mixed, handled and transported so as to cause no segregation of materials when deposited, and shall be mixed not to exceed one hour before placing, unless otherwise permitted by the Engineer. The use of concrete, cement or mortar which has been partially hardened or set will not be permitted.
- (4) Forms. Forms of substantial material shall be erected and removed by the owner, and the cost of the same shall be included in the contract price per cubic yard of concrete. All material used for facing against the concrete shall be surfaced and shall be securely held to line by timbers or studding so that no bulging or spreading results from the pouring of the concrete. When required by the Engineer, forms for surfaces of concrete to be exposed in the finished work shall be surfaced with Masonite, Prestwood or plywood. Forms shall be tight so as to prevent water and cement from escaping. Bolts or tie rods shall be used to tie the forms together and shall be so made and placed that they will leave no metal within one inch of the surface of concrete. Wiring of forms will be allowed only by permission of the Engineer.
- (5) Placing concrete. Earth foundation beds shall have all loose material removed and shall be inspected by the Engineer before any concrete is placed. When water collects in the excavation, it shall be removed before any concrete is placed therein. When there is a continuous flow of water into the excavation, a power-driven pumping unit, of approved design, shall be provided.
- Concrete shall be handled from the mixer to place as rapidly as practicable and in a manner that will prevent segregation. Concrete shall not be dropped from a greater height than six feet. The concrete shall be thoroughly spaded against the forms or vibrated with mechanical vibrators, as the Engineer may direct. All reinforcement shall be carefully and accurately set and rigidly held in place. Construction joints shall be scrubbed with wire brushes or cleaned with a steam jet, and well grouted before adding new concrete.
- (6) Work in freezing weather. Unless otherwise specified, concrete when deposited shall have a temperature of not less than fifty degrees Fahrenheit, nor more than 115 degrees Fahrenheit. In freezing weather, suitable means shall be provided for maintaining the concrete at a temperature of forty-five degrees Fahrenheit for a period of not less than seven days. Methods of heating shall be subject to approval of the Engineer.

Any concrete which may be damaged by frost action shall be replaced by the owner at his own expense.

(7) Protection and curing. All concrete shall be protected and shall be properly cured by sprinkling or by covering with wet burlap or cotton mats, sisalkraft paper or 100 percent sulphate Kraft paper cemented with a suitable bituminous material for a period of not less than seven days, unless otherwise permitted by the Engineer.

(q) Branch Connections and Risers. Vitrified Y-branches, of the size specified, shall be installed at the locations shown on the plans, or as directed by the Engineer. Where concrete pipe is used for the main sewer construction, vitrified pipe "Y" saddle slants shall be used. All Y- branches and slants shall be firmly supported by a fill of Class "C" concrete, extending from the bottom of the sewer trench to a point three inches above the hub of the spur of the Y-branch or slant. Openings at the outer end shall be closed with vitrified stoppers and sealed with an approved bituminous compound. When required, on account of the depth of the sewer, branches shall be built up vertically with vitrified riser pipes to a point at least nine feet below the top of the curb or ground surface, using bends wherever necessary. The riser pipes shall be recessed into the bank of the sewer trench and encased with Class "C" concrete for their full height. The cost of concrete encasement for risers, and the cost of concrete supports for Y-branches and slants, shall be included in the contract unit price for those items. All material and workmanship shall conform to the specifications for vitrified pipe sewers.

(r) Service Curb Connections. Sewer service curb connections shall be constructed as shown on the plans, and shall be laid in accordance with the specifications for vitrified pipe sewers from the main sewer to a point three feet back of the curb line.

Wherever test "T"s are installed, the same shall be encased in Class "C" concrete to a point opposite the top of the upper sewer.

All curb connections shall be closed at the outer end with vitrified stoppers, sealed with approved bituminous jointing compound.

Where concrete encasement of curb connections is specified, or called for on the plans, the cost of such concrete encasement shall be included in the contract unit price for curb connections.

(s) Leakage Tests for Sewers. All sewers constructed under these specifications shall be tested for leakage, in the following manner:

(1) Single sewer construction. As soon as a section of sewer has been constructed between manholes, and the manholes have been completed, a suitable plug manufactured for that purpose shall be inserted in the sewer at the lower manhole, and the section filled with water to a head of at least one foot above the top of the sewer pipe in the upper manhole. The drop in head at the upper manhole shall not exceed one-half inch for eight-inch sewers to two inches for thirty-inch sewers for the last thirty minutes of a period of one hour.

(2) Dual sewer construction. In testing dual sewers for leakage, the storm sewer in the lower manhole of each section shall be plugged as above specified, and the sanitary sewer shall be plugged on the downstream side of the lower manhole and on the upstream side of the upper manhole. The storm sewer shall then be filled with water to a head of at least one foot above the top of the storm sewer pipe in the upper manhole. The increase in head at the lower sanitary manhole shall not exceed one-half inch in the thirty minute period following filling of the storm sewer.

In making the above tests, all equipment and labor shall be furnished by the owner and the cost thereof shall be included in the price per linear foot of sewer.

Any section of sewer showing leakage in excess of the amounts above specified shall be repaired or replaced at the expense of the owner.

(t) Service Markings. Wherever a stone or concrete sidewalk or curb exists, service connections shall be indicated by witness signs cut into the sidewalk or curb. Each riser, slant or "Y" connection left plugged at the sewer shall be evidenced by a triangle and each sewer curb connection plugged at the curb shall be evidenced by an arrow.

(u) Leakage Test for Water Mains. Wherever sewer work is adjacent to a water main, tests of the main shall be made at the owner's expense, upon completion of the sewer work along each section of water main between line valves to determine if any leakage has been caused by the owner's operations. In case leakage is shown by the test, the owner shall have the same repaired at his own expense.

(v) Additional Concrete. Whenever, in the opinion of the Engineer, additional concrete is required over and above that required by the plans or specified elsewhere herein, he may order the owner to install or place additional concrete and when so ordered, the same shall be placed and paid for under the item "additional concrete".

(w) Clearing Street, Cleaning Up and Repairs. The owner shall remove surplus excavated material or construction materials as the work progresses, and shall keep the street in a safe and convenient condition for travel. Before final acceptance of the work, the owner shall, by means of a drag or by flushing, as directed by the Engineer, clear the sewers of any mortar, bituminous compound, dirt or other refuse that may have been left or accumulated in the sewers. All manholes, inlets and other structures shall be cleared of all forms, scaffolding, centering, surplus mortar, rubbish or dirt, and left in a clean and proper condition.

All surplus material, tools, equipment and temporary buildings shall be removed from the site of the work, and all street surfaces, gutters, walks, lawns, rights of way or other property shall be restored to as good a condition as originally found.

The owner, at his own expense, shall repair any and all damage he has caused to the street or adjoining property and shall save free and harmless the principal in this contract from all suits for damages to persons or property arising from or caused by this construction.

(x) Restoration of Sidewalks, Curbing and Paving. All pavements, road surfaces, sidewalks, driveways or curbs which the owner is required to replace shall, at the expiration of the period of maintenance, be replaced in the same manner as the original installation or as specified by the Engineer and the cost of such replacement shall be borne by the owner, unless otherwise specified.

(y) Final Repairs. Four months after the final measurements have been taken, the Engineer shall make an examination of all surfaces where sewers have been constructed, and shall note any depressions due to breakage, settlements, washouts or other causes that may be attributed to the construction of sewers. Upon written order from the Engineer, the owner shall again go over the work and repair breaks, refill depressions, remove any surplus that has previously been left upon the trenches, or make other repairs or replacements which are necessary to place all the work in first class condition.

(z) Special Requirements.

(1) Protection of underground and surface structures. Unless otherwise specified or shown on the plans, the owner shall, at his own expense, support, protect, maintain and, if necessary, repair or replace to the complete satisfaction of the owners thereof, all underground and surface utility structures, drains, sewers, culverts, water pipes and other such obstructions encountered in the progress of the work which cross the sewer trench or which run parallel with and outside the limits of the sewer trench as defined in subsection (c) herein. Such responsibility on the part of the owner shall be in effect whether or not such obstructions are shown on the plans.

Unless otherwise specified, all underground utility structures, drains, sewers, culverts, water pipes and other such obstructions, which run substantially parallel with the sewer trench and which are encountered within the limits of the sewer trench as defined in subsection (c) herein and which are not shown on the plans, shall be replaced or repaired by the owner at the expense of the owners thereof at prices to be agreed upon in writing by the Engineer and owner.

(2) Time. The owner shall begin the construction of sewers as soon as practicable, unless otherwise ordered by the Engineer, and in all cases he shall begin the construction within five days after receipt of written notice from the Engineer to do so. He shall prosecute the work diligently, effecting completion of the work within the time limits of this contract.

(Ord. 538-55. Passed 4-4-55.)

1103.08 SIDEWALKS, TREES AND STREET LIGHTS.

(a) Sidewalks.

(1) Width and depth. All sidewalks shall be a minimum width of five feet, a minimum depth of four inches and of such line and grade as determined by the Engineer.

(2) Materials. All sidewalks shall be constructed of Class "A" concrete and shall be proportioned as follows:

Maximum water, gallons per bag of cement	6-3/4
Minimum cement, bags per one cubic yard of concrete	5-3/4
Minimum compressive strength, pounds per square inch at twenty-eight days	3,000
Proportion by volume, cement to total aggregate	1 to 5-1/4

(b) Trees. All trees shall be of the type and nature specified in the Master Tree Plant Ordinance of the City and the density shall be at least one tree per lot excepting corner lots which shall have at least three trees per lot consisting of one tree on the front of such lot and two trees on the side of such lot.

(c) Street Lights. The owner shall install or cause to be installed at his own expenses street lights at all intersections and at long pavement curves as determined by the City Engineer.

(Ord. 11-64. Passed 4-21-64.)

1103.09 UNDERGROUND FACILITIES IN NEW SUBDIVISIONS; BOND.

(a) In new subdivisions, all gas distribution mains, telephone cables, electric power and street lighting wires, conduits or cables to serve lots in such subdivision shall be constructed underground and upon easements provided for utilities, ten feet in width adjacent to and parallel with the road right of way of such subdivision, except gas pipe lines may be installed within the road right of way and gas mains, wires, conduits or cables owned by or on the customer's property, need not be located upon easements.

(b) All gas distribution mains, underground telephone cables, electric power and street lighting wires, conduits or cables shall be constructed in accordance with the standards required in Administrative Order No. 72 of The Public Utilities Commission of Ohio or of other regulations of the Public Utilities Commission of Ohio.

(c) Bases must be provided for the ultimate installation of street lighting standards on minor streets by the electric utility serving the subdivision at a minimum mounting height for luminaires of fifteen feet and spaced no farther apart than every fourth lot.

Bases must be provided for the ultimate installation of street lighting standards on major or collector streets by the electric utility serving the subdivision to provide lighting intensity meeting the minimum recommendations of American Standard Practice for Roadway Lighting.

Until used, the wiring in such bases shall be safely insulated and/or de-energized.

(d) The preliminary plat with respect to any new subdivision shall be submitted to all utility companies serving the subdivision, as well as the Building Inspector, for their recommendation.

(e) Utility easements at least ten feet in width for gas distribution mains, telephone, electric power and street lighting distribution lines and facilities shall be provided on all front lot lines adjacent to and parallel with the road right of way.

(f) Prior to granting final approval, the subdivider shall have installed or shall have furnished adequate bond for the ultimate installation in accordance with the requirements of this chapter as follows:

(1) Underground telephone cables.

(2) Underground distribution cables for power and street lighting from a common distribution system, and the equipment and housing necessary in the operation of the distribution system.

(3) Adequate provision for street light lamps and standards in accordance with a design approved by Council.

(g) Council may authorize a variance from these regulations when undue hardship may result from strict compliance. In granting any variance, Council shall prescribe only conditions that are deemed necessary or desirable for the public interest and finds that there are special circumstances or conditions affecting the property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of his land.

(Ord. 15-67. Passed 2-28-67.)

1103.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. Each day any violation hereof continues shall constitute a separate offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1105

Administration, Enforcement and Penalty

1105.01 Approving agency.

1105.02 Jurisdiction.

1105.03 Compliance required.

1105.04 Recording of plat.

1105.05 Sale of land in subdivision.

1105.06 Conveyance of interests in land.

1105.07 Nonacceptance for public use and maintenance.

1105.08 Acceptance rests with Council.

1105.09 Miscellaneous plat approval; no plat required.

1105.10 Vacation of plats or parts thereof.

1105.11 Vacation of street, alley or open areas.

1105.12 Land subject to inundation.

1105.13 Responsibility of public agencies to provide service.
1105.14 Building permits; sale and lease of lots.
1105.15 Reserve strips; stub-end streets or thoroughfares.
1105.16 Modifications and exceptions.
1105.18 Conditions of modification or exceptions.
1105.19 Standard forms for execution.
1105.99 Penalty; equitable remedy.

CROSS REFERENCES

Violations of rules and regulations - see Ohio R.C. 711.102

1105.01 APPROVING AGENCY.

The Regulations shall be administered by the Planning Commission acting as a recommending agency, and the City Council as the final approving agency, except as may be otherwise provided in these Regulations.
(Ord. 120-91. Passed 8-9-93.)

1105.02 JURISDICTION.

These Regulations shall be applicable to any person engaged in the platting, transfer or recording of land and more particularly to the owner or agent of the owner engaged in the division or improvement of land as a subdivision and in platting or the replatting of land, wherever such land may be situated within the corporate limits of the Municipality.
(Ord. 120-91. Passed 8-9-93.)

1105.03 COMPLIANCE REQUIRED.

No person shall subdivide by deed, plat, instrument of conveyance or otherwise, any tract of land within the Municipality except in conformity with the provisions of these Regulations.
(Ord. 120-91. Passed 8-9-93.)

1105.04 RECORDING OF PLAT.

No plat of any subdivision shall be entitled to record in the County Recorder's office or have any validity until it has been approved in the manner prescribed herein. In the event any such unapproved plat is recorded, it shall be considered invalid and Council shall institute proceedings to have the plat stricken from the records of the County.
(Ord. 120-91. Passed 8-9-93.)

1105.05 SALE OF LAND IN SUBDIVISION.

No owner or agent of the owner of any land located within a subdivision shall transfer, sell, agree to sell or negotiate to sell any land by reference to, exhibition of, or use of, a plan or plat of a subdivision before such plan or plat has been approved and recorded in the manner prescribed herein. The description of such lot or parcel by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from the provisions of these Regulations.
(Ord. 120-91. Passed 8-9-93.)

1105.06 CONVEYANCE OF INTERESTS IN LAND.

Approval of the final plat by the Planning Commission and Council, as provided for herein, and recording of such plat with the County Recorder, shall be sufficient conveyance to vest in the Municipality a fee simple title to all streets, commons, parks or other parcels of land as therein offered for public use, and shall be sufficient conveyance to vest in the Municipality any easement for public utility or other purposes, as therein offered for public use. In order to more clearly define the interest being conveyed, the plat shall be drawn to show by hatching, cross-hatching, or other form of line shading, the exact locations of all easements and shall have written thereon a statement that the Municipality is the grantee of such easements, a description of the uses for which the easement is granted, and a statement that for the use of such easements, permits shall be issued by and regulations shall be prescribed by the Municipality, and, in the case of commons, parks or other parcels of land therein offered for public use, a general warranty deed conveying to the Municipality a fee simple title to such lands shall also be provided by the subdivider.
(Ord. 120-91. Passed 8-9-93.)

1105.07 NONACCEPTANCE FOR PUBLIC USE AND MAINTENANCE.

Such approval of a plat referred to in Section 1105.06 shall not be construed as an acceptance or an establishment by the public of the dedication of any street, highway, way or open space shown upon the plat for public use.
(Ord. 120-91. Passed 8-9-93.)

1105.08 ACCEPTANCE RESTS WITH COUNCIL.

The acceptance or establishment of such streets or open spaces for public use rests with Council. It shall not be competent for the Engineer to place his endorsement on a plat so as to constitute an acceptance of a street for public use by the Municipality as provided in Ohio R.C. 711.091 until such time as Council has enacted an ordinance accepting such street or streets for use by the Municipality.
(Ord. 120-91. Passed 8-9-93.)

1105.09 MISCELLANEOUS PLAT APPROVAL; NO PLAT REQUIRED.

Notwithstanding the provisions set forth herein, a proposed division of a parcel of land along an existing public street, not involving the opening, widening or extension of any street or road, and involving no more than five lots after the original tract has been completely subdivided, may be submitted to the Planning Commission without the plat. The Commission acting through the Engineer, as its designated representative, may recommend that Council approve the proposed conveyance if they are satisfied that such division is not contrary to any applicable platting, subdividing or zoning regulations, which includes the Major Street Plan; or any rule or regulation which the Planning Commission may have adopted for the processing of such divisions or the conduct of its business. The applicant shall submit a plat map showing the division of such land in its correctness and shall contain information as is pertinent to its determination hereunder. When the Engineer and Council are satisfied that the information submitted is sufficient for their determination, they shall decide upon such plat. Evidence of approval by the Planning Commission will be indicated by a stamp or statement reading "Approved by the Planning Commission and Council, City of Richmond Heights, Ohio - No Plat Required." The plat of the division which has been thus stamped, dated and signed by both the Clerk of Council and the Engineer shall constitute approval under this section.

If such conveyance is not submitted for recording in the office of the County Recorder within sixty days of such approval, the approval as provided for herein shall be null and void.
(Ord. 120-91. Passed 8-9-93.)

1105.10 VACATION OF PLATS OR PARTS THEREOF.

In the case of vacation of a plat or parts thereof, as previously recorded in the office of the Recorder of Cuyahoga County, Ohio, the same general procedure, rules and regulations shall apply as for a new plat. The title of the vacation shall indicate just what is being vacated, and the final map shall include enough of the surrounding plat or plats to show its relation to adjoining areas. Council may vacate any subdivision plat in the event the improvements depicted thereon have not been substantially commenced within a period of three years following the record of the plat with the County Recorder.
(Ord. 120-91. Passed 8-9-93.)

1105.11 VACATION OF STREET, ALLEY OR OPEN AREAS.

In case of a street, alley or the vacation of a commons or other open grounds, such vacation shall be submitted to the Planning Commission for review and recommendation thereon prior to consideration by Council.
(Ord. 120-91. Passed 8-9-93.)

1105.12 LAND SUBJECT TO INUNDATION.

Land subject to inundation or flood hazards by storm water, or any swamp or marsh lands, shall not be platted for residential occupancy, nor for such other uses including streets, wells or septic systems, as may increase danger to health, life or property or aggravate the flood hazard. Such land within the plat should be withheld or otherwise set aside for such uses as will not be endangered by periodic or occasional inundation, all in accordance with Chapter 1315.
(Ord. 120-91. Passed 8-9-93.)

1105.13 RESPONSIBILITY OF PUBLIC AGENCIES TO PROVIDE SERVICE.

If the Engineer or the Cuyahoga County Sanitary Engineer finds upon inspection that any of the improvements being installed and constructed, or upon completion, are not in accordance with the plans, specifications or plat in the form in which they were approved, the responsibility of the Municipality and/or the County to provide services and utilities shall cease.
(Ord. 120-91. Passed 8-9-93.)

1105.14 BUILDING PERMITS; SALE AND LEASE OF LOTS.

When the improvements within a proposed public street or within an existing public street do not conform to the standards and specifications as adopted by the City for the construction of public streets, curbs, gutters, sidewalks, street lights, water mains, storm sewers, sanitary sewers, and other utility mains, piping and other facilities, the City may require complete or partial installation of such improvements and may make such installations a condition precedent to the sale or lease of lots in such subdivisions or the issuance of a building permit for the improvements of such lot or lots thereon, and, further, may require, in lieu of actual construction, a performance bond or other guarantee of security for the purpose of assuring the installation of such improvements deemed necessary or appropriate in the public interest.
(Ord. 120-91. Passed 8-9-93.)

1105.15 RESERVE STRIPS; STUB-END STREETS OR THOROUGHFARES.

Narrow reserve strips of land, commonly called devil strips, which are intended by the owner of a plat to prevent access to streets or the extension of sewer, water or storm drain lines from one plat to another are prohibited. The Planning Commission or the Engineer acting for it, shall not authorize the division of any land, nor shall any building or use permit be issued by any Municipal official for a building or structure proposed at the terminal or closed end of any stub-ended street or major thoroughfare which division would tend to prevent the appropriate extension of such stub-ended street or thoroughfare into abutting or adjoining territory.
(Ord. 120-91. Passed 8-9-93.)

1105.16 MODIFICATIONS AND EXCEPTIONS.

Where the Planning Commission finds in any particular or specific case, due to unusual topography or other exceptional conditions not common to other areas similarly situated, that extraordinary or undue hardships may result from strict compliance with any requirement of these Regulations, it may recommend that Council relax such requirement to the extent deemed just and proper, so as to relieve such difficulty or hardship, provided that such relief will not have the effect of nullifying or impairing the intent and purpose of these Regulations, the Street Plan or the Zoning Code or jeopardize the safety or health of the community. Modifications thus granted, with the reasons therefor, shall be entered in the minutes of the Commission and submitted to Council for final approval.

1105.17 LARGE SCALE DEVELOPMENTS.

The general principles of design and the minimum requirements for the laying out of subdivisions may be varied by the Planning Commission, subject to approval by Council, in the case of a subdivision large enough to constitute a more or less self-contained neighborhood to be developed in accordance with a comprehensive plan safeguarded by appropriate restrictions, which, in the judgment of the Commission, makes adequate provision for all essential community requirements. However, no modification shall be recommended by the Commission which would conflict with the proposals of the Major Street Plan or the intent and purpose of such general principles of design and minimum requirements.
(Ord. 120-91. Passed 8-9-93.)

1105.18 CONDITIONS OF MODIFICATION OR EXCEPTIONS.

(a) Subject to the approval of Council, the Planning Commission may recommend variances and modifications as provided for in this chapter. In recommending such variances and modifications, the Commission may require such conditions as will, in its independent judgment, secure substantially the objectives of the standards or requirements so varied or modified.

(b) Before deciding upon any such modification or exceptions, the Council may give notice to abutting property owners or other persons substantially interested in the proposed change, or it may hold a public hearing thereon.
(Ord. 120-91. Passed 8-9-93.)

1105.19 STANDARD FORMS AND EXECUTION.

The Planning Commission may prepare, adopt and distribute standard forms from time to time for the execution of construction agreements, posting of bonds, title insurance, inspection fees and other administrative procedures essential to the carrying out of this chapter. However, the following criteria is hereby adopted for performance bonds, maintenance bonds and indemnity insurance:

(a) Performance Bond.

- (1) One hundred ten percent of the Engineer's estimate of the cost of construction of the storm and sanitary sewers, water systems, streets, sidewalks, street lighting systems and facilities and appurtenances thereto;
- (2) An amount, as determined by the Engineer, to cover the engineering fee commensurate with the work performed; and
- (3) An amount, as determined by the Engineer, to cover the inspection fee.

(b) Maintenance Bond. The maintenance bond shall be of such amount as determined by the Engineer and for such periods for each improvement as follows:

- (1) Streets, sidewalks, pavement and facilities appurtenant thereto: two years from the date of acceptance by the City of such facilities;
- (2) Storm and sanitary sewers, water systems, street lighting systems and facilities appurtenant thereto: two years from the date of acceptance by the City of such facilities and appurtenances; or
- (3) Temporary roads: in an amount determined by the Engineer and for a period of time as determined by the Council.

(c) Insurance. The subdivider shall furnish such insurance as is deemed necessary by the Council which shall indemnify and save harmless the City from any all liability arising by reason of the unimproved conditions of the streets of such subdivision which may arise or grow out of the construction or installation of such facilities when undertaken. The insurance shall be of such duration as determined by the Council, but shall in no case be allowed to expire earlier than the effective period of any maintenance bond. A copy of the insurance policy shall remain at all times with the Clerk of Council.

(Ord. 120-91. Passed 8-9-93.)

1105.99 PENALTY; EQUITABLE REMEDY.

(a) Whoever offers for sale, enters into a contract of sale, sells, transfers or otherwise disposes of land before all the requirements of these Subdivision Regulations are complied with, or who neglects or refuses to comply with, or otherwise violates any provision of these Subdivision Regulations, is guilty of a misdemeanor of the first degree for each lot or part of a lot sold, offered for sale, transferred or otherwise dealt with in violation of any of the provisions of these Subdivision Regulations. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) In addition to the foregoing penalty and in addition to the remedies otherwise provided by law, the Law Director is hereby authorized to institute an appropriate action or proceeding in law or equity to prevent any such violation, or to restrain, correct or abate any such violation.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1107

Preliminary Plan Procedure

1107.01 Assistance.

1107.02 Purpose.

1107.03 Layout.

1107.04 Layout requirements.

1107.05 Filing.

1107.06 Deposit for investigation and approval of plats.

1107.07 Disbursement of deposit.

1107.08 Approval.

1107.09 Time limit.

1107.10 Form and size.

1107.11 Plan contents.

1107.12 Other required information.

CROSS REFERENCES

Plat and contents - see Ohio R.C. 711.01 et seq.

Lot numbering and revision - see Ohio R.C. 711.02, 711.06, 711.28 et seq.

1107.01 ASSISTANCE.

Prior to the preparation of the preliminary plan, the subdivider should seek the assistance of the Building Commissioner in order to become familiar with the subdivision requirements and with the major street plans and maps affecting the territory in which the proposed subdivision is located.

(Ord. 120-91. Passed 8-9-93.)

1107.02 PURPOSE.

The purpose of the preliminary plan is to show all the facts which may enable the Planning Commission and other public officials to determine whether the proposed layout of the land is satisfactory from the standpoint of the public interest.

(Ord. 120-91. Passed 8-9-93.)

1107.03 LAYOUT.

The layout should be made by a qualified technician, trained in the design and planning of subdivision developments.

(Ord. 120-91. Passed 8-9-93.)

1107.04 LAYOUT REQUIREMENTS.

All required engineering and surveying work must be performed by or under the supervision of a registered engineer or surveyor in accordance with the provisions of Ohio R.C. Chapter 4733, the Engineers and Surveyors Registration Act. No owner or agent of the owner of any land within the jurisdiction of these Regulations shall transfer any lot, parcel or tract of land from or in accordance with a plat of a lot, parcel or tract of land from or in accordance with a plat of a subdivision before such plat has been approved by the Planning Commission and Council, with such approval endorsed in writing on the plat, or before the same has been recorded in the office of the County Recorder. In addition, no such person shall proceed with any work on the proposed subdivision, including grading, which may affect the arrangement of streets or utilities or which changes the natural course of surface drainage, until he has obtained tentative approval of the proposed subdivision plat and has executed the required agreement and has posted bond as hereinafter set forth.

(Ord. 120-91. Passed 8-9-93.)

1107.05 FILING.

The subdivider or his agent shall submit to the Building Commissioner at least eight black or blue on white prints of the preliminary subdivision layout and supporting drawings for the installation of the required improvements. The Building Commissioner shall submit the preliminary documents to the Engineer and other officials as may be involved for report thereon.

(Ord. 120-91. Passed 8-9-93.)

1107.06 DEPOSIT FOR INVESTIGATION AND APPROVAL OF PLATS.

At the time of filing the application for the approval of any plat, or at the time plans and specifications for any improvement are submitted to the Building Commissioner for approval, there shall be deposited with the Finance Director an amount of money sufficient, in the opinion of the Engineer, to cover the cost and expense of such investigation as may be necessary to determine whether such proposed allotment conforms to these Regulations or its improvements have been made or are being installed in accordance with the requirements of these Regulations and the plans and specifications approved by the Engineer.

(Ord. 120-91. Passed 8-9-93.)

1107.07 DISBURSEMENT OF DEPOSIT.

The cost and expense of such investigation made by the Engineer or his assistants shall be paid from such deposit upon itemized bills rendered by the Engineer. In case such expenditures exceed such deposit, the excess shall, upon demand by the City, be paid by the owner forthwith to the Finance Director. In case the deposit exceeds such expenditure, the balance will be refunded to the applicant within a reasonable time after the completion of such investigation.

(Ord. 120-91. Passed 8-9-93.)

1107.08 APPROVAL.

The Planning Commission shall consider the preliminary plan with the reports and recommend that Council either approve, disapprove or withhold formal action thereon within such further time as the applying party may agree to. The ground for refusal or approval, including citation of or reference to the rule or regulation violated, shall be stated upon the records. The Council will normally indicate its tentative approval by notation on one copy of such plans for the subdivider's record.

(Ord. 120-91. Passed 8-9-93.)

1107.09 TIME LIMIT.

Approval of the preliminary plan shall be effective for a maximum period of twelve months unless, upon application of the developer, the Council grants an extension. If the final plan has not been recorded within this time limit, the preliminary plan must again be submitted to the Commission for approval.

(Ord. 120-91. Passed 8-9-93.)

1107.10 FORM AND SIZE.

The preliminary plan shall be clearly and legibly drawn. The size of maps shall not be less than eight and one-half by eleven inches nor more than thirty-six by forty-eight inches. Subdivisions of six acres or less shall be drawn at a minimum scale of one inch equals fifty feet. All others shall be drawn at a minimum scale of one inch equals 100 feet, unless otherwise authorized by the Engineer.

(Ord. 120-91. Passed 8-9-93.)

1107.11 PLAN CONTENTS.

The preliminary plan shall contain the following information:

- (a) The proposed name of the subdivision. The name shall not duplicate any other recorded plan or subdivision in the Municipality or County;
- (b) The tract designation according to real estate records of the County and approximate acreage within the subdivision;
- (c) The lot lines, approximate dimensions and lot numbers;
- (d) The name and addresses of the subdivider, owner and surveyor;
- (e) The scale of plan, north point and date;
- (f) The boundaries of the subdivision indicated by a heavy line with the approximate dimensions and bearings thereof;
- (g) The location, widths and names of existing or proposed streets, within or adjacent to the tract, railroad right-of-way, easements, parks, permanent buildings, section and corporation lines. New street names shall not duplicate any existing street names within the Municipality;
- (h) The names of adjacent subdivisions and owners of adjoining parcels or unsubdivided land;
- (i) The zoning classification and district boundaries and proposed front yard building setback lines;
- (j) The existing contours with intervals of not more than five feet where the slope is greater than ten percent, and not more than two feet where the slope is less than ten percent. However, one-foot contours are recommended and will be required in relatively flat topography. Elevations shall be based on sea level data;
- (k) The high water elevations in the vicinity of streams or lakes; exact location and character of any swamp or marsh lands; and
- (l) The drainage channels, wooded areas, power transmission poles and lines and any other significant physical features.

(Ord. 120-91. Passed 8-9-93.)

1107.12 OTHER REQUIRED INFORMATION.

The following information shall also be required.

- (a) A statement of the proposed use of the building sites or lots so as to reveal the type of residential development with the number of dwelling units; the type and extent of business, industry, institution or other structures and their effect on traffic flow through streets, public service facilities, fire or health hazards, or congestion of population;
 - (b) Any existing or proposed covenants and restrictions;
 - (c) The source of water supply and provisions for sewage disposal and storm drainage; and
 - (d) An indication of all parcels of land intended to be dedicated or temporarily reserved for public use, or to be reserved in the deeds for the common use of property owners in the subdivision, with the purpose, conditions or limitations of such reservations.
- (Ord. 120-91. Passed 8-9-93.)

CHAPTER 1109

Final Plat Procedure

- 1109.01 Conformity required.**
- 1109.02 Filing.**
- 1109.03 Approval.**
- 1109.04 Time limit.**
- 1109.05 Approval not acceptance of dedication.**
- 1109.06 Streets must be accepted by Council before Engineer approves plat.**
- 1109.07 Recording of plat.**
- 1109.08 Form and size.**
- 1109.09 Map contents.**

CROSS REFERENCES

Approval by Planning authority - see Ohio R.C. 711.09

1109.01 CONFORMITY REQUIRED.

The final plat of the subdivision shall conform to the approved preliminary plan. It may constitute only that portion of the preliminary plan which the subdivider proposes to record and develop at that particular time, provided that such portion conforms with all the requirements of these Regulations.

(Ord. 120-91. Passed 8-9-93.)

1109.02 FILING.

After receiving notice from the Clerk of Council that the preliminary plan has been approved by Council, the subdivider may then proceed to prepare and file with the Building Commissioner:

- (a) Copies of the final plat of the subdivision as required and specified herein;
- (b) Street cross-sections, profiles, specifications and other construction drawings for the installation of the required public improvements;
- (c) Inspection fees as hereinafter set forth;
- (d) Title insurance in the amount of one thousand dollars (\$1,000), meeting the approval of the Law Director, covering the lands to be dedicated and showing the title to such dedicated streets or land good in the name of the Municipality;
- (e) The construction agreement, performance bond and maintenance bond as required and specified below:
 - (1) Should it not be desirable or possible for the subdivider to do all work herein required to place the streets and other improvements in an acceptable condition prior to the submission of the final plat to the Commission for approval, then such final plat may nevertheless be approved, provided that a construction agreement, performance bond and maintenance bond acceptable to the Law Director is given for the purpose of assuring the installation of such improvements deemed by the Commission to be necessary and appropriate in the public interest. The amount of such performance guarantee shall be sufficient to cover the cost of all improvements or uncompleted portions thereof, based on an estimate furnished or acceptable to the Engineer and satisfactory to the Law Director. Such performance agreement and security may be made under such conditions and time limitations as the City may determine; or
 - (2) In the event the subdivider desires to complete the required improvements or a part thereof before seeking final plat approval, he must prepare and file with the Building Commissioner all of the above-listed plat requirements including the execution of the construction agreement but the subdivider need not post the performance bond. Construction under this latter procedure shall be withheld until after the Planning Commission and Council have reviewed all of these required final plat documents and has formally authorized the subdivider to construct and install the improvements subject to further certification by the Engineer and final plat approval set forth in Section 1109.03. Upon completion of the streets and other required improvements, application may be made to the Engineer for certification that all such improvements as specified in the agreement have been satisfactorily installed.

(Ord. 120-91. Passed 8-9-93.)

1109.03 APPROVAL.

The Building Commissioner shall distribute copies of the final drawings to the Engineer or such other officials as maybe involved for report thereon. When the Engineer is satisfied that the final plat documents are completed he shall submit such documents to the Council with the reports and his recommendations thereon. The Council shall either approve, disapprove or withhold formal action thereon within such further time as the applying party may agree to. The Council's approval shall be indicated by notation on the tracing of the final plat. If disapproved, the ground for disapproval of the final plat of the subdivision shall be stated on the record of the Council, including reference to the regulation violated by the plat.

(Ord. 120-91. Passed 8-9-93.)

1109.04 TIME LIMIT.

Approval of the Council required by Section 1109.03, or the refusal to approve, shall take place within ninety days after the submission of the final plat for approval or within such further time as the applying party may agree to; otherwise such plat is deemed approved, and the certificate of the Council, 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 within endorsement or other evidence of approval required by this chapter. The ground of refusal or approval of any plat submitted, including citation of or reference to the rule or regulations violated by the plat, shall be stated upon the records of the Council.

(Ord. 120-91. Passed 8-9-93.)

1109.05 APPROVAL NOT ACCEPTANCE OF DEDICATION.

Approval of a plat by the Council shall not be an acceptance by the public of the dedication of any street, highway or other way or open space upon the plat.

(Ord. 120-91. Passed 8-9-93.)

1109.06 STREETS MUST BE APPROVED BY COUNCIL BEFORE ENGINEER APPROVES PLAT.

The Engineer shall not approve a plat constituting an acceptance of a street for public use by the Municipality as provided in Ohio R.C. 711.091 until such time as Council has enacted an ordinance accepting such street for public use by the Municipality.

(Ord. 120-91. Passed 8-9-93.)

1109.07 RECORDING OF PLAT.

The final plat of the subdivision, when approved by the Council, shall have such approval endorsed thereon. Such tracing shall be retained by the Municipality until it is delivered to the County Recorder for record and until the subdivider has furnished one photolithoprint or other acceptable reproduction for the record file of the Engineer. All fees required in connection with the recording or reproduction of the plat shall be paid by the subdivider.

(Ord. 120-91. Passed 8-9-93.)

1109.08 FORM AND SIZE.

The final plat of the subdivision shall be clearly and legibly drawn in India ink on tracing cloth or other acceptable material. The size and scale shall conform to the same specifications as for the preliminary plan.

(Ord. 120-91. Passed 8-9-93.)

1109.09 MAP CONTENTS.

The final plat shall contain the following information:

- (a) The name of the subdivision; its location by municipality, section, town, range, township, county, state; the scale, date and north point;
 - (b) The tract and plat boundary lines, with length of courses to 1/100 foot and bearings to minutes and seconds. When required by the Engineer, all calculations and field notes shall be submitted for review;
 - (c) The bearings and distances to the nearest established street lines, section corners or other recognized permanent monuments;
 - (d) The municipal, township, county or section lines accurately tied to the lines of the subdivision by distances and bearings;
 - (e) The names and right-of-way width of each street;
 - (f) The length of all arcs, chords and chord bearings, radii, internal angles, points of curvature and tangent bearings;
 - (g) All easements for rights-of-way provided for public services or utilities and any limitations of such easements;
 - (h) All easements of access or open spaces established for common use of the occupants or owners within the plat;
 - (i) Accurate outlines of any areas to be dedicated or temporarily reserved for public use with the purpose indicated thereon;
 - (j) The precise location and description of all monuments;
 - (k) All lot numbers and lines to identify each inlet or site and all inlots, outlots or fractional lots within such plat, with precise property dimensions in feet and hundredths and with bearings or angles to street lines. All inlots or sites shall be numbered consecutively starting with the number one or with the next larger number in case of an addition to an already recorded plat by the same owner. In case of replats or the vacation of a plat, the developer shall consult with and follow the instructions of the County Recorder or Auditor as may be involved;
 - (l) The minimum or intended building setback lines on all sublots or sites;
 - (m) Protective covenants shall normally be shown on the plat or they may be recorded as a part thereof in the form of separate instrument provided appropriate reference thereto is plainly shown on the plat;
 - (n) Certification by a registered, professional civil engineer or surveyor to the effect that the plat represents a correct survey made by him and that all the monuments shown thereon actually exist, and that their location, size and material are as shown;
 - (o) A notarized certification by the owner of his adoption of the plat, and dedication of streets and/or public open spaces; and
 - (p) Space for the statement of approval by the Planning Commission with one line for the date and signature;
 - (q) All of the above required signatures should be written with India ink.
- (Ord. 120-91. Passed 8-9-93.)

CHAPTER 1111

Design Standards and Details

- 1111.01 Conformity with Major Street Plan.**
- 1111.02 Continuation of existing streets.**
- 1111.03 Circulation.**
- 1111.04 Street intersections.**
- 1111.05 Street jogs.**
- 1111.06 Half-streets.**
- 1111.07 Topographical and cultural features.**
- 1111.08 Alleys.**
- 1111.09 Portion of tract; topography and sketch layout.**

- 1111.10 Dead-end streets.
- 1111.11 Cul-de-sac street.
- 1111.12 Relation to major streets.
- 1111.13 Development along railroads.
- 1111.14 Public sites and open spaces.
- 1111.15 Typical street standards.
- 1111.16 Minimum and maximum grades.
- 1111.17 Street alignment.
- 1111.18 Intersections.
- 1111.19 Blocks.
- 1111.20 Lots.

CROSS REFERENCES

Specifications for public and private roads - see P. & Z. Ch. 1103

1111.01 CONFORMITY WITH MAJOR STREET PLAN.

The arrangement, character, width, grade and location of all streets shall conform to the Major Street Plan for the opening, widening or extension of any street, road or major thoroughfare as adopted by the Planning Commission or otherwise by ordinance of Council, in the public interest. Whenever a tract to be subdivided includes any part of such thoroughfare as approved or shown on the adopted plan such part shall be dedicated to the public for street purposes by the subdivider.
(Ord. 120-91. Passed 8-9-93.)

1111.02 CONTINUATION OF EXISTING STREETS.

Proposed streets shall, as near as practicable, provide for the continuation, connection or projection of streets in surrounding areas or conform to the plan for the neighborhood as may be adopted by the Planning Commission.
(Ord. 120-91. Passed 8-9-93.)

1111.03 CIRCULATION.

The street pattern shall provide ease of circulation within the subdivision, but the minor streets therein shall be so laid out that their use by through traffic will be discouraged. Insofar as practical, the street arrangement should provide proper access to schools, playgrounds, transportation and other community features. New street openings shall generally be prohibited within 600 feet of any major intersection or crossing such as those formed by a railroad and a highway, two or more highways or from the head of any major bridge, grade separation structure or like facilities, as measured along the centerline from the intersection or from such structure.

(Ord. 120-91. Passed 8-9-93.)

1111.04 STREET INTERSECTIONS.

Streets shall intersect one another at an angle as near to a right angle as possible and no intersection of streets at angles less than sixty degrees shall be approved.

(Ord. 120-91. Passed 8-9-93.)

1111.05 STREET JOGS.

Street jogs shall be avoided whenever possible. However, where permitted, those over ten feet shall be at least 125 feet apart as measured along the centerline offsets.

(Ord. 120-91. Passed 8-9-93.)

1111.06 HALF-STREETS.

Half-streets shall be prohibited. In case a half-street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract.

(Ord. 120-91. Passed 8-9-93.)

1111.07 TOPOGRAPHICAL AND CULTURAL FEATURES.

(a) In sloping terrain, streets shall generally run parallel to the contour of the land or preferably cross at a slight angle therewith. The general objectives are to avoid steep street grades, heavy concentrations of storm surface runoff, abnormal differential in building elevations at opposite sides of the street and excessive grading operations. Appropriate treatment shall be given to encourage the preservation of existing views, wooded areas, creeks and other attractive natural features of the plat.

(b) Where an approved plan designates an area to be preserved as natural areas, prior to clearing the land, the designated natural areas shall be protected during the entire construction period of improvements with orange vinyl latticed construction fencing of a minimum height of four (4) feet, secured with metal t-posts, demarcating the approved limits of clearing on the site. Where the established limits of clearing run through a tree of nine (9) inches or more diameter at breast height (DBH), the fencing shall circle the tree no closer than six (6) feet from the trunk or other methods approved by the Building Commissioner. The applicant shall be responsible for maintenance of the fencing at all times.
(Ord. 26-2006. Passed 3-28-06.)

1111.08 ALLEYS.

Alleys in residential developments will generally be prohibited. Service driveways will be required in commercial and industrial developments except where other provisions for suitable access and off-street loading and unloading is assured.

(Ord. 120-91. Passed 8-9-93.)

1111.09 PORTION OF TRACT; TOPOGRAPHY AND SKETCH LAYOUT.

Where the plat to be submitted includes only a part of the tract owned by the subdivider, the Council may require a topography and sketch layout of the future street system on the subdivided portion.

(Ord. 120-91. Passed 8-9-93.)

1111.10 DEAD-END STREETS.

Dead-end streets designed to be permanent shall be prohibited. In case a street over 150 feet in length is to be temporarily stub-ended, an interim turnaround will be required. A notation shall be placed on the final recorded plat that such temporary or interim turnaround area shall automatically be vacated upon authorized extension and construction of the street. The terminal end shall be extended to the boundary lines of the subdivision.

(Ord. 120-91. Passed 8-9-93.)

1111.11 CUL-DE-SAC STREETS.

The length of a cul-de-sac street shall normally not be greater than 600 feet as measured from its intersection with another street to the start of the circular turnaround area. A "T" or "Y" shaped paved space may be approved in the place of the required turning circle. The terminal device shall not be extended to any boundary line and normally shall be at least 100 feet therefrom.

(Ord. 120-91. Passed 8-9-93.)

1111.12 RELATION TO MAJOR STREETS.

Where a subdivision abuts or contains an existing or proposed arterial street, involving heavy volumes of high speed vehicular traffic, the Planning Commission may require marginal collector streets, a nonaccess reservation along the rear property and such other treatment as may be necessary for adequate protection of the proposed industrial, commercial or residential development to assure separation of through and local traffic. Before requiring any marginal streets or reverse frontage arrangements, the Commission shall take into account and decide upon the physical location of the major public utility lines as they relate to the existing and potential development along both side of the highway.

(Ord. 120-91. Passed 8-9-93.)

1111.13 DEVELOPMENT ALONG RAILROADS.

Industrial, commercial or residential building sites along railroads should normally have extra lot depth to permit deep setbacks for such building development and uses. The streets or roads serving such development shall be so located as not to interfere with the possible future construction of grade crossing or grade separation facilities along adjacent major traffic routes.

(Ord. 120-91. Passed 8-9-93.)

1111.14 PUBLIC SITES AND OPEN SPACES.

(a) Where a proposed park, playground, school or other public use shown on the Land Use Map is located in whole or in part in a subdivision, the Council may require the dedication or reservation of such area within the subdivision in which the Council deems such requirement to be reasonable.

(b) In the absence of provision in the Land Use Map, or in the absence of provision in such Map for the dedication of public land for the purposes as set forth herein, the subdivider shall be required to dedicate to public use, land suitably located and adequate for parks, playgrounds, schools or other public purposes, for local or neighborhood uses, in an amount not less than five percent of the total area of the subdivision, exclusive of streets or alleys, sidewalks and easements, or in lieu thereof, when deemed appropriate by the Council the subdivider shall be required to deposit with the Municipality such moneys as represent five percent of the fair market value of the land being subdivided, such value to be determined as of the date of the filing of the preliminary plan with the Commission. The basic evaluation shall be the prevailing market price of similar land in the immediate vicinity of the land being subdivided. This money shall be deposited with the Finance Director, accounted for separately, and used for the acquisition of land for the purpose set forth herein including, but not limited to, the development of the same, and shall be deposited in a fund which is hereby created, known as the Park Development Fund.

(Ord. 120-91. Passed 8-9-93.)

1111.15 TYPICAL STREET STANDARDS.

The Planning Commission will determine the required minimum dimensional standards of all rights-of-way, pavements, sidewalks and other public improvements but shall consider the advice and recommendations of the Engineer in doing so. The typical street requirements shall be as follows:

	Road	Feet
(a)	Residential	26
	Industrial	30
	Apartment	30

(b) Easements. Easements across lots or centered on rear or side lot lines shall be provided for utilities where necessary and shall be at least ten feet wide. Easements shall also be provided for watercourses, channels or streams, and shall be adequate for the purpose.

(Ord. 120-91. Passed 8-9-93.)

1111.16 MINIMUM AND MAXIMUM GRADES.

Minimum grades on any street shall be one-half of one percent (.5%) at gutters for purposes of drainage and not more than six percent for major streets nor ten percent for minor streets wherever feasible. Streets shorter than 600 feet shall be not more than twelve percent.

(Ord. 120-91. Passed 8-9-93.)

1111.17 STREET ALIGNMENT.

(a) Vertical. The profile grades for major streets shall be connected by vertical curves of a minimum length equivalent to at least forty times the algebraic difference between the rates of grade, expressed in feet per

hundred; for secondary and minor streets, at least twenty times.

(b) Minimum Horizontal Radii of Centerline Curvature.

Type of Street	Degrees	Feet
Major	12	475
Secondary	19	300
Minor	28	200
Cul-de-sac	58	100

A tangent at least 100 feet long shall be introduced between reverse curves on major or collector streets and at least fifty feet on minor streets.

(c) Visibility.

(1) Minimum vertical visibility (measured four and one-half feet eye level to eighteen inches tail light) shall be:

- 500 feet on main thoroughfares;
- 300 feet on secondary thoroughfares;
- 200 feet on minor streets; and
- 100 feet on streets shorter than 600 feet.

(2) Minimum horizontal visibility shall be:

- 300 feet on main thoroughfares;
- 200 feet on secondary thoroughfares; and
- 100 feet on all other streets, as measured on such centerlines.

(Ord. 120-91. Passed 8-9-93.)

1111.18 INTERSECTIONS.

Property lines at street intersections shall be rounded with a radius of at least twenty feet for residential and thirty feet for industrial or major street intersections and curbs or edges of street pavements shall be rounded by radii of at least thirty-seven feet for residential and fifty-five feet for industrial or major street intersections.

(Ord. 120-91. Passed 8-9-93.)

1111.19 BLOCKS.

(a) Block lengths should usually not exceed 1,600 to 1,800 feet or be less than 600 feet. Pedestrian crosswalks may be required under certain conditions, but should be avoided through proper block length and street arrangement whenever possible.

(b) The width of a block shall normally be sufficient to allow two tiers of lots or to provide building sites suitable to the special needs of the type of use contemplated.

(c) The depth and width of properties laid out or reserved for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use and development contemplated. The permanent reservation of suitable buffer and easement areas may be required where deemed essential. Such areas shall normally be made a part of abutting lots or building sites.

(Ord. 120-91. Passed 8-9-93.)

1111.20 LOTS.

(a) Size, Shape and Orientation. The lot size, width, depth, shape orientation shall be appropriate for the location of the subdivision and type of development and use contemplated. A length and width ratio of approximately two to one is considered desirable. Lot depth in relation to width shall normally not exceed a ratio of three to one.

(b) Lot Dimensions. Lots shall conform in size to at least the minimum area and width requirements specified in the Zoning Code of the particular use district in which it is located. Business and industrial sites should be sufficient in width and depth to allow for proper vehicular access and appropriate parking area and spacing.

(c) Corner Lots. Corner lots for residential use shall normally be platted wider than interior lots to permit appropriate building setback from, and orientation to, both streets.

(d) Side Lot Lines. Side lot lines shall normally be at right angles to the street or radial to curved streets, except when natural or cultural features suggest other suitable and appropriate locations.

(e) Double Frontage Lots. Double frontage lots shall be avoided except where essential to provide separation of residential development from major arteries or specific disadvantages of topography.

(f) Building Setback Line.

(1) Building setback lines shall conform to the requirements specified in the Zoning Code for the use district in which it is located.

(2) The established setback for detached accessory buildings at the rear of a corner lot shall not be closer to the street than the existing or established setback line for the main building on the adjoining lot.

(g) Access to Streets. Every lot shall abut on a public street.

(Ord. 120-91. Passed 8-9-93.)

CHAPTER 1113

Required Improvements

1113.01 Subdivider's responsibilities.

1113.02 Specifications, supervision and inspection.

1113.03 Inspection costs.

1113.04 Recommendation and approval.

1113.05 Streets and sidewalks.

1113.06 Sidewalks.

1113.07 Seeding and protection.

1113.08 Storm drainage.

1113.09 Sewage disposal.

1113.10 Water supply.

1113.11 Survey monuments.

1113.12 Street signs.

1113.13 Street lighting and electric and telephone lines.

1113.14 Trees.

1113.15 Planning Commission to set actual standards.

CROSS REFERENCES

Cornerstones and permanent markers - see Ohio R.C. 711.03, 711.14

1113.01 SUBDIVIDER'S RESPONSIBILITIES.

Unless otherwise expressly indicated, the subdivider, through his engineer, shall prepare and furnish all plans, specifications, cost estimates and other essential documents necessary for the construction and installation of the required improvements. Further, the subdivider shall agree at his own cost and expense to do all work, furnish all the materials and labor necessary to construct and complete the required improvements in a good and substantial manner to the satisfaction of the Engineer.

(Ord. 120-91. Passed 8-9-93.)

1113.02 SPECIFICATIONS, SUPERVISION AND INSPECTION.

The specifications of the Municipality shall in all respects govern all construction work. The work shall be done under Municipal supervision and inspection. It shall be completed within the time fixed or agreed upon by the Council.

(Ord. 120-91. Passed 8-9-93.)

1113.03 INSPECTION COSTS.

The cost of Municipal inspection shall be paid by the subdivider. An amount of money estimated by the Engineer for such purpose shall be deposited in advance with the Treasurer or otherwise provided for in the construction agreement and bond requirements hereinbefore mentioned. The required fee shall normally be not less than two percent (2%) and not more than four percent (4%) of the total estimated cost of the required improvements.

(Ord. 120-91. Passed 8-9-93.)

1113.04 RECOMMENDATION AND APPROVAL.

It shall be competent for the Engineer to recommend the final plat of the subdivision, to the person or persons making the same, to the effect that, whenever the required improvements are properly made or otherwise secured as hereinbefore mentioned, the Engineer will pass upon and recommend to the Planning Commission and Council that such plat, if otherwise conforming to these Regulations, be approved.

(Ord. 120-91. Passed 8-9-93.)

1113.05 STREETS AND SIDEWALKS.

(a) Streets, sidewalks and appurtenances shall be constructed so as to serve the entire subdivision and such installation shall conform to the provisions of the General Plan and in accordance with applicable standard specifications of the Municipality.

(b) In the case where widening, improving or abandoning of existing streets is deemed necessary by the Municipality, the subdivider shall perform such work as is necessary at his own expense.

(Ord. 120-91. Passed 8-9-93.)

1113.06 SIDEWALKS.

The Planning Commission shall require that sidewalks be constructed on one or both sides of streets irrespective of the width of lot, where they are essential to pedestrian movement and safety. Sidewalks shall be constructed in all instances along secondary or main highways as indicated in the Major Street Plan and these Regulations.

(Ord. 120-91. Passed 8-9-93.)

1113.07 SEEDING AND PROTECTION.

Berms, ditches and slopes resulting from the opening, widening or extension of any street grading or improvement operations shall be protected against soil erosion by seeding or other protective methods.

(Ord. 120-91. Passed 8-9-93.)

1113.08 STORM DRAINAGE.

Storm drainage, including drain tile around basements, shall not be permitted to empty into any sanitary sewer. Where a public storm water sewer is reasonably accessible, as determined by the Planning Commission, the subdivider shall connect with such storm drainage outfall system and shall do such grading and provide such drainage structures, including lateral connections, as may be required by the Engineer. Where a public storm water system is not reasonably accessible as determined by the Commission, but where the plans for the storm water drainage system of the district in which the subdivision is located have been prepared and officially approved, the subdivider shall install drainage facilities as may be required by the Engineer in conformity with such official plans. If the subdivision is in an area where public storm water system is not available, the subdivider shall do such grading and provide such drainage structures as may be required by the Engineer. Whenever the construction of streets and the necessary storm water system in a subdivision are such that the direction of storm water flow is diverted and affects surrounding properties, the subdivider shall obtain sufficient drainage easements to provide adequate disposal of the storm water.

(Ord. 120-91. Passed 8-9-93.)

1113.09 SEWAGE DISPOSAL.

(a) Sanitary Sewers. If a subdivision can be reasonably served by the extension of an existing public sanitary sewer, as determined by the Planning Commission, the subdivider shall provide a system of sanitary sewer

mains and shall provide lateral connections for each lot or potential building site. Where the subdivision is located within a sanitary sewer district but a public sanitary sewer is not immediately or reasonably accessible:

(1) The Commission may, after obtaining and considering reports from the local or State Board of Health agencies involved, refuse to permit the area to be developed if the proposed use is deemed detrimental to the health and general welfare of the surrounding community; or

(2) The Commission may recommend that Council approve the subdivision plat provided the sanitary sewer mains and lateral connections are installed and appropriate provision and arrangements can be made for the construction, operation and maintenance of an interim group sewage disposal facility pending permanent connection to the public sanitary system. Group sewage disposal systems shall meet the requirements of the State Department of Health.

(b) Individual Septic Tank Facilities. Generally, the installation of septic tanks shall not be permitted on residential sites of less than two acres in area. In the event the installation of individual disposal systems is considered, the suitability of the soil characteristics, surface, drainage, topography and potential density or character of development shall be the criteria for determining whether or not the installation of individual septic tank disposal systems is feasible. It shall be the responsibility of the subdivider to furnish the topographical map and other information and data and to obtain or perform all tests in accordance with the requirements of the local or State Board of Health. The septic tank and disposal field shall conform to the requirements of the Cuyahoga County General Health District.

All sanitary sewage shall be emptied into the septic tank and no tile field shall empty in any manner into open ditches, roadside ditches, lakes, streams or any other body of water, nor shall the effluent be permitted to seep to the surface of the ground.

(Ord. 120-91. Passed 8-9-93.)

1113.10 WATER SUPPLY.

(a) Public Water Supply. Where a public water supply is within a reasonable distance, as determined by the Planning Commission, the subdivider shall construct a system of water mains and fire hydrants and connect with such public water supply and provide a connection for each lot or potential building site. Where a public water supply is not available, the subdivider shall provide for individual wells for each lot in the subdivision.

(b) Test Wells. At least one test well shall be made in the area being platted for each 100 lots or for each twenty-five acres of area, whichever is the smaller. In the cases where copies of the lot of existing wells located within the area being platted are available, this may be submitted in lieu of making test wells. Test wells shall be at least twenty-five feet in depth and shall produce safe potable drinking water at a rate of not less than five gallons per minute.

A copy of the well log which includes the name and address of the well driller shall be submitted with the preliminary documents to the Engineer.

(c) Location and Construction of Individual Private Wells. Individual private wells shall be located at least twenty-five feet from property lines, thirty feet from all septic tanks, approximately 100 feet from all tile disposal fields and other sewage disposal facilities, ten feet from all cast-iron sewer lines, thirty feet from any vitrified sewer tile lines, and shall not be located within flood plain.

(1) As a precaution against seepage, a water tight seal shall be provided around the pump mounting.

(2) All abandoned wells shall be sealed in a manner that will render them watertight. In all cases where it has been determined that the individual water supplies from private wells are not feasible, a public water distribution system will be required.

(d) Public Water Distribution Systems. Public wells and other public water distribution system shall meet the requirements of the State Department of Health and the City of Cleveland Division of Water.

(Ord. 120-91. Passed 8-9-93.)

1113.11 SURVEY MONUMENTS.

A complete survey shall be made by a registered surveyor. The traverse of exterior boundaries of the tract and of each block, when computed from field measurements on the ground, shall close within a limit of error of one foot to 10,000 feet of the perimeter before balancing the survey.

(a) The corners of each lot shall be marked with iron rods three-fourths of an inch in diameter by two feet in length or as specified by the Engineer.

(b) Monuments shall be placed at all block corners, angle points, points of corners, intersections and at intermediate points along streets as required by the Engineer. The monuments shall be of such material, size and length as may be approved or specified by the Engineer.

(Ord. 120-91. Passed 8-9-93.)

1113.12 STREET SIGNS.

The subdivider shall place on deposit or arrange as a part of the bond agreement, sufficient funds to cover the cost of purchase, delivery and installation of all required street name signs. Such signs shall conform to the standards adopted by the Municipality.

(Ord. 120-91. Passed 8-9-93.)

1113.13 STREET LIGHTING AND ELECTRIC AND TELEPHONE LINES.

The subdivider shall install all street lighting and electric and telephone lines in accordance with the specifications of the Municipality. All such lines shall be installed underground in accordance with such specifications.

(Ord. 120-91. Passed 8-9-93.)

1113.14 TREES.

The subdivider shall plant trees within the street right-of-way in accordance with the specifications of the Municipality.

(Ord. 120-91. Passed 8-9-93.)

1113.15 PLANNING COMMISSION TO SET ACTUAL STANDARDS.

All minimum standards contained in this chapter shall be subject to determination by the Planning Commission of the actual standards to be met. The Planning Commission shall consider the advice and recommendation of the Engineer in doing so.

(Ord. 120-91. Passed 8-9-93.)

TITLE FIVE - Zoning Code

- Chap. 1121 . Administration.
- Chap. 1123 . Definitions.
- Chap. 1125 . Districts and Map.
- Chap. 1131 . PF Public Facilities District.
- Chap. 1135 . R-1 and R-2 Single-Family Residential Districts.
- Chap. 1139 . R-3 Single-Family Residential District.
- Chap. 1143 . RTF Two-Family Residential District and RMF-1 Multiple-Family Residential District - Low Rise.
- Chap. 1144 . RS Senior Residence District.
- Chap. 1147 . RMF-2 Multiple-Family Residential District - Medium Rise.
- Chap. 1151 . O-S Office-Service District, B-1 Local Business District and B-2 Regional Business District.
- Chap. 1165 . Gasoline Service and Filling Stations.
- Chap. 1167 . I-1 Office-Industrial District.
- Chap. 1169 . Conditional Uses.
- Chap. 1171 . I-2 Industrial District.
- Chap. 1172 . Wireless Telecommunication Tower Overlay District.
- Chap. 1173 . General Provisions; Schedule of Regulations.
- Chap. 1174 . Heliports and Helistops.
- Chap. 1175 . Off-Street Parking.
- Chap. 1177 . Walls, Landscaping and Ecological Preservation.
- Chap. 1179 . Signs.
- Chap. 1180 . Regulated Uses.
- Chap. 1181 . Nonconforming Uses.
- Chap. 1183 . Conditional Zoning.
- Chap. 1185 . Zoning Board of Appeals.
- Chap. 1187 . Enforcement and Penalties.
- Chap. 1189 . Amendments.

CHAPTER 1121

Administration

- 1121.01 Title.**
- 1121.02 Purpose and intent.**
- 1121.03 Relation to other laws.**
- 1121.04 Interpretation.**
- 1121.05 Essential services.**
- 1121.06 Administrative officials; compliance with Code.**
- 1121.07 Retention of jurisdiction.**
- 1121.08 Validity.**
- 1121.09 Building permit required.**
- 1121.10 Verification; lapse of application.**
- 1121.11 Zoning change pending; building permit.**

CROSS REFERENCES

- Planning and Zoning Commission - see ADM. Ch. 155
- Essential services defined - see ZON. 1123.04 (b)
- Inspection and landscape improvements - see ZON. 1177.06
- Zoning Board of Appeals - see ZON. Ch. 1185

1121.01 TITLE.
This Code shall be known as the “Zoning Code for the City of Richmond Heights, Ohio”.

(Ord. 72-72. Passed 8-31-72.)

1121.02 PURPOSE AND INTENT.

The purpose of this Zoning Code and the intent of the legislative authority in its adoption is to promote and protect the public health, safety, convenience, comfort, prosperity and the general welfare of the City by regulating the use of buildings, other structures and land for residences, public facilities, institutions, business and services; by regulating and restricting the bulk, height, design, percent of lot occupancy and location of buildings; by regulating and limiting population density; and, for the aforementioned purposes, to design districts of such number and dimensions to carry out the objectives of the Master Plan; and to provide procedures for the administration and amendment of this Code.

This Zoning Code is intended to achieve, among others, the following objectives:

(a) To protect the character and values of residential, institutional and public uses, business, commercial and industrial uses, and insure their orderly and beneficial development;

- (b) To provide adequate open spaces for light, air and outdoor uses, and prevent excessive concentration of population;
- (c) To regulate and control the location and spacing of buildings in relation to the site and the surrounding property;
- (d) To regulate the intensity of uses in relation to streets, to reduce the interference with traffic movement so as to improve public safety;
- (e) To guide the future development of the City in accordance with the objectives of the Master Plan; and
- (f) To accomplish the specific intents and goals set forth in the introduction to the respective chapters of this Zoning Code.

(Ord. 72-72. Passed 8-31-72.)

1121.03 RELATION TO OTHER LAWS.

The provisions of this Zoning Code shall supplement any and all laws of the State, ordinances of the Municipality or any and all rules and regulations promulgated by authority of such law or ordinance relating to the purpose and scope of this Zoning Code.

The provisions of this Code shall not annul or in any way interfere with existing deed or plat restrictions, easements or other agreements between persons, codes, laws, rules, regulations or permits previously adopted or issued except those ordinances or sections thereof which are contrary to and in conflict with this Code.

Wherever this Code imposes greater restrictions upon the use of buildings or land, the height or bulk of buildings, or requires larger land or building areas, yards or other open spaces than are otherwise required or imposed by other deed or plat restrictions, codes, laws, ordinances, rules or regulations, this Zoning Code shall control; and conversely, other regulations shall control where they impose greater restrictions than this Code.

(Ord. 72-72. Passed 8-31-72.)

1121.04 INTERPRETATION.

In interpreting and applying the provisions of this Zoning Code, such provisions shall be held to be the minimum requirements for the promotion of public health, safety, convenience, comfort, prosperity and general welfare and shall be liberally construed to further the underlying purposes, objectives and intent set forth throughout this Zoning Code.

(Ord. 72-72. Passed 8-31-72.)

1121.05 ESSENTIAL SERVICES.

Essential services shall be permitted as authorized and regulated by law and other ordinances of the City, it being the intention hereof to exempt essential services from the provisions of this Zoning Code.

(Ord. 72-72. Passed 8-31-72.)

1121.06 ADMINISTRATIVE OFFICIALS; COMPLIANCE WITH CODE.

The administration of this Zoning Code is conferred upon the Director of Public Safety, the City Engineer, the Building Inspector, the Planning and Zoning Commission, the Zoning Board of Appeals, the City Landscape Architect and the Architectural Board of Review. Compliance with the provisions of this Code shall be obtained by:

- (a) Applying for and the issuance of a building permit along with a zoning certificate; and if applicable, an appeal for interpretation of a provision of the Zoning Code or for a variance;
- (b) Periodical inspection during construction;
- (c) Issuance of a certificate of occupancy upon completion of the work;
- (d) Enforcement after violations.

(Ord. 72-72. Passed 8-31-72.)

1121.07 RETENTION OF JURISDICTION.

In all instances where a review and/or a finding by any City agency is required under the provisions of this Zoning Code, that agency shall retain jurisdiction over such review and/or finding and any variation from the review and/or finding shall require approval from that agency.

(Ord. 72-72. Passed 8-31-72.)

1121.08 VALIDITY.

Should any chapter, section, clause or provision of this Zoning Code be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of this Code as a whole or part thereof other than the part so declared to be invalid.

(Ord. 72-72. Passed 8-31-72.)

1121.09 BUILDING PERMIT REQUIRED.

No building or structure shall be erected, added to or structurally altered until a permit therefor has been issued by the Commissioner of Building. No such building permit shall be issued for any building where such construction, addition or alteration or use thereof would be in violation of any of the provisions of this Zoning Code. Any permit issued in conflict with the provisions of this Zoning Code shall be null and void and of no effect whatsoever.

(Ord. 22-76. Passed 5-11-76.)

1121.10 VERIFICATION; LAPSE OF APPLICATION.

All applications for building permits shall be verified by at least one of the owners or lessees of the property for which the permit would apply attesting to the truth and correctness of all facts and information presented with the application and included in the application.

Any application which remains dormant by reason of failure of the applicant to pursue the issuance of a permit for a period of six months shall become null and void and, upon the expiration of such time, the Building Commissioner shall so notify the applicant and return the application and any plans, documents or papers filed to the applicant.

(Ord. 22-76. Passed 5-11-76.)

1121.11 ZONING CHANGE PENDING; BUILDING PERMIT.

Whenever legislation has been introduced in Council for a change or amendment of the Zoning Code or Map involving a change of zoning from a less restricted district to a more restricted district, no zoning certificate or building permit shall be issued and no application for a permit shall be accepted within 120 days from the date of the introduction of such zoning amendment legislation which would authorize the construction of a building or the establishment of a use which would become nonconforming under the contemplated Zoning Map or Code amendment.

In the event such legislation is not enacted within 120 days, the Building Commissioner is authorized to accept applications and issue permits regardless of the pendency of such legislation.

(Ord. 22-76. Passed 5-11-76.)

CHAPTER 1123

Definitions

1123.01 General terms.

1123.02 Letters A-B.

1123.03 Letters C-D.

1123.04 Letters E-F.

1123.05 Letters G-K.

1123.06 Letters L-M.

1123.07 Letters N-S.

1123.08 Letters T-Z.

CROSS REFERENCES

Off-street parking definitions - see ZON. 1175.04

Sign definitions - see ZON. 1179.03

1123.01 GENERAL TERMS.

For the purpose of clarification, certain terms used in this Zoning Code shall be interpreted as follows:

"Person" includes a firm, association, 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; the word "shall" is mandatory; "may" is permissive; "used" or "occupied" includes the words "intended", "designed" or "arranged" to be "used" or "occupied". Terms not herein defined shall have the meaning customarily assigned to them.

(Ord. 72-72. Passed 8-31-72.)

1123.02 LETTERS A-B.

For the purpose of this Zoning Code, certain terms are defined as follows:

- (a) **Alley.** "Alley" means a dedicated public way less than fifty feet in width affording a secondary means of access to abutting property and not intended for general traffic circulation.
- (b) **Attic.** "Attic" means the space between the ceiling beams of the top habitable floor and the roof.
- (c) **Automotive servicing and minor repair.** "Automotive servicing and minor repair" includes the following activities: the changing of oil and other lubrication; tuning of motors; minor wheel and brake adjustment; similar minor servicing and repair; installation of wheels, tires, brakes and accessories; washing, waxing, polishing and interior cleaning but not a self-service auto laundry as defined and regulated herein. Activities included within the definition "automotive major repair" are not included within the meaning of "automotive servicing and minor repair".
- (d) **Automotive major repair.** "Automotive major repair" means major automotive repairs including, but not limited to: the removal or replacement of major mechanical parts such as the motor, transmission, differential, axles; replacement of body parts and glass; replacement of exhaust system parts; body and frame repair, painting, welding; upholstering work and similar activities.

(Ord. 69-2002. Passed 9-24-02.)

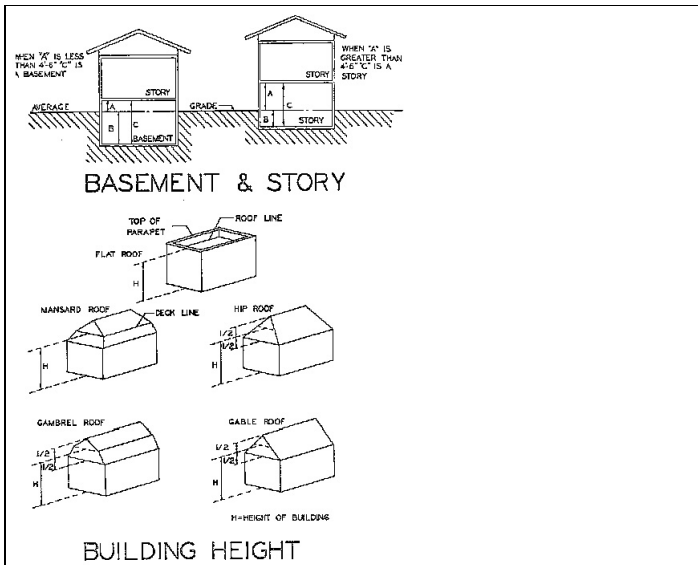
- (e) **Bar or Tavern.** "Bar" or "Tavern" means a place of business dispensing beer, wine, spirituous liquors, or mixed beverages by the drink for on-site consumption, and in which the sale of food products for on-site consumption is incidental or secondary to dispensing of said drinks.

- (f) **Banquet Facility.** "Banquet facility" means a place of business at which the principal activity is service of food and beverage to large groups of people as opposed to individual table service as in a restaurant. A banquet facility is typically rented for purposes of special events such as weddings, meetings, or other large group activities.

(Ord. 5-2007. Passed 3-13-07.)

- (g) **Basement.** "Basement" means that portion of a building which is partly or wholly below grade, but so located that the vertical distance from the average grade to the ceiling is less than four feet six inches. A basement shall not be counted as a story.
- (h) **Block.** "Block" means an area of land bounded by streets, public or common land or other definite limits.
- (i) **Board of Appeals.** "Board of Appeals" means the Zoning Board of Appeals of the City of Richmond Heights.
- (j) **Buffer Strip.** "Buffer strip" means a strip of land of definite width and location reserved for planting of shrubs and trees to serve as an obscuring screen.
- (k) **Building.** "Building" means any structure, either temporary or permanent, having a roof and used or built for the shelter or enclosure of persons, animals, chattels or property of any kind.
 - (1) "Accessory building" means a building subordinate to the main or principal building on the lot and used for the purposes customarily incidental to those of the main building.
 - (2) "Height of a building" means the vertical distance from the established grade at the center of the front of the building to the highest point of the roof surface, if a flat roof, to the deck line for mansard roofs, and to the mean height level between the eaves and ridge for gable, hip and gambrel roofs.

- (3) "Building line" means a line parallel to and measured from the front lot line and which defines the minimum required front setback line.
- (4) "Principal building" means a building in which is conducted the primary use of the lot on which it is situated.
- (Ord. 69-2002. Passed 9-24-02.)



1123.03 LETTERS C-D.

As used in this Zoning Code:

- (a) Charter. "Charter" means the Charter of the City of Richmond Heights, including all amendments thereto.
- (b) City. "City" means the City of Richmond Heights.
- (c) Clerk. "Clerk" means the duly acting and qualified Clerk of the City.
- (d) Code. "Code" means the Zoning Code of the City.
- (e) Commission. "Commission" means the Planning and Zoning Commission of the City. (Ord. 72-72. Passed 8-31-72.)
- (f) Computerized Sweepstakes Device. "Computerized sweepstakes device" means any computer, machine, game or apparatus which, upon the insertion of a coin, token, access number, magnetic card, or similar object, or upon the payment of anything of value, may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which provides the user with a chance to win anything of value that is not de minimus, on a per play basis, or any cash payout or anything that could be redeemed, directly or indirectly, for any cash payout, and which is not gambling under state or local laws. Machines designated for use by the State Lottery Commission are not computerized sweepstakes devices for purposes of this chapter. "De minimus", as used in this section, shall mean less than ten dollars (\$10.00). (Ord. 37-2011. Passed 8-23-11.)
- (g) Conditional Use. "Conditional use" means a use which may be permitted in specific districts subject to compliance with certain standards and explicit conditions set forth in this Zoning Code and the granting of a conditional use permit.
- (h) Condominium, Joint Ownership. "Joint ownership condominium" means ownership in common (undivided interest) with others of a parcel of improved land and certain parts of the building which are held for the use and enjoyment by the occupants (such as yards, walls, floors, basements, hallways, elevators and all other related common elements), together with individual ownership in fee of a particular unit or apartment in such building and any private land attached thereto for the exclusive use of the joint owners.
- (i) Council. "Council" means the City Council of the City of Richmond Heights.
- (j) Court. "Court" means an open unoccupied space other than a yard and bounded on at least two sides by a building. A court extending to the front lot line or front yard, or the rear lot line or rear yard is an outer court. Any other court is an inner court.
- (k) Cul-de-sac. "Cul-de-sac" means a street, one end of which connects with another street and the other end of which terminates in turning facilities for vehicles.

(Ord. 72-72. Passed 8-31-72.)

- (l) Day Care Center. "Day care center" means a building or structure where care, protection, and supervision are provided for individuals on a regular basis away from their primary residence for less than 24 hours a day, with or without compensation and with or without stated educational purposes. The term includes, but is not limited to, facilities commonly known as day-care centers, day nurseries, nursery schools, preschools, play groups, day camps, summer camps, and centers for mentally retarded children, but specifically excludes any family day care home (as defined by the Ohio Revised Code) or group home.
- (Ord. 5-2007. Passed 3-13-07.)
- (m) Development Area. "Development area" means a tract of land of five acres or more which may be subsequently subdivided into parcels of less than five acres. The development area may be owned by or controlled by one or more parties who are acting with the single purpose of developing contiguous parcels in accordance with the provisions of a single zoning district.
- (n) Display, Outside. "Outside display" means the outdoor standing or placement of immediately useable goods which are available for sale, lease or rental and which are displayed in such a manner as to be readily accessible for inspection and removal by the potential customer.
- (o) District. "District" means a portion of the incorporated area of the City within which certain regulations and requirements or various combinations thereof apply under the provisions of this Code.
- (p) Drainage Way. "Drainage way" means the land required for construction or maintenance of storm water sewers or required along a drainage ditch, natural stream or watercourse.

(Ord. 72-72. Passed 8-31-72.)

- (q) Drive-Through Facility. "Drive-through facility" means an accessory use which involves sale or delivery of goods or services to customers in the customers' vehicles or which involves delivery or return of goods to the site by customers in their vehicles. In a typical drive-through facility, one or more lanes are provided for customer-driven vehicles stacked or lined up for service or delivery or for access to a service window or drop off structure. A drive-through facility may also include an area in which customers park their vehicles and receive goods or services while seated in the vehicles. The areas and structures included in a drive-through facility may include the stacking lanes, parking spaces used while waiting for delivery of goods, menu boards, speakers, service windows, vending or service machines, and drop off containers. Examples of drive-through facilities include drive-through or drive-in restaurants, drive-up bank tellers, drive-up automatic teller machines, book or videotape drop-offs, car wash, parcel or material pickup, and postal or private delivery service boxes.

(Ord. 5-2007. Passed 3-13-07.)

- (r) Dwelling, Multiple-Family or Multi-Family. "Multiple-family or multi-family dwelling" means a building or portion thereof, designed exclusively for occupancy by three or more families, living independently of each other with each unit having a separate entrance or at least one entrance to a common hall leading to the exterior.
- (s) Dwelling, Multiple-Family or Multi-Family Low Rise. "Multiple-family or multifamily low rise dwelling" means a multi-family dwelling not more than two stories in height.
- (t) Dwelling, Multiple-Family or Multi-Family Medium Rise. "Multiple-family or multi-family medium rise dwelling" means a multi-family dwelling of at least three but not more than six stories in height and for which elevator service is required.
- (u) Dwelling, One-Family. "One-family dwelling" means a building designed exclusively for and occupied exclusively by one family, which is not physically attached to any other dwelling unit.
- (v) Dwelling, Attached, One-Family. "Attached one-family dwelling" means and includes single-family dwelling units, not exceeding six, which are physically attached one to another by common or adjoining vertical walls, which have individual heating and plumbing systems and which are or may be individually owned and may be rented or may be sold as condominiums. Each dwelling unit shall have direct access from outdoors from at least the front and rear or side of the unit.
- (w) Dwelling, Two-Family. "Two-family dwelling" means a building designed exclusively for occupancy by two families living independently of each other.
- (x) Dwelling Unit. "Dwelling unit" means a building or portion thereof, designed for occupancy by one family for residential purposes and having cooking, living, sleeping, bathing and toilet facilities.
- (y) Dwelling Unit, Efficiency Type. "Efficiency type dwelling unit" means a dwelling unit consisting of not more than one room in addition to kitchen and sanitary facilities and containing not less than 600 square feet of useable floor area.

(Ord. 72-72. Passed 8-31-72.)

- (z) Conditional Zoning. "Conditional zoning" means the imposition of reasonable, binding conditions on the use of a specific property offered by an applicant and accepted by the Municipality, such conditions being in addition to the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

(Ord. 56-88. Passed 1-10-89.)

1123.04 LETTERS E-F.

As used in this Zoning Code:

- (a) Easement. "Easement" means a grant by a property owner of the use of land for a specific purpose, by the general public, a corporation or another person.
- (Ord. 72-72. Passed 8-31-72.)
- (b) Entertainment Facilities, Indoor. "Indoor entertainment facilities" shall mean a building or part of a building devoted to providing entertainment indoors for a fee, including, but not limited to, such activities as music, live performances, and games - e.g., pinball, video arcades, computer games, billiards, table games and similar small scale entertainment and amusements.
- (Ord. 20-2015. Passed 3-24-15.)
- (c) Essential Services. "Essential services" means the erection, construction, alteration or maintenance by public utilities or municipal departments or commissions of underground or overhead gas, electricity, steam or water transmission or distribution systems, collection, communication, supply or disposal systems, including towers, poles, wires, mains, drains, sewers, conduits, cables, fire-alarm boxes, police call-boxes, traffic signals, hydrants and other similar equipment and accessories in connection therewith but not including buildings, reasonably necessary for the furnishing of adequate service by such public utilities or municipal departments or commissions or for the public health or safety or general welfare. This phrase also means the use of land, buildings and structures for municipal facilities that have been approved by Council after receiving a report and recommendation from the Planning and Zoning Commission.
- (d) Family. "Family" means any number of persons living together in a room or rooms comprising a single housekeeping unit, doing their cooking on the premises and related by blood or marriage, and including the

domestic employees thereof. (cf. Section 1123.05 (i) Household)

- (e) Farm. "Farm" means a parcel or parcels of contiguous unplatted land of not less than ten acres which is directly farmed or used in the normal pursuits of agriculture by one farmer and which may include establishments operating as greenhouses, nurseries, orchards or apiaries.
- (f) Floor Area of Dwelling Units.
- (1) One-family dwelling units. The floor area of one-family dwelling units means the sum of the horizontal areas of each story of the dwelling unit measured from the exterior faces of the exterior walls. The floor area measurement shall not include the areas of basements, unfinished attics, attached or unattached garages, breezeways and enclosed and unenclosed porches.
- (2) Attached single-family and two-family dwelling units. The floor area of attached single-family and two-family dwelling units means the sum of the horizontal floor areas measured from the exterior face of enclosing walls and the centerline of party walls. The area of basements, unfinished attics, attached or unattached garages, breezeways and enclosed or unenclosed porches shall not be included.
- (3) Multi-family dwelling units. The floor area of multi-family dwelling units means the sum of the horizontal floor areas solely within a dwelling unit measured from the interior faces of enclosing and party walls. The area of basements, utility rooms, general storage rooms, garages and porches shall not be included.
- (g) Floor Area, Useable. "Useable floor area" means the sum of the horizontal floor areas of all the floors of the building or structure and of all accessory buildings measured from the interior face of the exterior walls and which may be made useable for human habitation but excludes the horizontal floor area of heater rooms, mechanical equipment rooms, attics, unenclosed porches, light and elevator shafts, public corridors, public stairwells and public toilets.
- (h) Frontage. "Frontage" means that portion of any property abutting a street. A corner lot and a through lot have frontage on both abutting streets.
(Ord. 72-72. Passed 8-31-72.)

1123.05 LETTERS G-K.

As used in this Zoning Code:

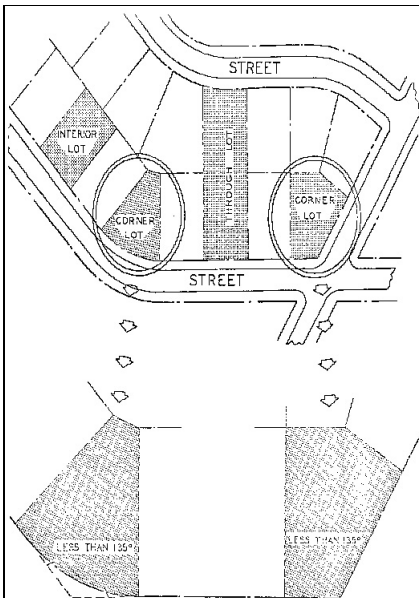
- (a) Garage, Private. "Private garage" means an accessory building or part of the main building used principally for the storage of private passenger motor vehicles, or solely for the private use of the owner or occupant of the principal building on a lot, or of their family or domestic employees and having not more than one story of fifteen feet in height. No service for remuneration may be conducted within the structure.
- (b) Garage, Repair. "Repair garage" means a main or accessory building used or designed for repairing motor vehicles or a service garage if accessory to an automobile salesroom.
- (c) Garage, Storage. "Storage garage" means an accessory building, other than a private garage, used for the parking or temporary storage of passenger automobiles and in which no service shall be provided for remuneration.
(Ord. 72-72. Passed 8-31-72.)
- (d) Garden Center. "Garden center" means a place of business where retail garden and yard products are sold to the consumer, including such products as plants, seeds, planting materials (such as soil, mulch, fertilizer) in containers only, garden hardware and equipment, tools, and related seasonal products such seasonal decorations.
(Ord. 5-2007. Passed 3-13-07.)

- (e) Gasoline Service Station. "Gasoline service station" means a place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and the servicing of and minor repair of motor vehicles.
- (f) Grade. "Grade" means a ground elevation established for the purpose of regulating the number of stories and the height of the building. The building grade shall be the level of the ground adjacent to the walls of the building if the finished grade is level. If the ground is not entirely level, the grade shall be determined by computing the average elevation of the ground for each face of the building, and taking the average of the total averages.
- (1) "Established street grade" means the elevation established by the City at the street curb in front of the lot.
- (2) "Finished grade" means the elevation of the finished surface of the ground adjoining the building after final grading and normal settlement.
- (3) "Natural grade" means the elevation of the undisturbed natural surface of the ground prior to any excavation or fill.
(Ord. 72-72. Passed 8-31-72.)
- (g) Gross Leasable Area. "Gross leasable area" means the total floor area designed for tenant occupancy and exclusive use, not including any areas used in common by tenants of a shopping center. Gross leasable area shall be expressed in square feet and shall be measured from the centerline of joint partitions and from outside wall faces.
- (h) Homes Association. "Homes association" means an incorporated, nonprofit organization operating under recorded land agreements through which each lot owner of a development area is a member, and each lot is subject to charges for a proportionate share of the expenses for the organization's activities such as maintaining the common property.
- (i) Hospital. "Hospital" means an installation used primarily for the inpatient medical, surgical, obstetrical or pediatric care and treatment of sick and disabled persons.
- (j) Hotel. "Hotel" means a building or part of a building, or a group of buildings containing rental units designed for or occupied primarily by transients. The term shall include, but not be limited to, any such building or building group designated as a motor lodge, motor inn, motel or any other title intended to identify it as providing lodging, for compensation.
- (k) Household. "Household" means any group of persons occupying a single dwelling unit; however, any group of persons, not related by blood or marriage, but inhabiting a single dwelling unit shall, for the purpose of this Zoning Code, be considered to constitute one family for each five persons, exclusive of domestic employees contained in such group.
- (l) Housing for the Elderly. "Housing for the elderly" means an installation other than a hospital, hotel or nursing home which provides dwelling units primarily for persons sixty years of age or older.
- (m) Junk Yard or Junk Storage. "Junk yard or junk storage" means the outdoor standing or placement of waste or scrap materials including but not limited to scrap iron or other metals, cans, automobiles, machinery, paper, rubber, rags, tires, lumber, concrete products, building materials or bottles.
(Ord. 69-98. Passed 9-8-98.)

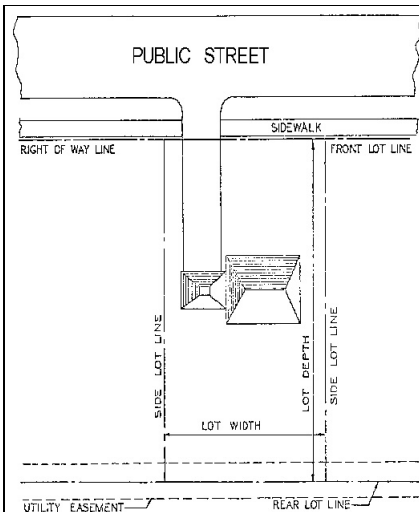
1123.06 LETTERS L-M.

As used in this Zoning Code:

- (a) Landscaping. "Landscaping" means the treatment of the ground surface with lawn, other horticultural materials, walkways or suitable decorative surfacing approved by the City Landscape Architect and provided that any landscaped areas shall not be used for vehicular parking.
- (b) Loading Space. "Loading space" means an off-street space on the same lot with a building or group of buildings, for temporary parking of a commercial vehicle while loading and unloading merchandise or materials.
- (c) Lot. "Lot" means a parcel of land abutting a dedicated public street on which a principal building and its accessories may be placed, together with the required open spaces.
- (1) Lot, corner. "Corner lot" means a lot of which at least two adjacent sides abut a street, provided that such two sides intersect at an angle of not more than 135 degrees. A lot abutting upon a curved street or streets shall be considered a corner lot if the tangents to the curve at its points of beginning within the lot or at the points of intersection are not more than 135 degrees. In the case of a corner lot with a curved street line, the corner shall be considered to be that point of the street and lot line nearest to the point of intersection of the tangents herein described.
- (2) Lot depth. "Lot depth" means the mean horizontal distance of a lot measured between the front and rear lot lines.
- (3) Lot, interior. "Interior lot" means a lot other than a corner lot.
- (4) Lot, through. "Through lot" means a lot having front and rear lot lines abutting a street.
- (5) Lot width. "Lot width" means the horizontal distance of a lot measured along the building line at right angles to the mean lot depth line. Width of front lot line is measured on the street line or from the projections of such lines for corner lots.
- (d) Lot of Record. "Lot of record" means a parcel of land delineated and numbered on a plat recorded with the Cuyahoga County Recorder.
- (e) Lot Line.
- (1) Lot line, front. In the case of a lot abutting upon one street, the front lot line is the line separating such lot from such street. In the case of a corner or through lot, one such line shall be elected to be the front lot line for the purpose of this Zoning Code, provided it is so designated by the building plans filed for approval with the Director of Public Safety and the Planning and Zoning Commission.
- (2) Lot line, rear. The rear lot line is that boundary which is opposite and most distant from the front lot line. In the case of a lot pointed at the rear, the rear lot line shall be that assumed line parallel to the front lot line, not less than ten feet long, lying farthest from the front lot line and wholly within the lot.
- (3) Lot line, side. A side lot line is any lot boundary line not a front lot line or a rear lot line. A side lot line separating a lot from a street is a side street lot line. A side lot line separating a lot from another lot or lots is an interior lot line.



THROUGH, INTERIOR
& CORNER LOTS



LOT AREA = TOTAL HORIZONTAL AREA
(DEPTH X WIDTH)

LOT COVERAGE = PERCENT OF LOT OCCUPIED
BY BUILDING

INTERIOR LOT LAYOUT

(f) Map. "Map" means a drawing showing geographic, topographic or other physical features of the land.

(g) Master Plan. "Master Plan" means the plan and statement of the objectives and recommendations for the general location and extent of desirable future land development, community facilities and street plans for the City, officially accepted and duly adopted.

(Ord. 72-72. Passed 8-31-72.)

- (h) Medical Marijuana. Medical marijuana means marijuana that is cultivated, processed, dispensed, tested, possessed or used for a medical purpose.
- (1) Cultivator. Cultivator means an entity that has been issued a certificate of operation by the Ohio Department of Commerce to grow, harvest, package, and transport medical marijuana as permitted under Chapter 3796 of the Ohio Revised Code.
- (2) Dispensary. Dispensary means an entity licensed pursuant to Sections 3796.04 and 3796.10 of the Ohio Revised Code and any rules promulgated thereunder to sell medical marijuana to qualifying patients and caregivers.
- (3) Medical marijuana entity. Medical marijuana entity means a licensed medical marijuana cultivator, processor, dispensary or testing laboratory.
- (4) Processor. Processor means an entity that has been issued a certificate of operation by the Ohio Department of Commerce to manufacture medical marijuana products.
- (5) Testing laboratory. Testing laboratory means an independent laboratory located in Ohio that has been issued a certificate of operation by the Ohio Department of Commerce to have custody and use of controlled substances for scientific and medical purposes and for purposes of instruction, research or analysis.
- (Ord. 11-2017. Passed 2-28-17.)
- (i) Mobile Home. "Mobile home" means a dwelling designed for transportation after fabrication on streets or highways on its own wheels, on a flatbed or other trailer, ready for occupancy except for minor operations, connections to utilities and the like.
- (j) Motel. "Motel" means a building or buildings of attached, semidetached or detached rental units containing a bedroom and a bathroom providing facilities for overnight lodging primarily for the public traveling by motor vehicle, for compensation.
- (k) Municipality. "Municipality" means the City of Richmond Heights, Ohio.
- (Ord. 72-72. Passed 8-31-72.)

1123.07 LETTERS N-S.

As used in this Zoning Code:

- (a) Nonconforming Building. "Nonconforming building" means a building or portion thereof lawfully existing at the effective date of this Zoning Code (Ordinance 72-72, passed August 31, 1972) or amendments thereto, that does not conform to the provisions of this Zoning Code and/or the use regulations of the district in which it is located.
- (b) Nonconforming Lot. "Nonconforming lot" means a lot existing lawfully at the time the Zoning Code or an amendment thereto, became effective but which does not conform to the lot area, width, access or other requirements of the district in which it is located.
- (c) Nonconforming Use. "Nonconforming use" means a use of a building or land existing lawfully at the time the Zoning Code, or amendments thereto, became effective but which does not conform to the main or accessory use regulations of the district in which it is located.
- (d) Nursing Home. "Nursing home" means an installation other than a hospital, having as its primary function the rendering of nursing care for extended periods of time to persons afflicted with illness, injury or infirmity.
- (e) Parking. "Parking" means the standing or placement of motor vehicles currently used to transport people, goods or materials in the conduct of normal daily activities.
- (f) Parking Space. "Parking space" means the area required for parking an automobile which shall be a minimum of nine feet six inches wide and twenty feet long, but not including drives and aisles.
- (g) Pedestrian Way. "Pedestrian way" means a dedicated public right of way solely for pedestrian circulation.
- (h) Planning Commission. "Planning Commission" means the Planning and Zoning Commission of the City of Richmond Heights.
- (i) Plat. "Plat" means a map of a lot, parcel or subdivision on which the lines of each element are shown by accurate distances and bearings.
- (Ord. 72-72. Passed 8-31-72.)
- (j) Public Utility. "Public utility" means any person, firm, corporation, municipal department, board or commission duly authorized by law to furnish, and furnishing to the public, under specific governmental regulation of its operations including, but not limited to, government regulation of the rates charged to consumers, manner of the provision of its services, and siting of its facilities, the following services: electric, gas, steam, telephone, telegraph, transportation, water, or sewage disposal; and which services are necessary and essential to the public health and safety, which entities by necessity must locate certain facilities in the public rights-of-way, and which entities possess the power of eminent domain.
- (Ord. 17-97. Passed 4-22-97.)
- (k) Recreational Vehicles and Equipment.
- (1) Travel trailer. "Travel trailer" means a vehicular, portable structure, built on a chassis designed to be used as a temporary dwelling for travel, recreational and vacation uses, permanently identified "travel trailer" by the manufacturer.
- (2) Pick-up camper. "Pick-up camper" means a structure designed primarily to be mounted on a pickup or truck chassis and with sufficient equipment to render it suitable for use as a temporary dwelling for travel, recreational or vacation uses.
- (3) Motorized home. "Motorized home" means a portable dwelling designed and constructed as an integral part of a self-propelled vehicle.
- (4) Folding tent trailer. "Folding tent trailer" means a canvass folding structure, mounted on wheels and designed for travel and vacation use.
- (5) Boats and boat trailer. "Boats and boat trailer" means boats, floats and rafts, plus the normal equipment to transport the same on the highway.
- (Ord. 72-72. Passed 8-31-72.)
- (l) Restaurant. "Restaurant" means a place of business where food and beverages are prepared and assembled as meals and sold for consumption on the premises or in another location. The term "restaurant" does not include a grocery store, bakery, or other business in which the primary activity is preparation and sale of separate food items for off-premises consumption.
- (Ord. 5-2007. Passed 3-13-07.)
- (m) Right of Way. "Right of way" means all of the land included within an area which is dedicated, reserved by deed, or granted by easement for street purposes.
- (1) Roadway. "Roadway" means the pavement measured between curbs; that portion of a right of way available for vehicular travel, including parking lanes.
- (2) Tree lawn. "Tree lawn" means that portion of a right of way lying between the exterior line of the roadway and the outside right-of-way line.
- (n) Setback. "Setback" means the distance required to obtain the minimum front, side and rear open space provisions of the Zoning Code. Front yard setback shall be measured from the building line to the existing or proposed street right-of-way line, whichever is greater. If the Zone Map imposes a greater setback than the number of feet indicated in Chapter 1173, the Zone Map distance shall control.

(Ord. 72-72. Passed 8-31-72.)

- (o) Shopping Center. "Shopping center" means a group of commercial establishments, in separate or in common ownership, in which the land is planned, developed and operated as a single unit with a unified design of structures, parking, access drives, landscaped areas, and other common areas and facilities.
- (p) Sign. "Sign" means the use of any words, numerals, figures, devices, designs or trademarks by which anything is made known, such as to show an individual, firm, profession, business, product or message and which are visible to the general public.
- (q) Site, Building. "Building site" means the parcel or parcels of land which may be or shall be occupied by one or more buildings or structures for the uses permitted within a zoning district.
- (r) Site Plan. "Site plan" means a general plan illustrating the proposed use, layout and design for a building site, which shall delineate the following:
- (1) The dimensions of all lot and property lines, showing the relationship of the subject property to abutting properties. Such dimensions shall be shown in a scale of not less than 1 inch = 20 feet if the subject property is less than three acres and 1 inch = 100 feet if three acres or more.
- (2) The date, north point and scale.
- (3) The location of all existing and proposed structures on the subject property and all existing structures within 100 feet of the subject property.
- (4) The location of all existing and proposed drives and parking areas.
- (5) The location and right-of-way widths of all proposed and existing streets within the building site and all abutting streets and alleys.
- (6) The topography of the site designating contours at not less than one foot intervals.
- (7) Any area or areas to be preserved as open spaces.
- (8) Plans for sanitary sewerage and storm drainage facilities and all other utility installations and connections, including proposed exterior lighting fixtures.
- (9) The names and addresses of the architect, planner, designer or engineer responsible for the preparation of the site plan.
- (s) Storage, New Vehicle. "New vehicle storage" means the standing or placement of new operable automobiles or trucks not previously used.
- (t) Storage, Outside. "Outside storage" means the outdoor standing or placement of useable and potentially useable goods or equipment other than for display and not including waste or scrap materials.
- (u) Story. "Story" means that portion of a building between one floor level and the ceiling next above it which meets the requirements of the Building Code for a habitable room, but not including a basement as defined in this chapter.
- (v) Street. "Street" means a public way for purposes of vehicular travel, including the entire area within the rights of way. The term includes, but is not limited to, avenue, alley, boulevard, drive, highway, road and freeway. Streets shall be classified and further defined as follows:
- (1) Arterial street (major thoroughfare). "Arterial street" means a public street which is primarily for moving fast or heavy traffic between large or intensively developed districts and which has a right-of-way width of not less than eighty feet.
- (2) Collector street (secondary thoroughfare). "Collector street" means a street supplementary to and connecting arterial streets to local streets and which has a right-of-way width of more than sixty feet and less than eighty feet.
- (3) Local street. "Local street" means a street primarily for access to abutting residential properties and to serve local needs and which has a right-of-way width of not more than sixty feet.
- (w) Street Plan or Thoroughfare Plan. "Street plan" means the plan which shows the general location and extent of existing, planned and proposed streets and other transportation facilities for the City, duly adopted or officially accepted, separately or as a part of the Master Plan.
- (x) Structure. "Structure" means anything constructed or erected, the use of which requires location on or under the ground or attachments to something having location on the ground.
- (Ord. 70-98. Passed 9-8-98.)
- (y) Sweepstakes/Internet Cafe. "Sweepstakes/internet cafe" means any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises has other business purposes of any nature whatsoever. (Ord. 37-2011. Passed 8-23-11.)
- (z) Subdivision. "Subdivision" means the division of any parcel of land shown as a unit or as contiguous units on the last preceding records of the County Auditor, into two or more sites or lots, any one of which is less than five acres for the purpose, whether immediate or future, of transfer of ownership or building development. Subdivision also includes the improvement of one or more parcels of land for residential, business or industrial structures or groups of structures, involving the division or allocation of land for the opening, widening or extension and maintenance of public sewers, drainage, water supply or other public facilities and the division or allocation of land as open spaces for common use by owners, occupants or lease holders.
- (Ord. 70-98. Passed 9-8-98.)

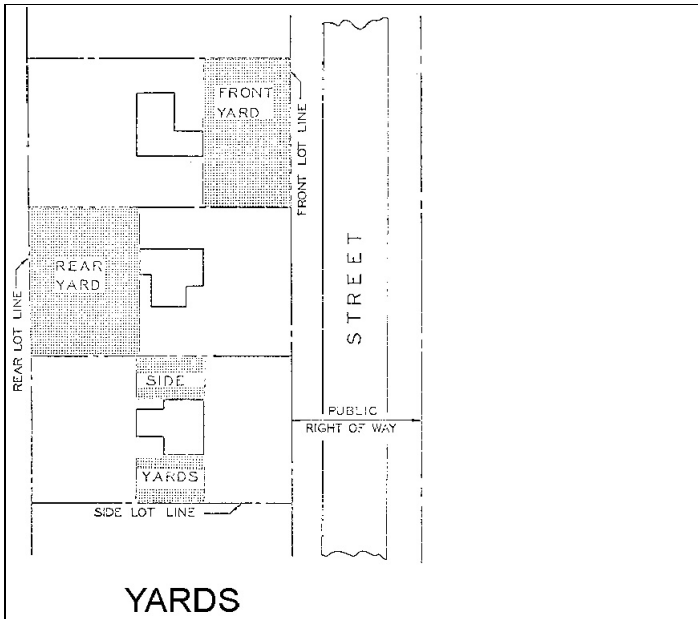
1123.08 LETTERS T - Z.

As used in the Zoning Code:

- (a) Tavern or Bar. "Tavern" or "Bar" means a place of business dispensing beer, wine, spirituous liquors, or mixed beverages by the drink for on-site consumption, and in which the sale of food products for on-site consumption is incidental or secondary to dispensing of said drinks.
- (Ord. 5-2007. Passed 3-13-07.)
- (b) Trailer Court, Trailer Camp. "Trailer court" and "trailer camp" means any plot of ground upon which two or more trailer coaches are parked or where public parking space for two or more trailer coaches is provided with facilities for incidental occupancy.
- (c) Use. "Use" means any purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied or any activity, occupation, business, profession or operation conducted in a building, other structure, or on land.
- (d) Use, Accessory. "Accessory use" means a use subordinate to the principal use and for purposes clearly incidental to those of the principal use.
- (e) Use, Principal. "Principal use" means the primary use to which the premises are devoted and the primary purpose for which the premises are used.
- (f) Yard. "Yard" means that portion of the open area on a lot extending between the building and the nearest lot line or between certain uses and the nearest lot line as required in the Zoning Code.
- (1) Yard, front. "Front yard" means an open space extending the full width of a lot and of a uniform depth measured horizontally at right angles to the front lot line, unoccupied from the ground upward, except as

hereinafter specified.

- (2) **Yard, rear.** "Rear yard" means an open space extending the full width of a lot and of a uniform depth measured horizontally at right angles to the rear lot line, unoccupied from the ground upward, except as hereinafter specified.
- (3) **Yard, required.** "Required yard" means the minimum yard required between a lot line and building line or the line of any parking area or any other use requiring a yard in order to comply with the zoning regulations of the district in which the zoning lot is located. A required yard shall be open and unobstructed from the ground upward except for projections on buildings as permitted in the Zoning Code and except for walks, landscaping and other yard or site features.
- (4) **Yard, side.** "Side yard" means an open space extending from the front yard to the rear yard and of a uniform width measured horizontally at right angles to the side lot line and unoccupied from the ground upward, except as hereinafter specified.
- (g) **Zoning Variance.** "Zoning variance" means a modification of the literal provisions of this Zoning Code, granted when strict enforcement of this Code would cause practical difficulty or undue hardship owing to the circumstances unique to the individual property on which the variance is granted. The crucial points of a variance are practical difficulty, undue hardship and unique circumstances applying to the specific property involved. A variance is not justified unless all elements are present in each case.
- (h) "Zoning Code" or "this Code" means Ordinance 72-72, passed August 31, 1972, as amended, codified herein as Title Five of Part Eleven - Planning and Zoning Code.
(Ord. 72-72. Passed 8-31-72.)



CHAPTER 1125

Districts and Map

1125.01 Intent.

1125.02 Division into districts.

1125.03 Zone Map.

1125.04 District boundary lines.

1125.05 Public utility facilities.

1125.06 Access to structures.

1125.07 Moving of structures.

1125.08 Easement use.

1125.09 Prohibited uses.

1125.10 Zoning of vacated areas.

CROSS REFERENCES

Zoning annexed areas - see Ohio R. C. 303.25, 519.18

Basis of districts - see Ohio R. C. 713.10

District defined - see ZON. 1123.03 (m)

Building moving prohibited - see ZON. 1171.03 (b)

Sign regulations for all districts - see ZON. 1179.06

1125.01 INTENT.

Except as hereinafter provided, no building or land or part thereof located in the City shall be used, altered, constructed, reconstructed, moved within or into the City except in conformity with the provisions of this Zoning Code which apply to the district in which it is located.

(Ord. 72-72. Passed 8-31-72.)

1125.02 DIVISION INTO DISTRICTS.

For the purpose of this Zoning Code the City is hereby divided into the following zoning districts:

Title	Abbreviation	(Formerly)
PUBLIC FACILITIES DISTRICT	PF	
RESIDENTIAL ZONING DISTRICTS		
Single-Family	R-1	U-1
Single-Family	R-2	
Single-Family	R-3	
Two-Family	RTF	U-2
Multiple-Family (Low Rise)	RMF-1	U-3D
Multiple-Family (Medium Rise)	RMF-2	U-3C
Senior/Adult	RS-1	
NONRESIDENTIAL ZONING DISTRICTS		
Office-Service	O-S	
Neighborhood Business	B-1	U-5
Regional Business	B-2	U-5
General Business	B-3	U-6
Office-Industrial	I-1	U-4
Industrial	I-2	U-4
OVERLAY ZONING DISTRICT		
Wireless Telecommunication Tower Overlay	WTTO	

The above classification of districts shall not be construed as an enumeration of the most restrictive to least restrictive districts except for the specific applications set forth in this Zoning Code.

(Ord. 15-97. Passed 4-22-97.)

1125.03 ZONE MAP.

The districts and abbreviations designated in Section 1125.02 and the locations and boundaries of the districts are established on a map entitled "Zone Map of the City of Richmond Heights, Ohio", dated June, 1972. The map and all notations, references, schedules and other information shown thereon are hereby made a part of this Zoning Code as if the matters and information set forth by the Map were all fully set forth and described herein.

(Ord. 72-72. Passed 8-31-72.)

1125.04 DISTRICT BOUNDARY LINES.

The district boundary lines of the Zone Map unless shown otherwise, are recorded lot lines, the center lines of streets or such lines extended and the limits of the City, provided, however:

- (a) Where the district boundary line is shown by dimension or relationship as being located a specific distance from and/or parallel to a street line, the distance shall control; or
- (b) Where a district boundary line divides a parcel of land, the location of such boundary, unless related to fixed points on the property boundary, shall be determined by scale and each part of the parcel shall comply with the regulations of the district in which it is located; or
- (c) Where a district boundary line does not coincide with any of the aforesaid lines and where it is not located by dimensions or fixed points shown on the Map, it shall be determined by the scale appearing thereon and in cases of other uncertainties, Council shall approve the exact location after application to and recommendation of the Planning and Zoning Commission.

(Ord. 72-72. Passed 8-31-72.)

1125.05 PUBLIC UTILITY FACILITIES.

In all zoning districts except industrial, public utility facilities and uses (without storage yards) when operating requirements necessitate the locating of such buildings and facilities within the district in order to serve the immediate vicinity, shall be permitted after review and approval of the site plan and upon a finding by the Planning and Zoning Commission that the use will not be injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this Zoning Code.

(Ord. 72-72. Passed 8-31-72.)

1125.06 ACCESS TO STRUCTURES.

Every building or structure hereafter erected or moved shall be on a lot abutting a public street or permanent easement having a right of way not less than sixty feet in width.

(Ord. 72-72. Passed 8-31-72.)

1125.07 MOVING OF STRUCTURES.

All structures or parts of structures to be moved within or into the City shall require approval from the Planning and Zoning Commission and the Architectural Board of Review. Any application for a permit to move a building or structure within or into the City shall designate the proposed location of the building or structure and the secretary for the Planning and Zoning Commission of the City shall notify the abutting residents and those within five building lots on each side of the property, upon both sides of the street, of the date, time and place at which the Planning and Zoning Commission and the Architectural Board of Review shall review the application for approval to move the building or structure to the proposed location. In the event the proposed location is a corner lot, notification shall be given to all residents within five building lots of the intersection for each street forming the intersection. Such notice shall be in writing and delivered by first class mail or personal service at least fourteen days prior to the date of the hearing at which the application for moving shall be considered. Approval of the location of the building or structure shall be based upon a specific finding in writing that the structure or part of the structure will not be injurious to the surrounding neighborhood and not contrary to the spirit and purpose of this Zoning Code.

(Ord. 72-76. Passed 8-30-76.)

1125.08 EASEMENT USE .

Erection of permanent structures on easements for public utilities is prohibited. "Permanent structure" means and includes a garage or other building but shall not include a fence, retaining wall, free-standing wall, concrete walk, paving or any similar object which will prevent or interfere with the free right or opportunity to use or make the easement accessible for essential services.

(Ord. 72-72. Passed 8-31-72.)

1125.09 PROHIBITED USES.

No junk yards and no automobile trailer camps or tourist cabins shall be established in any zoning district. Automobile trailers, recreational vehicles, tourist cabins, similar portable dwellings or tents shall not be permitted to be used or occupied as dwellings in any zoning district.

(Ord. 72-72. Passed 8-31-72.)

1125.10 ZONING OF VACATED AREAS.

Whenever any street or portion thereof is vacated, such street or portion thereof shall automatically be classified in the same zoning district as the property to which it is attached.

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1131

PF Public Facilities District

1131.01 Intent.

1131.02 Permitted uses.

1131.03 Yard, area and bulk requirements.

1131.04 Off-street parking.

1131.05 Walls and landscaping.

1131.06 Signs and lighting.

1131.07 Site plan review.

CROSS REFERENCES

Hospital defined - see ZON. 1123.05 (g)

Permitted signs - see ZON. 1179.04 (a)

1131.01 INTENT.

Public Facilities Districts are established in order to achieve, among others, the following purposes:

- (a) To provide a proper zoning classification for governmental, civic, welfare and recreational facilities in proper locations.
- (b) To protect such public and semipublic facilities and institutions from the encroachment of other uses and to make such uses compatible with adjoining residential uses.
- (c) To provide an environment for the proper functioning of public facilities in relation to the Master Plan and plans for community facilities.

(Ord. 72-72. Passed 8-31-72.)

1131.02 PERMITTED USES.

Buildings and land shall be used and buildings shall be designed, erected, altered, moved or maintained in a Public Facilities District only for the uses set forth as follows:

- (a) Governmental, Municipal and other governmental buildings and uses for administrative functions and use by the public.
- (b) Civic, Art galleries, libraries, museums, places for public assembly, memorials and churches.
- (c) Educational, Primary and secondary public, private or parochial schools.
- (d) Hospitals and Nursing Homes, As defined in Chapter 1123 of the Zoning Code.
- (e) Recreational, Public parks, recreational fields and playgrounds, swimming pools and golf courses.
- (f) Permitted Accessory Uses, Garages, parking, maintenance facilities and signs as hereinafter regulated.

(Ord. 108-90. Passed 10-23-90.)

1131.03 YARD, AREA AND BULK REQUIREMENTS.

Except as herein provided, yard, area and bulk requirements shall be regulated as set forth in Chapter 1173 .

The minimum distance between any two buildings within any PF District shall be regulated by the building distance formula set forth in Section 1147.07 .

(Ord. 72-72. Passed 8-31-72.)

1131.04 OFF-STREET PARKING.

Off-street parking shall be as required in Chapter 1175 .

(Ord. 72-72. Passed 8-31-72.)

1131.05 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177 .

(Ord. 72-72. Passed 8-31-72.)

1131.06 SIGNS AND LIGHTING.

Signs and lighting shall be permitted only when in conformity with the provisions as set forth in Chapter 1179 .

(Ord. 72-72. Passed 8-31-72.)

1131.07 SITE PLAN REVIEW.

(a) No building or structure shall be erected on land used in a PF Public Facilities District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission sixty days after the site plan has been presented to the Commission.

- (b) When recommending the approval of a site plan for a PF District, the Planning Commission may recommend and Council may impose such additional conditions as are necessary to secure the following objectives:
 - (1) That all the development features including the principal and accessory buildings, open spaces, service roads, buffer strips, set backs, driveways and parking areas are located so as to encourage pedestrian and vehicular traffic safety; and
 - (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.

(Ord. 36-81. Passed 9-8-81.)

CHAPTER 1135

R-1 and R-2 Single-Family Residential Districts

1135.01 Intent.

1135.02 Permitted uses.

1135.03 Residential Cluster Development (RCD).

1135.04 Yard, area and bulk requirements.

1135.05 Off-street parking.

1135.06 Walls and landscaping.**1135.07 Signs and lighting.****CROSS REFERENCES**

Floor area of single-family dwelling unit defined - see ZON. 1123.05 (e)

Side yards for attached single-family dwellings - see ZON. 1173.05 (e)

Location of accessory buildings - see ZON. 1173.05 (k)

Erection of single-family dwelling on nonconforming land - see ZON. 1181.04

1135.01 INTENT.

R-1 and R-2 Single-Family Residential Districts are intended to regulate the use of dwellings and their accessory activities in relation to districts having compatible characteristics, and to regulate the density of the population to avoid congestion, maintain adequate services, obtain proper light, air and privacy, and to promote the most beneficial use of land in accordance with the Master Plan of the City.

The regulations in this chapter shall apply to all R-1 and R-2 Districts.

(Ord. 72-72. Passed 8-31-72.)

1135.02 PERMITTED USES.

In the R-1 and R-2 Districts, no building or structure or part thereof shall be erected, altered, moved or used, or land used, in whole or in part, except as otherwise provided in this chapter for one or more of the following specified uses:

- (a) One-family dwellings.
- (b) Farms; buildings erected, altered or moved onto farms shall conform to all provisions of this chapter.
- (c) Churches. (Ord. 72-72. Passed 8-31-72.)
- (d) Public and private schools offering courses in general education and not operated for profit, state-certified day care centers or pre-schools provided that they are located within a permitted school or church, publicly owned buildings, libraries and parks, upon recommendation of the Planning and Zoning Commission and approval by Council, upon a finding that the use complies with the standards and criteria as follows:
 - (1) That the proposed use shall be in accordance with the objectives of the land use plan; shall be located so as to have access only on an arterial or secondary street; and may be located only on a local street provided that the extent and intensity of the proposed development will not substantially increase the volume and type of traffic movements on the local street;
 - (2) That the proposed use is necessary to serve the neighborhood or the residential community at large; that the need cannot be served satisfactorily or that its environment would not be compatible if located in a nearby less restrictive district;
 - (3) That the depth of the front yard and of the rear yard and the width of the side yards shall each be not less than 100 feet; and
 - (4) That the location, design and operation of such use will not discourage the appropriate development or impair the value of the surrounding residential areas

(Ord. 73-91. Passed 9-10-91.)

- (e) Community buildings, golf courses, country clubs or similar civic or social clubs but not a residential club or a club operated as a commercial enterprise, after approval granted by the Planning and Zoning Commission upon a finding that the use complies with the standards and criteria as follows:

- (1) That the proposed use shall be in accordance with the objectives of the land use plan and shall be located so as to have access only on an arterial street or major thoroughfare;
 - (2) That the proposed use is necessary to serve the neighborhood or the residential community at large; that the need cannot be served satisfactorily or that its environment would not be compatible if located in a nearby less restrictive district;
 - (3) That the depth of the front yard and of the rear yard and the width of side yards shall each be not less than 100 feet; and
 - (4) That the location, design and operation of such use will not discourage the appropriate development or impair the value of the surrounding residential areas.
- (f) Picnic grounds, athletic fields or similar areas for physical and outdoor exercises, and recreation areas which shall not be operated for a profit, provided such use is on open land and does not impair the residential appearance or character of such land, only after approval of the use and site development plan is granted by the Planning and Zoning Commission for a period not to exceed two years, upon a finding that the use complies with the standards and criteria as follows:
 - (1) That the proposed use shall be in accordance with the objectives of the land use plan; shall be located so as to have access only on an arterial street or major thoroughfare;
 - (2) That the proposed use is necessary to serve the neighborhood or the residential community at large; that the need cannot be served satisfactorily or that its environment would not be compatible if located in a nearby less restrictive district;
 - (3) That the subject property will act as a buffer or transitional area between a residential development and a nonresidential development;
 - (4) That the location, design and operation of such use will not discourage the appropriate development or impair the value of the surrounding residential areas; and
 - (5) That any capital improvements upon the subject property shall be of a temporary nature to preclude any unreasonable financial loss should the grant not be renewed upon expiration.

(Ord. 72-72. Passed 8-31-72.)

- (g) Accessory buildings or uses customarily incident to any of the above permitted uses, such as private garages and open parking facilities, private gardens, recreational and storage uses and structures, pools, fences and walls. One or two private garages for each residential lot in which there can be housed a maximum of three passenger vehicles shall be considered a legal accessory use.

(Ord. 114-77. Passed 11-22-77.)

- (h) A home-centered profession, occupation, or business (collectively referred to in this subsection as a "business") may be conducted only as an accessory use on a lot where a dwelling unit is being occupied and being used as a dwelling unit, provided that all of the following standards are maintained:

- (1) Home businesses that employ or engage persons in furtherance of the business at any time during a calendar year, other than a resident of the subject premises who is a member of the immediate family residing on the premises, must register the business with the City's Division of Building, Zoning and Housing (the "Division") on an annual basis and prior to January 31 of each year. An annual registration fee of fifty dollars (\$50.00) is required. A principal of the business shall supply the following information in the annual registration form supplied by the Division:
 - A. The official legal name of the business and the form of business entity;
 - B. The names of all principals and employees, whether fulltime, part-time or seasonal; if the nature of the business is seasonal, an estimate of the number of employees that will be employed during any particular season shall be given with the estimated period(s) of employment;
 - C. A description of the nature and operations of the business;
 - D. The federal tax identification number for the business; and
 - E. The number and types of vehicles used for the business, which information in the registration shall be updated in writing to the City's Division within thirty days of any change in the vehicles being used for the business taking place at the subject premises.
- (2) The business shall be conducted wholly within the dwelling unit, except:
 - A. Vehicles used in the furtherance of the business and all employees' vehicles must have a valid State of Ohio registration and license plate and may only park behind the imaginary line extending across the front of the main building on the lot to the side property lines of the lot (the "front building line"). On corner lots facing two public streets, there shall be no parking of such vehicles in a front yard or a side yard facing a public street, including the area of such side yard extended to the rear property line. One such vehicle, however, is permitted to be parked in the driveway of the lot if it otherwise meets the requirements of the Codified Ordinances of the City. There shall be no parking of such vehicles on a public street.
 - B. All vehicles and trailers associated with the business must be parked out of sight from all public rights-of-way and from other residential properties and parked in either an enclosed building or on pavement in an area as described in subsection (2)A. above and screened from view. Such screening shall consist of planted material that provides a year round, continuous visual screen to an initial height of at least six (6) feet. At a minimum such planted areas shall consist of two (2) staggered rows of evergreen (non-deciduous) vegetation. Landscaped earth mounds and fencing may supplement the planted screen in order to achieve the required screen density and height. The Commissioner of the Division or his/her designee shall determine the effectiveness of the selected screening. These screening requirements shall not apply where natural or man-made barriers exist which provide screening equivalent to that required herein as determined by the Commissioner of the Division or his/her designee. Screening shall be maintained in good condition at all times. All earth mounds and fences shall comply with the provisions of the City's Codified Ordinances.
 - C. There shall be no staging of business equipment, materials, and/or employees at the premises for the purpose of preparing to perform business activities off of the premises, except for one period of thirty (30) consecutive minutes in the a.m. hours of a day and for one period of thirty (30) consecutive minutes in the p.m. hours of a day and which shall not occur before 7:00 a.m. or after 8:00 p.m. All staging shall occur only behind the front building line. For purposes of this Section, "staging" is defined as loading or preparing materials or equipment to conduct business and employee participation in that activity but only by the number of employees permitted by subdivision (3) below.
 - D. There shall be no storage of business merchandise, supplies, refuse, spoils, or equipment outside of a completely enclosed building.
- (3) The number of business vehicles and the number of employees who do not reside at the premises and are not members of the immediate family residing at the premises that shall be permitted to be on the premises for purposes of conducting any activity related to the business shall be as follows:
 - A. For lots less than 15,000 square feet in area, there shall be no more than one vehicle and one employee.
 - B. For lots from 15,000 square feet to less than 43,000 square feet in area, there shall be no more than two vehicles and two employees.
 - C. For lots from 43,000 square feet to less than 60,000 square feet in area, there shall be no more than three vehicles and three employees.
 - D. For lots greater than 60,000 square feet in area, there shall be no more than four vehicles and four employees.
- (4) No business shall be permitted to operate in any portion of any dwelling unit or lot where the conduct of such business is or will be disruptive to neighboring property owners or occupants by reason of excessive noise, early or late hours of business activity, the intensity of the business activity, or where mechanical, electrical or motorized equipment used in furtherance of the business causes any disturbance, smoke, heat, glare, dust, odor, noise or other environmental pollution of any kind beyond the lot where the home business is located. The regulation of noise shall be as set forth in the City's Codified Ordinances.
- (5) There shall be no direct sales on the premises of merchandise or products manufactured, stored, or transferred on the premises, except for the sale of fruits and vegetables grown on the premises and by advance appointment only for the sale of small items made or produced on the premises, such as baked goods, individual custom-made clothing, goods made of cloth or similar materials, arts and crafts items, computer software, and similar items that can be hand-carried off of the premises by a single person. The provision of services to consumers on the premises shall be by advance appointment only. Open house-type events for a business are prohibited
- (6) There shall be no exterior alterations made to the dwelling unit or to an accessory structure for home business purposes which will change the appearance of the dwelling and accessory structure so as to indicate from the exterior that the building or buildings are being used for any purpose other than a residential use.
- (7) There shall be no sign, display, or other indications visible from outside any building on the premises that would indicate that the lot is being used, even in part, for any purpose other than that of a residential dwelling, except that a "Sign Plate", as defined in this Code, not to exceed two square feet in area, that is attached to the wall of the main building on the lot is permitted with no restriction on its content. The maximum size of a Sign Plate or the number thereof, as permitted by this Code, shall not be varied in any manner.
- (8) Except for child day care homes, motor vehicles shall only bring clients or customers to or from the home business between 9:00 a.m. to 9:00 p.m. daily. All such vehicles visiting the home business shall be parked on private property and comply with all other provisions of the Codified Ordinances of the City.
- (9) There shall be no excavating or earth moving equipment or no vehicles with a hauling capacity of over two tons permitted on a lot.

(Ord. 77-2010. Passed 12-14-10.)

- (i) On a parcel of land of less than ten acres, the growing and selling of produce and the keeping of bees, animals and fowl shall be permitted under this chapter, provided the same is produced entirely on such parcels of land and does not become a nuisance or detrimental to the public health, general welfare or safety of the community.
- (j) Animals, including fowl, other than pets, shall be housed in accessory buildings. No building or buildings shall be used or built for the housing of animals or fowl, other than pets, on the front half of any lot nor nearer than 175 feet to any adjoining dwelling, nor nearer than fifty feet to the dwelling of the owner thereof, and no animals which are or shall be in any way destructive, dangerous or detrimental to the public health, general welfare or safety of the community shall be kept, harbored or housed in any section of the City.

(Ord. 72-72. Passed 8-31-72.)

1135.03 RESIDENTIAL CLUSTER DEVELOPMENT (RCD).

(a) **Purpose.** The purpose of this section is to permit and regulate the development of one-family dwellings and attached one-family dwellings in a planned, clustered arrangement compatible with uses permitted in the district, in locations within the district where clustered development contributes to and does not detract from the character and function of the district, and in compliance with an approved development plan.

- (b) Permitted Districts. A residential cluster development may be permitted, by approval of the City Council, in an R-1 or R-2 Single Family Residential District in compliance with all provisions of this Section 1135.03 .
- (c) Uses. The uses which may be established within a Residential Cluster Development (which may be hereinafter referred to as an "RCD") are limited to the following:
- (1) One-family dwelling;
 - (2) Attached one-family dwelling, with no more than three (3) one-family dwellings attached to each other; no more than twenty-five percent (25%) of the dwelling units approved in an RCD shall be in attached one-family dwellings;
 - (3) Accessory buildings and uses as permitted in the District and as approved in the development plan; and
 - (4) Home occupations as permitted in the District.
- (d) General Standards. A Residential Cluster Development shall only be constructed in conformance with a development plan which, at a minimum, complies with the following general standards:
- (1) All structures and uses within the RCD shall be designed, located, and constructed in a manner which minimizes adverse impacts on abutting and nearby areas zoned for residential use. Structure dimensions shall be compatible with those in surrounding residential development.
 - (2) Features such as large open spaces, landscaping, fences and walls, and earth mounds shall be established to buffer or protect abutting and nearby areas zoned for residential use which are of lesser density per acre than the proposed RCD.
 - (3) Vehicular and pedestrian facilities shall be designed, located, and constructed in a manner which minimizes impacts on public vehicular and pedestrian facilities of the district and contributes to their effective functioning.
 - (4) An RCD shall not be permitted where utility demand or traffic generation exceeds the capacity of available infrastructure except where the applicant pays for necessary improvements and City Council finds such expanded infrastructure and improvements suitable in the area in which it is constructed.
 - (5) The RCD plan shall provide for reasonable extension or completion of street systems, walkways, utilities or other public facilities planned for the district in which the RCD is located.
- (e) Land Area for Residential Cluster Development; Phasing.
- (1) The RCD minimum area is five (5) acres of land.
 - (2) The RCD maximum area is forty (40) acres of land.
 - (3) The RCD must have frontage upon, or permanent access approved by City Council to, a public right-of-way.
 - (4) The area of the RCD shall be in one ownership or, if it is in several ownerships, all owners or their authorized representative shall sign all required applications to the Planning Commission for an RCD. Each owner shall be a party to all legal obligations and commitments required for the RCD.
 - (5) Requirements for Phased Development. If the RCD is proposed to be developed in two or more phases, each phase shall be constructed with adequate access, parking, storm water facilities, landscaping, buffers, and other improvements deemed necessary by City Council to ensure that the phases will be individually in compliance with the provisions of this Section 1135.03 , particularly with regard to the protection of the district and adjoining properties.
- (f) Density. Within the area of an RCD and as approved in the development plan, permitted dwelling units may be constructed up to the following maximum gross densities:
- (1) R-1 District: The maximum density permitted in the R-1 District shall be three (3.0) units per gross acre of the total development. The gross density on the developable area shall not exceed five (5.0) dwelling units per acre.
 - (2) R-2 District: The maximum density permitted in the R-2 District shall be three (3.75) units per gross acre of the total development. The gross density on the developable area shall not exceed five (5.0) dwelling units per acre.
 - (3) As used in the foregoing paragraphs, "developable area" means all that area of an RCD excluding those parts which, in their natural, pre- development state:
 - A. Have slopes in excess of 15% in a vertical distance greater than twenty (20) feet;
 - B. Are Category II or III wetlands as defined by the Ohio Environmental Protection Agency;
 - C. Are federally-designated floodplains;
 - D. Are open water bodies which will not be removed by the development;
 - E. Are within the high water level of a natural watercourse; and/or
 - F. Are located or configured in a manner which prohibit their integration into the design and development of the actual cluster dwelling area (e.g., isolated remnants of land).

The Planning Commission may recommend and Council may approve exceptions to the foregoing developable area exclusions where it is found that the exceptions are necessary in the interest of creating a safe and functional cluster development and are not contrary to the public health, safety and general welfare of the City.
 - (4) The Planning Commission may recommend, and City Council may require, a lesser density than provided in subsections (1) and (2) above where it is found that the maximum density is not appropriate due to one or more of the following factors:
 - A. The size, shape, or natural features of the land(s) proposed for the RCD;
 - B. The size, shape, or location of the area proposed for the construction of dwellings; and/or
 - C. Conditions of abutting properties, such as the locations of existing structures or the dimensions of lots.
- (g) Dimensional Standards.
- (1) Floor area. Each dwelling unit shall have a minimum floor area as provided in Section 1173.03 .
 - (2) Lots. An RCD may have a choice of three possible forms of property ownership for dwellings and the land associated therewith: (i) condominium ownership under state law; (ii) de minimus lots; or (iii) lots with lot lines greater than six (6) feet from the foundations of the dwellings. Different special standards may apply to each of these three (3) types of property ownership.
 - A. Each dwelling unit shall be placed on a separate lot except where the entire RCD is established within a single plan for condominium ownership under state law.
 - B. Where lots are established, every lot shall have frontage on a dedicated public street or on a permanent easement of access to a dedicated public street.
 - (3) Exterior setbacks for RCD. The following minimum setbacks shall be required for all buildings, parking areas, active recreation facilities, and other significant structures or uses:
 - A. Setback from a public street right-of-way line which forms a boundary of the RCD: Sixty (60) feet. The setback area shall be permanently landscaped as approved in the development plan.
 - B. Setback from a property line which forms a boundary of the RCD, other than a public street right-of-way line: Fifty (50) feet, except that, if approved in the development plan, the setback may be reduced to thirty-five (35) feet with a combination of landscaping and a board-on-board fence six (6) feet in height constructed along the property line or in a location approved in the development plan.
 - C. In an RCD which is developed with lots as provided in (g)(6) below, an area of land at least twenty-five (25) feet wide shall be located between every lot within the RCD and every lot outside of the RCD. This area shall be permanently landscaped as approved in the development plan and shall be owned by the homeowner's association.
 - (4) Setbacks from new streets in an RCD. The following minimum setbacks shall be required for all buildings:
 - A. Setback from new public street right-of-way line within the RCD: As recommended by the Planning Commission and finally determined by Council on a case-by-case basis, and within the sole discretion of the Council.
 - B. Setback from private street (from back of sidewalk or, if no sidewalk, back of curb): Twenty (20) feet. Garage door setback: Twenty-five (25) feet.
 - (5) Minimum dwelling separation, outdoor living area. Within an RCD which is established as a condominium, or within an RCD with de minimus lots, separations shall be required:
 - A. Except for the attached side(s) of an attached dwelling unit, each building shall be at least fifteen (15) feet from every other building.
 - B. One side of each dwelling unit shall be at least sixty (60) feet from the nearest building (except from a unit to which it is attached).
 - C. Within an RCD with lot lines, subject to site plan approval, one lot line may be located not more than twenty (20) feet from the dwelling for the purpose of constructing an addition, provided such addition will comply with all other provisions of this Code.
 - D. The locations of the minimum separation areas for each dwelling unit, as provided in A. and B. above, shall be drawn on the development plan and shall control the locations of dwellings.
 - E. Outdoor Living Area. An outdoor living area shall be established for each dwelling unit, with dimensions not less than 400 square feet in total area and not greater than fifteen (15) feet from the dwelling unit. Such outdoor living area shall not be part of the outdoor living area of any other dwelling unit, common area, landscaped buffer, preserved wetlands, or slopes over 15%. The outdoor living area shall be located adjacent to the rear or side of the dwelling unit unless otherwise approved in the development plan.
 - F. Except as provided in subsection C above, the lot lines for de minimus lots shall be located coincident with or not more than six (6) feet from the foundations of the dwellings as drawn on the approved final plat. When a dwelling is constructed on an approved de minimus lot and the distance between the foundation and the platted lot line is greater than six (6) feet, then the lot and dwelling shall be deemed to comply with this ordinance.
 - (6) Minimum lots and yards. Within an RCD with lots which have lot lines which are more than six (6) feet from the foundations of the dwellings, the following minimum lots and yards shall be required, in addition to complying with (3) and (4) above:
 - A. Minimum side yards shall be seven and one-half (7.5) feet.
 - B. Minimum front yard shall be twenty (20) feet. However, the garage door shall be a minimum of twenty-five (25) feet from the front lot line.
 - C. Minimum rear yard shall be twenty-five (25) feet.
 - D. The locations of the minimum setback lines for each lot shall be drawn on the development plan and shall control the locations of dwellings.
 - E. Minimum lot area shall be five thousand (5,000) square feet.
 - F. Minimum lot width shall be fifty (50) feet.
 - (7) Maximum height. Maximum height shall be as provided for the District in Sections 1135.04 (c) and 1173.03 .
 - (8) Setbacks from undevelopable areas. All buildings shall be setback at least fifteen (15) feet from the areas excluded from "developable areas" as provided in subsection (f)(3).
- (h) Roads.
- (1) City Council shall determine which streets within an RCD shall be dedicated as public roads and which shall be private roads.
 - (2) A private road shall be constructed in compliance with the standards for public roads established in the Planning and Zoning Code except that a private road may be constructed to lesser standards of width than required by the City's standards in the Planning and Zoning Code where, subsequent to consultation with the City Engineer, the Chief of Fire and the Chief of Police, it is found:
 - A. That the lesser standard is sufficient to serve the character and safety needs of anticipated traffic;
 - B. That the parking demand of the area served is satisfactorily served by other parking facilities and that on street parking will not be necessary;
 - C. That the public health, safety and welfare will be served by the lesser standard; and
 - D. That construction to the lesser standard will not negatively affect the function of the street system of the RCD and the district in which it is located.
 - (3) When a private street or drive is approved as the means of access from a dwelling or lot to a public street, the following language shall be included in the deed for the dwelling or lot:

"The undersigned grantee(s) hereby acknowledge(s) that (he, she, they) understand that the premises described herein relies upon a non- dedicated private street or common drive as its sole means of access to a public street and that no government body is responsible for care and maintenance of the private street or common drive."
 - (4) Sidewalks and treelawns shall be constructed for public roads as required by the Planning and Zoning Code. Sidewalks and treelawns shall be constructed for private roads as approved in the development plan. At a minimum, a sidewalk shall be provided on at least one side of every private street. In lieu of the provision of sidewalks, a trail system may be approved at the sole discretion of the Planning Commission and City Council.
- (i) Parking.
- (1) At least two (2) enclosed parking spaces shall be provided for each dwelling unit, attached to the unit.
 - (2) At least two (2) unenclosed parking spaces shall be provided for each dwelling unit, located within forty (40) feet of the entry to the dwelling unit. Where the driveway is used for parking, the depth of the paved area (outside of any public right-of-way or traveled portion of any private street or drive) shall be at least twenty-five (25) feet.
 - (3) At least one quarter (0.25) unenclosed parking spaces shall be provided for each dwelling unit in a common parking lot or lots or on a public or private street located as approved in the development plan. Common parking areas shall be setback at least twenty (20) feet from any public road and at least ten (10) feet from any dwelling.
- (j) Common Areas.
- (1) Common areas shall be established as required in the development plan.
 - (2) Except where included within a condominium ownership plan, all common areas shall be located on a lot or lots having frontage on a public street or having access thereto via an easement.
 - (3) A minimum of five percent (5%) of the developable area (see subsection (f)(3)), shall be improved as landscaped open space area(s) designed for use by all residents of the RCD. The area(s) may include common recreation facilities, sitting areas, walking or biking trails, picnic areas, gazebos, community rooms, cluster mail stations, or similar facilities as approved in the development plan. The location, shape, features, and other characteristics of the area(s) shall be designed to be accessible to and encourage use by all residents of the RCD. The area(s) shall not include areas otherwise required by

these regulations such as required separation between buildings, RCD exterior setbacks, parking areas, drives, parts of private lots, and similar areas.

The number, size and configuration of the area or areas shall be as approved in the development plan.

(k) **Architectural Standards.** All structures, landscaping, and other features of the RCD shall comply with the standards established in the architectural design plan and guidelines approved in the development plan and as approved by the Architectural Board of Review.

(l) **Homeowner Association.** A homeowner association, condominium association or similar legal entity approved by City Council shall be created to maintain and control common areas and facilities of the RCD. At a minimum, the association's bylaws, covenants and restrictions, or code of regulations shall include all of the following:

- (1) Membership in the association shall be mandatory for all owners of lots and dwelling units.
- (2) The association shall be responsible for control, maintenance, and insurance of all common areas and facilities.
- (3) The association shall have the power to impose assessments on members for the costs of control, maintenance, and insurance of common areas and facilities; shall have the power to place liens against individual lots and dwelling units for failure to pay assessments; and shall have the power to establish and enforce rules and regulations for use and payment of the assessments.
- (4) The association shall have the authority to enforce reasonable rules and regulations governing the use, control, maintenance, and insurance of common areas and facilities.
- (5) The conditions and timing of transfer of control of the association and its assets and liabilities from the developer to the owners of lots and dwelling units shall be clearly stated.
- (6) The association shall only authorize its dissolution or the sale, transfer, or other disposal of any common area of facilities, including common open space, with an affirmative vote of at least seventy-five percent (75%) of its members, and having first established a successor entity to take over the common areas and facilities; and with the approval of City Council.
- (7) Upon its establishment, the association shall convey to the City and other appropriate government bodies the right to entrance, after proper notice, to any common area for emergency purposes or in the event of nonperformance of maintenance or improvements affecting the public health, safety, and welfare. The City shall have the right, after proper notice: to make improvements and to perform maintenance; to proceed against the association for reimbursement of the costs thereof; and to file liens against individual owners of lots and dwellings.
- (8) Any amendments to the foregoing provisions required by subsections (1) through (7) shall be approved by the City Council.
- (9) When a homeowner association is created for an RCD having de minimus lots, the homeowner association shall be perpetually responsible for the maintenance and control of all land on de minimus lots outside of the foundations of the dwellings.

(m) **Procedure for Review and Approval of RCD.**

(1) **Preliminary Approval Procedure.**

A. The applicant shall submit an application to the Planning Commission which shall include, at a minimum, the following:

1. Development plan including:
 - a. Illustration of existing conditions including "developable" and "undevelopable" areas, existing structures and lot lines within one hundred (100) feet of all boundaries of the proposed RCD area;
 - b. Preliminary site plan illustrating all proposed structures and lots, public and private streets, common areas, setbacks and separations;
 - c. Preliminary architectural plans and guidelines;
 - d. Preliminary landscape plans for all common areas; locations of buffers and fences;
 - e. Preliminary utility plan; and
 - f. Preliminary grading and storm water facility plan.
 2. Preliminary Plat. If the RCD is proposed to create lots, a preliminary subdivision plat shall be submitted complying with the requirements of the Planning and Zoning Code. Where a plat is required, approval of the preliminary RCD shall only be granted subject to approval of the preliminary plat.
 3. Draft of proposed bylaws, covenants and restrictions, and code of regulations for condominium or homeowners association.
 4. The Planning Commission may, subsequent to consultation with the City Engineer, require a traffic impact study, prepared by a qualified traffic engineer, projecting the volumes of traffic to be generated by the RCD and evaluating the impacts on streets accessed by the RCD.
- B. The Planning Commission shall review the application and, within sixty (60) days after receipt, make a recommendation to City Council to approve, approve with conditions and amendments, or deny the preliminary application for the RCD.
- C. Within sixty (60) days after receipt of the recommendation of the Planning Commission, City Council shall take action to approve, approve with conditions and amendments, or deny the preliminary application for the RCD.

(2) **Final Approval Procedure.**

- A. Approval by City Council of the preliminary application for the RCD shall authorize the applicant to submit a final application for the RCD. The final application shall be submitted within six (6) months after the approval of the preliminary application or the approval shall lapse.
- B. The applicant shall submit a final application to the Planning Commission which shall include, at a minimum:
1. Detailed Development Plan, conforming with the approved preliminary application, and including:
 - a. Detailed site plan illustrating all proposed structures and lots, easements, rights-of-way, common areas, setbacks and separations, "developable" and "undevelopable" areas;
 - b. Detailed architectural plans and guidelines for all structures;
 - c. Detailed landscape and lighting plans for all common areas; locations of buffers and fences; typical landscape plans for all dwellings;
 - d. Detailed utility construction plans;
 - e. Detailed grading and storm water management plan; and
 - f. Phasing plan. If development of the RCD will be in phases, the area and features of each phase.
 2. Development Agreement committing the applicant to construct within two years the improvements specified in the approved Detailed Development Plan, including financial guarantees for all public improvements and private improvements, including but not limited to: roadways, water lines, sanitary and storm sewers, storm water facilities, sidewalks, walking and biking trails, recreational facilities, and landscaping amenities and screening in common areas (including but not limited to plantings, earthen mounds, fences, walls, planters, benches, mail stations and other such items). Financial guarantees shall be as approved by the City Engineer and the Director of Law. The Development Agreement shall also require from the applicant, or any successor in interest to the RCD, a maintenance bond in an amount equal to twenty percent (20%) of the final construction cost of all improvements, both public and private, to guarantee the workmanship and material for a period of two (2) years following the completion of all improvements and the release of the original financial guarantee.
3. Final Plat. If the RCD is proposed to create lots, a final subdivision plat complying with the requirements of the Subdivision Regulations. Where a plat is required, approval of the final RCD shall only be granted subject to approval of the final plat.
4. Final bylaws, covenants and restrictions, and code of regulations of the condominium or homeowners association, in a recordable format.
- C. The Planning Commission shall review the detailed development plan, development agreement, final plat, bylaws, and deed restrictions of the RCD and within sixty (60) days after receipt, make a recommendation to City Council to approve, approve with conditions and amendments, or deny the aforesaid. Within sixty (60) days after receipt of the recommendation of the Planning Commission, City Council shall take action to approve, approve with conditions and amendments, or deny the aforesaid documents.
- D. In conformance with the provisions of this section and subsequent to completion of all procedures and approvals required herein, the Zone Map shall be marked to indicate the boundaries of the RCD within which the provisions of the approved development plan shall be enforced.
- E. The final bylaws, covenants and restrictions, and code of regulations of the condominium or homeowners association shall be recorded with the County Recorder's Office prior to the issuance of any building permits for the RCD.
- F. Amendment of Plans. An approved, detailed RCD development plan may be amended with the approval of the Planning Commission provided the amendments comply with the approved preliminary development plan. When the Planning Commission determines that an amendment is not consistent with the approved preliminary development plan, the Commission shall make a recommendation to City Council for approval, approval with conditions, or denial.

(Ord. 14-2003. Passed 6-10-03; Ord. 29-2007. Passed 6-27-06.)

1135.04 YARD, AREA AND BULK REQUIREMENTS.

- (a) In R-1 and R-2 Districts, there shall be a front yard, a side yard on each side of every lot and a rear yard. Except as herein provided, the minimum widths and depths shall be as set forth in Chapter 1173 .
- (b) The height and bulk of buildings, the required minimum lot area, the minimum setback requirements, the minimum floor area and the maximum percent of the area of a lot that one-family dwellings together with accessory buildings may occupy shall be set forth in Chapter 1173 .

(Ord. 85-73. Passed 10-23-73.)

(c) **Accessory Buildings.** All accessory buildings, either attached or detached shall be considered as part of the main building in computing the percent of lot coverage in Chapter 1173 . Where a rear yard abuts upon a street (such lot is commonly known as a through lot), accessory buildings shall not occupy any of the minimum required rear yard space. On a corner lot, accessory buildings shall not occupy any of the rear yard lying nearer to the street than the width of the yard required on such lot and abutting on such street.

- (1) A private garage may be an integral part of the main building or it may be attached to the main building. A private garage may be detached from the main building, but shall not exceed one story of fifteen feet in height and shall conform to all yard requirements for a main building. A single-car attached garage and a two-car detached garage, or a two-car attached garage and a single-car detached garage, or a three-car detached or attached garage is permitted, provided that the total number of vehicle spaces does not exceed three and further provided that the total garage size does not exceed 24 by 36 feet. Any garage must have a driveway connected with a street.
- (2) Except for a private garage, all other buildings designed and intended for accessory uses shall conform to the following requirements:
 - A. The maximum height shall be eight feet for a flat roof and eleven feet for a gabled, hip, mansard or gambrel roof.
 - B. On lots 15,000 square feet or less in area, the floor area shall not exceed 120 square feet.
 - C. On lots larger than 15,000 square feet, the floor area shall not exceed one percent of the lot area. However, in no event shall the floor area exceed 240 square feet.
- (3) Not more than one accessory building, whether it is a garage or other accessory use, is permitted on any residential lot.

(Ord. 17-87. Passed 5-12-87.)

1135.05 OFF-STREET PARKING.

Off-street parking shall be as required in Chapter 1175 .

(Ord. 72-72. Passed 8-31-72.)

1135.06 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177 .

(Ord. 72-72. Passed 8-31-72.)

1135.07 SIGNS AND LIGHTING.

Signs and lighting shall be permitted only when in conformity with the provisions as set forth in Chapter 1179 .

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1139

R-3 Single-Family Residential District

1139.01 Intent.

1139.02 Permitted uses.

1139.03 General requirements.

1139.04 Density control.

1139.05 Open space and recreational areas.

1139.06 Subdivision and development.

- 1139.07 Site plan review.**
- 1139.08 Yard, area and bulk requirements.**
- 1139.09 Off-street parking.**
- 1139.10 Walls and landscaping.**
- 1139.11 Signs and lighting.**

CROSS REFERENCES

- Site plan defined - see ZON. 1123.07 (p)
- Access to structures - see ZON. 1125.06
- Permitted uses in R-1 and R-2 Districts - see ZON. 1135.02
- Side yards for attached single-family dwellings - see ZON. 1173.05 (e)
- Location of accessory buildings - see ZON. 1173.05 (k)
- Erection of single-family dwelling on nonconforming land - see ZON. 1181.04

1139.01 INTENT

The R-3 Single-Family Residential District is intended to permit and to relate to the type, design and layout of attached and detached single-family residential development to the particular site in a manner consistent with the preservation of the property values in established residential areas.

This District is intended to encourage a more efficient and desirable use of land and to provide a greater variety of designs and layouts of single-family buildings, and improve the environment of single-family developments in accordance with the objectives of the Master Plan.

This District is specifically intended to prohibit multiple-family buildings where entry to individual dwelling units is from an interior common area or where individual dwelling units are attached in any way other than by their side walls.

(Ord. 72-72. Passed 8-31-72.)

1139.02 PERMITTED USES.

In an R-3 District, no building or structure or part thereof shall be erected, altered, moved or used or land used, in whole or in part, except as otherwise provided in this chapter for one or more of the following uses:

- (a) All uses permitted in R-1 and R-2 Single-Family Residential Districts.
- (b) Single-family attached dwellings with not more than six attached dwelling units.
- (c) Accessory buildings and uses permitted in R-1 and R-2 Districts.
- (d) Recreational uses, including, but not limited to, parks, swimming pools, pavilions and tennis courts. The entire area of the District shall be treated to service the residents of the District and any accessory buildings, uses or services shall be developed solely for the use of the residents of the District.

(Ord. 72-72. Passed 8-31-72.)

1139.03 GENERAL REQUIREMENTS.

- (a) Ingress and egress to the R-3 District shall be provided only by an arterial or secondary street or freeway service drive.
- (b) All land within the District shall be contiguous and shall not be divided into parts by:
 - (1) An arterial street;
 - (2) Any State or Federal limited access highway; or
 - (3) Any large area of land not included within the District.
- (c) An R-3 District shall contain not less than fifty acres of land.

(Ord. 72-72. Passed 8-31-72.)

1139.04 DENSITY CONTROL.

The density of the dwelling units shall be controlled by the following requirements:

- (a) Not less than thirty-five percent of the total number of dwelling units shall be detached single-family dwellings. There shall be not less than 6,000 square feet of lot area for each attached dwelling unit and not less than 9,375 square feet of lot area for each detached dwelling unit not including any reserved open space or any existing public streets or any public right of way dedications that may be required as a condition of the site plan review.
- (b) There shall be not more than four dwelling units per gross acre of the District. In computing the overall density, the entire area of the District may be used in the computation, including all areas intended for use for streets, dwelling units, recreational areas and other open spaces.

(Ord. 72-72. Passed 8-31-72.)

1139.05 OPEN SPACE AND RECREATIONAL AREAS.

Not less than fifteen percent of the land constituting the R-3 District shall be reserved as contiguous, landscaped open space in which no buildings or structures, other than buildings or structures for recreational uses, shall be constructed. Such open space, including any recreational facilities proposed to be constructed in such space shall be clearly delineated on the site plan together with descriptive data as to the methods to be employed to preserve and maintain such open space. All open space land shown on the site plan must contain legally enforceable reservations and restrictions which will insure the preservation of such land for recreational and similar use in perpetuity and absolutely prohibit development of such open space land, except for the above collective uses for the use of the owners and residents without profit.

Legal title to the open spaces must be transferred to a nonprofit homes association in which the property owners or residents within the district have control when at least fifty-one percent of the number of dwelling units within the District have been occupied.

(Ord. 72-72. Passed 8-31-72.)

1139.06 SUBDIVISION AND DEVELOPMENT.

No land within an R-3 District shall be subdivided so as to conflict with the final development plan. Prior to the issuance of any building permit to the owner, the owner shall provide financial guarantees acceptable to the City in an amount determined by the City Engineer and equal to the estimated total cost of materials and labor required to install or construct the site improvements, including but not limited to, parking areas, drives, walks, malls and yards, outside lighting, grading, drainage and sanitary sewerage systems as determined by the Engineer.

(Ord. 72-72. Passed 8-31-72.)

1139.07 SITE PLAN REVIEW.

- (a) No building or structure shall be erected or land used in any R-3 Single-Family Residential District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission within sixty days after the site plan has been presented to the Commission.
- (b) When recommending the approval of a site plan for an R-3 District, the Planning Commission may recommend such additional conditions as are necessary to secure the following objectives:
 - (1) That the site plan shall be in accordance with the objectives of the land use plan;
 - (2) That the proposed land use shall encourage designs in which new buildings will create an orderly arrangement with the landscape which will be in scale with surrounding residential buildings and the environment so as to conserve trees and other natural topographic features;
 - (3) That all the development features including the principal and accessory buildings, open spaces, service roads, driveways and parking areas shall be located so as to encourage pedestrian and vehicular traffic safety; and
 - (4) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the District. (Ord. 72-72. Passed 8-31-72.)

1139.08 YARD, AREA AND BULK REQUIREMENTS.

- (a) Except as herein provided, the height and bulk of buildings, the required minimum lot area, the minimum setback requirements, the minimum floor area of each attached and detached dwelling, and the maximum percent of the area of a lot that each attached and detached dwelling together with accessory buildings may occupy, shall be as set forth in Chapter 1173 .

- (b) No building shall be less than fifty feet from a perimeter line of the District.
- (c) Front yard setbacks may be designed and adjusted to accommodate topographic and natural features of the site and the particular building design. Setbacks from the front property line may be reduced to a minimum of fifty feet, provided that the average depth of the front yards for the entire District area shall be not less than the setback established for the District.

- (d) Side yard requirements between unattached single-family dwellings may be modified by narrowing the side yards adjoining service rooms of the dwelling which do not require side yard windows, thereby attaining greater space and privacy in the opposite side yards. Such compositions may be combined to create a designed pattern of open courts along the streets.

(Ord. 72-72. Passed 8-31-72.)

1139.09 OFF-STREET PARKING.

Off-street parking shall be as required in Chapter 1175 .

(Ord. 72-72. Passed 8-31-72.)

1139.10 WALLS AND LANDSCAPING.

- (a) Except as provided in subsection (b) hereof, walls and/or landscaping shall be as required in Chapter 1177 .
- (b) An unpierced, solid masonry wall shall be required whenever off-street parking areas are adjacent to R-1 or R-2 Single-Family Districts, provided, however, that a buffer strip of not less than thirty feet in width may be permitted upon a finding by the Planning Commission that the buffer strip would provide equal or greater protection to the District from any adverse effects from the use of such parking areas.

(Ord. 72-72. Passed 8-31-72.)

1139.11 SIGNS AND LIGHTING.

Signs and lighting shall be permitted only when in conformity with the provisions set forth in Chapter 1179 .

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1143

RTF Two-Family Residential District and

RMF-1 Multiple-Family Residential District - Low Rise

- 1143.01 Intent.**
- 1143.02 Permitted uses.**
- 1143.03 General requirements.**
- 1143.04 Site plan review.**
- 1143.05 Dwelling area requirements.**
- 1143.06 Yard, area and bulk requirements.**
- 1143.07 Off-street parking.**

1143.08 Walls and landscaping.

1143.09 Signs and lighting.

CROSS REFERENCES

- Multiple-family dwelling defined - see ZON. 1123.03 (p)
- Multiple-family low rise dwelling defined - see ZON. 1123.03 (q)
- Access to structures - see ZON. 1125.06
- Location of accessory buildings - see ZON. 1173.05 (k)

1143.01 INTENT.

The RTF Two-Family and the RMF-1 Multiple-Family Residential Districts (Low Rise) are designed to provide sites for two-family and multiple-family dwelling structures which will generally serve as zones of transition between nonresidential districts and the lower density single-family districts. The RTF and RMF-1 Districts are further provided to serve the limited needs of the apartment type of unit in an otherwise low density, single-family community.

(Ord. 72-72. Passed 8-31-72.)

1143.02 PERMITTED USES.

In an RTF Two-Family District and an RMF-1 Multiple-Family District, no building, structure or land shall be erected or used except for the following specified uses unless otherwise provided in this chapter:

- (a) All principal uses permitted in single-family residence districts with all the requirements equal to at least the requirement of the most restrictive immediately abutting residential district or if there is none the requirements of the least restrictive residential district shall apply.
- (b) Two-family dwellings, provided such use conforms to all the requirements for RTF Districts set forth in Chapter 1173 .
- (c) Multiple-family dwellings not in excess of two stories in RMF-1 Districts.
- (d) Housing for the elderly, when the following conditions are met:
 - (1) All housing for the elderly shall be provided as a planned development on a site of at least five acres in area and shall provide for the following:
 - A. Cottage type dwelling and/or apartment type dwelling units.
 - B. Common services containing but not limited to a recreational room, central lounge and a workshop.
 - (2) All dwelling units shall consist of at least a living room, bedroom and private bath with stall shower and toilet and each unit shall contain not less than 600 square feet for one bedroom unit and 750 square feet for two bedroom units.
- (3) Such housing shall include the following:
 - A. Nonskid floors.
 - B. Doors of sufficient width to accommodate wheelchairs.
 - C. Electric outlets at levels at least twenty-four inches above the floor.
 - D. Grab bars around bathtubs (where bathtubs are provided), showers and toilets.
 - E. Handle-type spigots and door knobs.
 - F. Emergency signals which ring in adjoining apartments or at a central location.
- (4) For each one dwelling unit there shall be provided not less than 3,500 square feet of land area. Within this area a minimum of 900 square feet per dwelling of contiguous landscaped open space shall be provided apart from the area required for off-street parking and driveways.
- (5) The total coverage for all buildings shall not exceed twenty-five percent of the site.
- (6) The owner shall file with the Cuyahoga County Recorder a covenant, approved as to form by the City Law Director, in which the owner shall covenant on behalf of himself, his heirs, executors and assigns not to use the property for any other use unless the use complies with all requirements of the Zoning Ordinance.
- (e) Accessory buildings and uses customarily incident to any of the above permitted uses such as off-street parking, garages, recreational areas, pools, fences and walls.

(Ord. 72-72. Passed 8-31-72.)

1143.03 GENERAL REQUIREMENTS.

RTF and RMF-1 Districts shall be located so as to have access only to an arterial street; except that access driveways may be permitted to other than an arterial street where the property directly across the street from the driveways and all property abutting such street between the driveways and an arterial street are located in multiple-family or nonresidential use districts.

(Ord. 72-72. Passed 8-31-72.)

1143.04 SITE PLAN REVIEW.

(a) No building or structure shall be erected or land used in any RTF Two-Family or RMF-1 Multiple-Family Residential District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission within sixty days after the site plan has been presented to the Commission.

(b) When recommending the approval of a site plan for an RTF or an RMF-1 District, the Planning Commission may recommend such additional conditions as are necessary to secure the following objectives:

- (1) That all the development features including the principal and accessory buildings, open spaces, service roads, driveways and parking areas shall be located so as to encourage pedestrian and vehicular traffic safety; and
- (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.

(Ord. 72-72. Passed 8-31-72.)

1143.05 DWELLING AREA REQUIREMENTS.

Except as herein provided, the minimum rooms and floor area requirements shall be as follows:

(a) All dwelling units in an RMF-1 District shall have at least one living room and one bedroom and kitchen and sanitary facilities. The minimum floor area requirements shall be as follows:

One bedroom unit	800 square feet
Two bedroom unit	1,000 square feet
Three bedroom unit	1,200 square feet
plus 200 square feet for each bedroom over three.	

In addition to the floor area requirements set forth above, at least eighty square feet of general storage space, exclusive of household closets, shall be provided for each dwelling unit.

(b) All dwelling units in an RTF District shall have at least one living room and two bedrooms and kitchen and sanitary facilities. The minimum floor area of each unit shall be 1,400 square feet. A basement containing not less than 700 square feet shall be required.

(Ord. 72-72. Passed 8-31-72.)

1143.06 YARD, AREA AND BULK REQUIREMENTS.

Except as herein provided, yard, area and bulk requirements shall be regulated as set forth in Chapter 1173 .

(a) In an RMF-1 District, garages or other accessory buildings shall be located not less than fifty feet from a side or rear property line where such property line abuts a multiple-family zoning district or a nonresidential zoning district.

(b) The minimum distance between any two buildings within any RMF-1 District shall be regulated by the building distance formula set forth in Section 1147.07 . In no event shall the distance between buildings be less than fifty feet.

(Ord. 72-72. Passed 8-31-72.)

1143.07 OFF-STREET PARKING.

(a) Except as herein provided, off-street parking shall be as required in Chapter 1175 .

(b) No part of any required yard abutting a street and not more than fifty percent of any side or rear yard abutting a single-family residential district shall be used for vehicular parking.

(Ord. 72-72. Passed 8-31-72.)

1143.08 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177 .

(Ord. 72-72. Passed 8-31-72.)

1143.09 SIGNS AND LIGHTING.

Signs and lighting shall be permitted only when in conformity with the provisions set forth in Chapter 1179 .

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1144

RS Senior Housing District

1144.01 Intent.

1144.02 Uses.

1144.03 Lot, yard, area and bulk requirements.

1144.04 Off-street parking.

1144.05 Walls and landscaping.

1144.06 Signs and lighting.

1144.07 Site plan review.

1144.08 Variances and modifications.

1144.01 INTENT.

The RS Senior Residence District is established to provide locations for residential facilities which are occupied exclusively by older persons. As provided herein and as documented by site plans approved by the City, these residential facilities may include a variety of dwelling units or other residential arrangements and accessory uses which are consistent with and supportive of the residential activities of older persons and which are compatible with the uses of abutting properties and with the character of the community as a whole. This Chapter includes provisions intended to ensure that these residential facilities are designed and built in a manner which is orderly and of high quality.

(Ord. 16-99. Passed 5-11-99.)

1144.02 USES.

Dwellings and other residential facilities in the RS Senior Residence District shall be designed for and restricted to occupancy by persons aged 60 years or older. Employees who reside in residential facilities in the district are exempted from this age restriction.

- (a) Permitted Uses.
- (1) Dwelling units, which may include one-family, two-family efficiency type, or multiple family dwellings, except that dwelling units shall not be located on individual lots.
 - (2) Residential use facilities which may be other than dwelling units, providing private rooms for sleeping and bathing, but with congregate facilities for dining and other activities.
 - (3) Nursing home, rest home, assisted living facility, or independent living facility.
- (b) Accessory Uses. The following accessory uses are permitted, provided that they are designed and operated solely for use by residents, staff and guests.
- (1) Restaurant and other food service facility, limited retail and personal services, except that advertising to non-resident customers shall be prohibited.
 - (2) Medical care facilities.
 - (3) Indoor and outdoor recreation and leisure facilities.
 - (4) Meeting rooms, social rooms.
 - (5) Signs.
 - (6) Parking and loading.
 - (7) Administration and maintenance facilities.
 - (8) Adult day care center, with a capacity not to exceed 30 persons.
- (Ord. 16-99. Passed 5-11-99.)

1144.03 LOT, YARD, AREA AND BULK REQUIREMENTS.

- (a) Minimum District Area. An RS Senior Residence District shall contain at least three (3) contiguous acres, which may be in one or more lots.
- (b) Minimum Setbacks. The following minimum setbacks shall be required for all buildings, including accessory buildings:
- (1) Front. Minimum 90 feet from the front property line.
 - (2) Side and Rear. Minimum 50 feet from side and rear property lines.
 - (3) Side or rear setback for a parking garage or accessory building not less than fifteen (15) feet, if screened by landscaping.
- (c) Maximum Height. Building height shall not exceed thirty (30) feet and shall not exceed two (2) stories.
- (d) Density. A lot in the RS District shall contain at least 2,000 square feet of land for each dwelling unit located thereon.
- (e) Maximum Lot Coverage. The area of a lot covered by buildings shall not exceed 25% of the total lot.
- (f) Minimum Dwelling Unit Floor Area. A dwelling unit shall contain at least the following minimum floor area, measured as defined at Section 1123.04 (e)(3), "Floor Area of Dwelling Units, Multi-family Dwelling Units":

- (1) Efficiency Type - 400 square feet
 - (2) One-bedroom Unit - 600 square feet
 - (3) Two-bedroom Unit - 800 square feet
- (Ord. 16-99. Passed 5-11-99.)

1144.04 OFF-STREET PARKING

Off-street parking and loading facilities shall be constructed and maintained in conformance with the following provisions and with the provisions of Chapter 1175 . In cases of conflict, the more restrictive provisions shall prevail.

- (a) Parking Spaces. Off-street parking shall be provided as follows:

Facility or use	Spaces required
Independent living without congregate dining	1 space per unit for resident plus .25 space per unit for guests and employees
Independent or assisted living with congregate dining	.5 space per unit for resident plus .25 space per unit for guests plus 1 space for each week day shift employee
Nursing homes	.25 space per bed for guests plus 1 space for each week day shift employee

- (b) Site Plan. The applicant may submit information which projects the parking demand for the proposed use. The City may approve a site plan which provides land for future construction of parking facilities which will comply with the above requirements, but may permit a lesser amount of parking to be constructed, provided that the balance of the required parking area is temporarily retained in landscaped open space. Prior to approval of the site plan, the applicant shall make a commitment to construct the additional parking at such time as the City determines that the parking is necessary for the operation of the use.
- (c) Setbacks and Screening. Unenclosed parking and other paved areas shall be set back at least twenty-five (25) feet from a front, side or rear property line except that the side or rear setback may be reduced to fifteen (15) feet if screened by landscaping and/or fencing as approved by the City. The front parking setback area shall be landscaped as approved by the City.
- (d) Interior Parking Lot Landscaping. A parking lot containing more than twenty (20) parking spaces shall include at least one interior planting island, at least 400 square feet in area, per twenty (20) parking spaces, which shall be landscaped as approved by the City.
- (e) Loading. Loading facilities shall be provided and screened with fencing, walls or landscaping as approved by the City, except that no loading facility shall be located in the front yard and no loading facility shall be located closer than fifty (50) feet to any lot line.

(Ord. 16-99. Passed 5-11-99.)

1144.05 WALLS AND LANDSCAPING.

- (a) All provisions of Chapter 1177 , Walls, Landscaping, and Ecological Preservation, which apply to multiple-family developments, shall apply to development in the RS District.
- (b) A landscaped open space shall be provided for the purposes of outdoor leisure use by residents of the lot. The space shall include at least fifty (50) square feet of area per dwelling unit on the lot and shall not be located in any required building setback area unless approved by the City. The landscaped open space shall be designed to provide access conforming to federal accessibility standards and may include walkways, gardens, sitting areas, outdoor dining areas, swimming pools and similar facilities.
- (Ord. 16-99. Passed 5-11-99.)

1144.06 SIGNS AND LIGHTING.

- (a) All provisions of Chapter 1179 , Signs, which apply to multiple-family developments shall apply to development in the RS District.
- (b) All exterior site lighting shall be designed to eliminate glare and spillover lighting onto adjacent properties.

(Ord. 16-99. Passed 5-11-99.)

1144.07 SITE PLAN REVIEW.

- (a) An owner of land in the RS District shall submit for approval by the City a site plan which describes and illustrates any proposed development and which contains, at a minimum, the information required at Section 1123.07 (p), "Site Plan", and any other information required to determine compliance with the ordinances of the City.
- (b) No building or structure shall be erected or land used in the RS District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Commission within sixty (60) days after the site plan has been presented to the Commission.
- (c) When recommending approval of a site plan for the RS District, the Planning Commission may recommend such additional conditions as are necessary to secure the following objectives:
- (1) That all the development features, including the principal and accessory buildings, open spaces, service roads, driveways, and parking areas shall be located so as to encourage pedestrian and vehicular traffic safety; and
 - (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.
- (Ord. 16-99. Passed 5-11-99.)

1144.08 VARIANCES AND MODIFICATIONS.

- (a) Upon recommendation of the Planning Commission, or upon its own initiative, Council may permit reasonable variances and minor modifications of the plans from the strict interpretation of the provisions of this chapter for any specific project upon specific findings that the variance or modification is:
- (1) Necessary for the preservation and enjoyment of substantial property rights or is necessary to prevent practical difficulty to the proponent of the plan;
 - (2) Not contrary to the spirit and intent of the Zoning Code; and
 - (3) Will not adversely affect adjacent or neighboring properties.
- (b) In authorizing any such variance or modification, Council may attach thereto such conditions regarding the location, character or other features of the proposed structure or use as it may deem necessary in the interest of the furtherance of the purposes of the Zoning Code and in the public interest.

(Ord. 16-99. Passed 5-11-99.)

CHAPTER 1147

RMF-2 Multiple-Family Residential District - Medium Rise

- 1147.01 Intent.**
- 1147.02 Permitted uses.**
- 1147.03 General requirements.**
- 1147.04 Site plan review.**
- 1147.05 Dwelling area requirements.**
- 1147.06 Yard, area and bulk requirements.**
- 1147.07 Building distance formula.**
- 1147.08 Off-street parking.**
- 1147.09 Walls and landscaping.**
- 1147.10 Signs and lighting.**

CROSS REFERENCES

Multiple-family medium rise dwelling defined - see ZON. 1123.03 (r)
Efficiency apartment defined - see ZON. 1123.03 (w)

1147.01 INTENT.

The RMF-2 Multiple-Family Residential District (Medium Rise) is designed to provide sites for high density multiple dwelling structures adjacent to or abutting major thoroughfares and expressways. This District is further provided to serve the residential needs of persons desiring the apartment type of accommodation with central services as opposed to the residential patterns found in the one-family residential and RMF-1 Multiple-Family Residential Districts. This District is further designed so as to provide a zone of transition between major thoroughfares and high traffic generators and other residential districts through the requirements of lower coverage which, in turn, will result in more open space.

(Ord. 72-72. Passed 8-31-72.)

1147.02 PERMITTED USES.

In an RMF-2 Multiple-Family Residential District no building, structure or land shall be erected or used except for the following specified uses unless otherwise provided in this chapter:

- (a) All principal uses permitted in the RMF-1 Multiple-Family Residential District meeting the requirements set forth for such District with the exception of single- family dwellings which shall be expressly prohibited from this District.
- (b) Multiple-family dwellings in structures in excess of two stories but not exceeding six stories in height.
- (c) Hospitals, except those for criminals and those primarily for the treatment of persons who are mentally ill, when the following conditions are met:
 - (1) All such hospitals shall be developed only on sites at least five acres in area.
 - (2) The proposed site shall have at least one property line abutting an arterial street (a street which has a right-of-way width of not less than eighty feet).
 - (3) The minimum distance of any main or accessory building from bounding lot lines or streets shall be at least 100 feet for front, rear and side yards for all two-story structures. For every story above two the minimum yard distance shall be increased by at least twenty feet.
 - (4) Ambulance and delivery areas shall be obscured from all residential view with an obscuring wall or fence not less than four feet in height. Ingress and egress to the site shall be directly from an arterial street (a street which has a right-of-way width of not less than eighty feet).
 - (5) All ingress to and egress from the off-street parking areas, for guests, employees, staff, as well as any other users of the facility, shall be directly from an arterial street.
- (d) Accessory buildings and uses customarily incident to any of the above permitted uses such as off-street parking, garages, recreational areas, pools, fences and walls.

(Ord. 72-72. Passed 8-31-72.)

1147.03 GENERAL REQUIREMENTS.

- (a) An RMF-2 District shall be located so as to have access only to an arterial street; except that access driveways may be permitted to other than an arterial street where the property directly across the street from such driveways and all property abutting such street between such driveways and an arterial street are located in multiple-family or nonresidential use districts.
- (b) No use on the site shall be developed as a retail business. No identifying sign of any such retail business use in existence after August 31, 1972, shall be made visible from any exterior view.
- (c) The entire area of the site shall be treated to service the residents of the apartment and any accessory buildings, uses or services shall be developed solely for the use of residents of the main building. Uses considered herein as accessory uses include: swimming pools, recreation areas, pavilions, off-street parking, garages and other similar uses.

(Ord. 72-72. Passed 8-31-72.)

1147.04 SITE PLAN REVIEW.

- (a) No building or structure shall be erected or land used in an RMF-2 Multiple- Family Residential District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission within sixty days after the site plan has been presented to the Commission.
- (b) When recommending the approval of a site plan for an RMF-2 District, the Planning Commission may recommend such additional conditions as are necessary to secure the following objectives:
 - (1) That all the development features including the principal and accessory buildings, open spaces, service roads, driveways and parking areas shall be located so as to encourage pedestrian and vehicular traffic safety; and
 - (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.

(Ord. 72-72. Passed 8-31-72.)

1147.05 DWELLING AREA REQUIREMENTS.

All dwelling units shall have at least one living room and one bedroom, except that ten percent of the dwelling units in a multiple-family building may be of an efficiency type. The minimum floor area requirements shall be as follows:

Efficiency unit - 600 square feet
One bedroom unit - 800 square feet
Two bedroom unit - 1,000 square feet
Three bedroom unit - 1,200 square feet.

In addition to the floor area requirements set forth above, at least eighty square feet of general storage space, exclusive of household closets, shall be provided for each dwelling unit.

(Ord. 72-72. Passed 8-31-72.)

1147.06 YARD, AREA AND BULK REQUIREMENTS.

Yard, area and bulk requirements shall be regulated as set forth in Chapter 1173 , except that carports or garages may be located within fifty feet of a side or rear property line where such lot line abuts a multiple-family zoning district or a nonresidential zoning district. The distance between buildings on the same lot is regulated by the building distance formula, Section 1147.07 , and where, because of the building arrangement, the formula is not applicable, the minimum distance between buildings shall be fifty feet. In no event shall the distance between buildings be less than fifty feet.

(Ord. 72-72. Passed 8-31-72.)

1147.07 BUILDING DISTANCE FORMULA.

In all RMF-2 Multiple-Family Residence Districts the minimum distance between any two buildings shall be regulated according to the length and height of such buildings.

The formula regulating the required minimum distance between two buildings (referred to as building "A" and building "B") is as follows:
$$S = \frac{L_A + L_B + 2(H_A + H_B)}{4}$$
 WHERE

S = required minimum horizontal distance between any wall of building A and any wall of building B or the vertical prolongation of either.

L_A = total length of building A.

The total length of building A is the length of that portion or portions of a wall or walls of building A from which, when viewed directly from above, lines drawn perpendicular to building A will intersect any wall of building B.

L_B = total length of building B.

The total length of building B is the length of that portion or portions of a wall or walls of building B from which, when viewed directly from above, lines drawn perpendicular to building B will intersect any wall of building A.

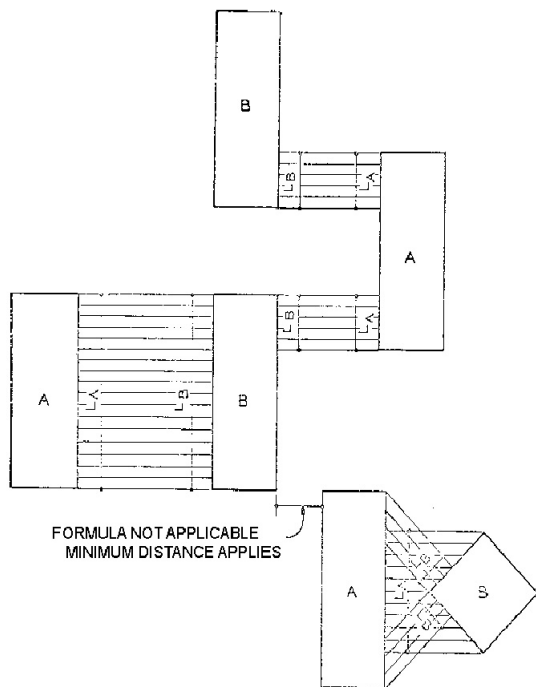
H_A = height of building A.

The height of building A at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building A. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

H_B = height of building B.

The height of building B at any given level is the height above natural grade level of any portion or portions of a wall or walls along the length of building B. Natural grade level shall be the mean level of the ground immediately adjoining the portion or portions of the wall or walls along the total length of the building.

(Ord. 72-72. Passed 8-31-72.)



BUILDING DISTANCE FORMULA

1147.08 OFF-STREET PARKING.

- (a) Except as provided in subsection (b) hereof, off-street parking shall be as required in Chapter 1175.
- (b) No part of any required yard abutting a street and not more than fifty percent of any side or rear yard abutting a single-family residential district shall be used for vehicular parking.

(Ord. 72-72. Passed 8-31-72.)

1147.09 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177.

(Ord. 72-72. Passed 8-31-72.)

1147.10 SIGNS AND LIGHTING.

Signs and lighting shall be permitted only when in conformity with the provisions set forth in Chapter 1179.

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1151

O-S Office-Service District, B-1 Local Business District and B-2 Regional Business District

1151.01 Intent.

1151.02 District location standards.

1151.03 Permitted, conditional and specifically prohibited uses.

1151.04 Additional use restrictions.

1151.05 Yard, area and bulk requirements.

1151.06 Off-street parking.

1151.07 Walls and landscaping.

1151.08 Signs and lighting.

1151.09 Site plan review.

1151.10 Mixed Use (MU) development.

CROSS REFERENCES

Outdoor display defined - see ZON. 1123.03(m)

Outside storage defined - see ZON. 1123.07(t)

1151.01 INTENT.

- (a) The O-S Office-Service District is designed to:

- (1) Accommodate various types of office uses performing administrative and professional services.
 - (2) Serve as a transitional use between the more intensive uses of land such as major thoroughfares and/or commercial districts and the less intensive uses of land such as single-family residential.
 - (3) Limit commercial establishments of a retail nature or other activities which generate short-term parking demand and traffic from the general public.
- (b) The B-1 Local Business District is designed to:
- (1) Provide for the day-to-day convenience shopping and service needs of persons residing in the vicinity of the business.
 - (2) Provide for and be characterized as having individual free-standing structures or a grouping of strip stores of a size generally not exceeding 5,000 square feet of floor space for each individual business.

(c) The B-2 Regional Business District is designed to:

(1) Serve the needs of both convenience and comparison shoppers from a geographical area extending beyond the adjacent residential areas.

(2) Be characterized by an integrated or planned cluster of establishments exceeding 25,000 square feet of floor space served by a common parking area and generating large volumes of vehicular traffic.

(Ord. 5-2007. Passed 3-13-07.)

(3) Provide for a complementary combination of residential and nonresidential uses to expand housing options within a pedestrian oriented, vibrant, compact, and unique mixed use environment with a consistent overall appearance, form, pattern and design.

(Ord. 75-2018. Passed 7-24-18.)

1151.02 DISTRICT LOCATION STANDARDS.

(a) A B-1 District shall only be located at the intersection of major thoroughfares.

(b) A B-2 District shall only be located at the intersection of the two major thoroughfares bearing the greatest volumes of traffic, Wilson Mills Road and Richmond Road.

(c) An O-S District shall only be located on property at the intersection of major thoroughfares or abutting a B-1 or B-2 District. All properties in the OS District shall have frontage on a major or secondary thoroughfare.

(Ord. 5-2007. Passed 3-13-07.)

1151.03 PERMITTED, CONDITIONAL AND SPECIFICALLY PROHIBITED USES.

Uses in the O-S, B-1 and B-2 Districts shall be as set forth in Table 1151.03.

Table 1151.03 Permitted, Conditional, and Specifically Prohibited Uses O-S, B-1, and B-2 Districts		
O-S Office-Service District	B-1 Local Business District	B-2 Regional Business District
Permitted Uses		
Office & Government Uses		
Executive, administrative and professional offices. Government office buildings Public utility offices, but not including storage yards.	Executive, administrative and professional offices. Government office buildings Public utility offices, but not including storage yards.	Professional, administrative, executive , offices Government office buildings Public utility offices Sales offices, without merchandising services.
Medical offices, including clinics and medical laboratories.	Medical offices, including clinics and medical laboratories.	Medical offices, including clinics and medical laboratories.
Dispensaries for Medical Marijuana	Dispensaries for Medical Marijuana	Dispensaries for Medical Marijuana
Libraries	Libraries	Libraries
Facilities for human care such as hospitals	Facilities for human care such as hospitals	
	Post office and similar government buildings.	
Retail and Service Uses		
Establishments which perform personal services on the premises, such as beauty parlors and barber shops.	Establishments which perform personal or professional services on the premises such as 1. Beauty parlors, barber shops. 2. Repair shops including watches, radios, televisions, shoes and etc., but prohibiting major repair shops such as automotive, heavy equipment, large appliances, furniture, etc.. 3. Tailor shops. 4. Self-service laundries and cleaners, dry cleaning and laundry establishments provided cleaning equipment is used to service only the premises at which it is located. 5. Banks and similar financial institutions. 6. Photographic studios and interior decorating studios.	Service establishments, such as 1. Beauty and barber shops; 2. Laundry agencies; dry cleaning agencies, provided only non-explosive and nonflammable solvents shall be used, and provided no work shall be done on the premises for other outlets; self-service laundries 3. Shoe and hat repair shops; 4. Radio and television repair shops; 5. Banks and savings and loan associations; 6. Photographic studios; 7. Automotive repair and parts accessory sales if accessory to a main building or use.
	Convenience stores of a generally recognized retail nature which supply commodities on the premises, such as but not limited to: 1. Groceries, meats, dairy products, baked goods or other foods, 2. Drugs, dry goods, clothing, notions 3. Hardware.	Retail stores conducted wholly within enclosed buildings offering products for sale to the following extent: 1. Groceries, meats, fruits, vegetables 2. All general merchandise, dry goods, notions; 3. Wearing apparel, shoes, hats; 4. Household hardware, wallpaper, paint 5. Furniture, appliances, floor covering 6. Sporting goods 7. Drugs, tobacco, periodicals 8. Flowers, gifts, jewelry 9. Sale, at licensed stores, of packaged alcoholic beverages not to be consumed on the premises
		Restaurant with no drive-through facility.
Other Uses		
Public or private schools or colleges.	Public or private schools or colleges.	
Facilities for human care such as convalescent and nursing homes	Facilities for human care such as convalescent and nursing homes	
Churches and related facilities.	Funeral homes.	
	Photographic reproduction, blueprinting and print shops.	
	Establishments of electricians, plumbers, heating contractors, bakers, painters or similar trades in conjunction with a retail sales operation.	
Accessory Uses		
Accessory buildings or uses customarily incidental to any of the above permitted uses	Accessory buildings or uses customarily incidental to any of the above permitted uses	Accessory buildings or uses customarily incidental to any of the above permitted uses
Dispensaries for Medical Marijuana associated with a cultivation, processing or testing use on the same or a contiguous lot		Dispensaries for Medical Marijuana associated with a cultivation, processing or testing use on the same or a contiguous lot
Conditional Uses		
O-S Office-Service District	B-1 Local Business District	B-2 Regional Business District
Restaurant	Bar, tavern, restaurant. Restaurant with outdoor dining or service. Restaurant with drive-through facility	Restaurant with outdoor dining or outdoor service, including drive-through facilities
Retail use accessory to a permitted or conditionally permitted use	Studios and classrooms for instruction in dance, yoga, martial arts, painting, sculpture, job skills, and similar	Amusement and recreation uses within an entirely enclosed soundproofed building, such as: (1) Assembly and meeting halls; (2) Bowling alleys, billiard halls; (3) Theaters.
Day care center	Day care center	Day care center
Banquet Facility	Hotel, motel	Hotel
	Indoor entertainment facilities that do not exceed 5,000 square feet of floor space for each individual business	Indoor assembly for recreation and/or amusement, including lectures, concerts and plays; indoor sporting activities or events; museums, exhibitions, galleries and libraries.
		Laboratories, including research, medical, photographic and similar type laboratories.
		Basic research facilities for the research and design of experimental product development when conducted within a completely enclosed building.
		Data processing and computer centers, including sales, service and maintenance of electronic and data processing equipment; and computer data storage/cloud server storage.
		Offices for law, engineering, drafting, accounting, insurance, broadcasting, investing and other similar professions and occupations.
		Public or private schools or universities
		Assembling, packaging and the accessory warehousing of small electronic instruments and devices, toys, novelties and other small household items.
		Wholesale sales or online sale establishments and accessory warehousing.
		New vehicle, light truck, trailer or garden equipment dealerships (sales and service facilities) with accessory used vehicle or equipment sales and service; new and/or used automobile, light truck or equipment leasing or renting establishments, subject to Section 1151.04.
		Any accessory buildings, fences, signage, off-street parking or other appurtenances as they relate to a use listed herein.
Cultivation, processing and testing of medical marijuana		Cultivation, processing and testing of medical marijuana

	Veterinary clinics and veterinary hospitals	Garden Center
	Banquet Facility	Drive-through facility
	Drive-through facility	Sweepstakes/Internet Cafe
Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations.	Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations.	Publicly owned buildings, public utility buildings, including electric transformer stations and substations and gas regulator stations excluding storage yards; water and sewage pumping stations.
Auto Repair & Service Uses		
	Gasoline service stations as controlled by Chapter 1165 and Chapter 1169.	
	Self-service auto laundries as controlled by Chapter 1165 and Chapter 1169.	
	Automotive major repair	
Similar Use		
See standards for Similar Use as a conditional use in Section 1169.08	See standards for Similar Use as a conditional use in Section 1169.08	See standards for Similar Use as a conditional use in Section 1169.08
Specifically Prohibited Uses		
O-S Office-Service District	B-1 Local Business District	B-2 Regional Business District
Dwelling units of all types are prohibited.	Dwelling units of all types are prohibited.	Dwelling units of all types are prohibited.
Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized according to the provisions of this Zoning Code.	Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized according to the provisions of this Zoning Code.	Any use which is not listed in this table as a permitted or conditional use for this district is prohibited unless otherwise authorized according to the provisions of this Zoning Code.
Warehousing or indoor storage of goods or materials not incidental to the above permitted uses shall be prohibited.		Dwelling units of all types are prohibited except for those which are permitted in a Mixed Use Development subject to Section 1151.10.

(Ord. 5-2007. Passed 3-13-07; Ord. 37-2011. Passed 8-23-11; Ord. 20-2015. Passed 3-24-15; Ord. 10-2017. Passed 2-28-17; Ord. 11-2017. Passed 2-28-17; Ord. 75-2018. Passed 7-24-18.)

1151.04 ADDITIONAL USE RESTRICTIONS.

(a) No activity shall be conducted in a manner which is obnoxious or offensive by reason of the emission of odor, fumes, dust, smoke, waste, noise or vibration in excess of the performance standards set forth in Section 1171.05.

(b) The outdoor storage, display or sale of goods or materials shall be prohibited except as specifically authorized in this chapter or as authorized by a conditional use permit.

(Ord. 5-2007. Passed 3-13-07.)

(c) New vehicle, light truck, trailer or garden equipment dealerships (sales and service) facilities, as well as new and used automobile, light truck or equipment leasing or renting establishments, shall be considered as a Conditional Use in the B-2 Regional Business District subject to the following conditions:

- (1) A new vehicle dealership as the primary use shall be defined as an establishment primarily engaging in the sale of new motor vehicles including cars, light trucks, light-duty cargo trailers, boats, motorcycles and similar vehicles, along with all equipment related thereto, and shall also include facilities for both major and minor engine repair, body repairing, parts sales, painting and washing and other required services. A new vehicle dealership or new and used vehicle leasing/renting establishment shall have a minimum of 100,000 square feet of total area (including parking, but excluding common entry/exit drives) located on the same or contiguous lot or leased areas. Used car or truck sales may be permitted as an accessory use to a new vehicle dealership as described above but shall be located on portions of the parcel exclusive of the 100,000 square feet used for new vehicle sales.
- (2) A vehicle leasing or rental agency is defined as an establishment primarily engaging in the leasing or rental of new or used motor vehicles, including cars, light trucks, light-duty cargo trailers, boats, motorcycles and similar vehicles. Such establishments may include facilities for the servicing of such vehicles.
- (3) Any vehicles or equipment being stored on the premises that are damaged, partially disassembled, or otherwise not in good running or working order shall be screened from sight from all directions within a building or by solid fencing, walls or other means as approved by the Planning Commission.
- (4) Required minimum areas shall be exclusive of entry drives, safety services access drives, required buffer zones and required setbacks from property lines.
- (5) Facilities for the sale of new vehicles shall not include the sale, rental or leasing of construction, maintenance or farm-related machinery, tractor trailers, recreational (motor) vehicles (RV’s) or mobile homes.
- (6) Parcels shall be considered as contiguous if separated by nothing other than a common-area entrance or exit drive or right-of-way.

(Ord. 10-2017. Passed 2-28-17.)

(d) The following regulations shall apply to uses in the O-S Office Service District:

- (1) No interior display shall be visible from any property line.

(e) The following regulations shall apply to uses in the B-1 Local Business District:

- (1) All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- (2) All business, servicing or processing, except for off-street parking or loading, shall be conducted within a completely enclosed building, except as specifically permitted under this chapter.

(Ord. 5-2007. Passed 3-13-07.)

1151.05 YARD, AREA AND BULK REQUIREMENTS.

Yard, area and bulk requirements shall be as required in Chapter 1173.

(Ord. 5-2007. Passed 3-13-07.)

1151.06 OFF-STREET PARKING.

Off-street parking shall be as required in Chapter 1175.

(Ord. 5-2007. Passed 3-13-07.)

1151.07 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177.

(Ord. 5-2007. Passed 3-13-07.)

1151.08 SIGNS AND LIGHTING.

Signs and lighting shall be as required in Chapter 1179.

(Ord. 5-2007. Passed 3-13-07.)

1151.09 SITE PLAN REVIEW.

(a) No building or structure shall be erected or land used in an O-S, B-1, or B-2 District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission within sixty (60) days after the site plan has been presented at a public meeting of the Commission.

(b) When recommending the approval of a site plan, the Planning Commission may recommend conditions necessary to secure the following objectives:

- (1) That all development features, including but not limited to the principal and accessory buildings, open spaces, service roads, driveways and parking areas, shall be located to encourage pedestrian and vehicular traffic safety; and
- (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.

(Ord. 5-2007. Passed 3-13-07.)

1151.10 MIXED USE (MU) DEVELOPMENT.

- (a) Purpose. The purpose of this section is to permit and regulate a compact combination of residential and nonresidential uses in a planned mixed use development in compliance with an approved development plan.
- (b) Uses. The uses which may be established within a Mixed Use (MU) Development are limited to the following:
 - (1) Permitted and Conditional Uses as set forth in Section 1151.03 for the B-2 District.
 - (2) Multiple family dwellings as long as such dwellings are located in buildings that are a minimum of two (2) stories and do not exceed four (4) stories in height.
 - (3) Park areas, recreational areas, and pools which shall not be considered to be accessory to the permitted uses in this section.
 - (4) Accessory buildings and uses customarily incidental to any of the above permitted uses such as off-street parking, garages, outdoor dining, fences and walls.

(c) Development Area. The minimum land area required for a MU Development shall be ten acres and shall include a mix of uses so that no one use category exceeds 90% of the total floor area of the MU Development. The 90% maximum of the total floor area of the MU Development being devoted to any one use category may, at the sole discretion of the City Council, be exceeded where the Council finds that the purpose and intent of this section and Section 1151.01 (c) of this Code will be furthered thereby.

(d) Density. The maximum number of dwelling units permitted shall be one dwelling unit per 2,400 square feet of gross land area designated for the MU Development.

(e) Dwelling Unit Area. All dwelling units shall have at least one living room and one bedroom. The minimum floor area requirements shall be as follows:

- (1) Efficiency unit - 600 square feet;
- (2) One bedroom unit - 800 square feet;
- (3) Two bedroom unit - 1,000 square feet; and
- (4) Three bedroom unit - 1,200 square feet.

(f) Dimensional Standards:

- (1) Maximum Lot Width: 300 feet minimum.
- (2) Maximum Height: 65 feet and four (4) stories.
- (3) Minimum Front Yard: 75 feet.
- (4) Minimum Side and Rear Yards: Subject to subdivision (A) below, there is no minimum side setback for non-residential uses. Subject to subdivision (A) below, residential side setback must be at least 15 feet.
 - (A) Where a side yard abuts a single family zoning district, the setback shall be 50 feet. Setback areas abutting a single family zoning district shall be landscaped earth mounding, fencing, walls, hedges, or other plant material sufficient to create a suitable screen or visual buffer as approved in the development plan.
- (5) Building Separation: 35 feet minimum for residential buildings.

(g) Open Space. Each MU development shall designate no less than 10% of the gross development area as open space. Such open space may be for the use and enjoyment of residents or it may be available to the general public. Additionally, structures and buildings for the purpose of active or passive recreation, plazas, outdoor dining and public art may be located in such open space as approved in the development plan.

- (h) Parking and Loading.
- (1) Off-street parking shall conform to the requirements of Section 1175.05 of this Code unless fewer spaces are approved in the development plan.
 - (2) Parking lot landscaping shall be as approved in the development plan.
 - (3) Loading and unloading spaces and facilities shall conform to the requirements of Section 1175.11 of this Code, unless modified by the approved development plan and such spaces and facilities shall be screened with fencing, walls or landscaping as approved in the development plan.
- (i) Signs. All provisions of Chapter 1179 , Signs, which apply to multiple-family developments, shall apply to residential uses in the MU Development. Signs for nonresidential uses shall be as approved in the development plan and shall:
- (1) Contribute to an overall cohesive design, reflect simplicity, and avoid visual clutter.
 - (2) Complement the building, adjacent buildings in the development, and the site by being designed and placed to enhance the architecture.
 - (3) Employ the use of compatible materials and colors of the sign, sign background, and sign frame with the character of the development.
- (j) Lighting. All exterior site lighting shall be designed to eliminate glare and spillover lighting onto adjacent properties and shall be as approved in the development plan.
- (k) Modifications. The Planning Commission may authorize minor modifications of an approved development plan.
- (l) Conflicts. In the event of a conflict between the provisions in this section and other provisions in these Codified Ordinances, the provisions and regulations in this section shall govern. (Ord. 75-2018. Passed 7-24-18.)

CHAPTER 1165

Gasoline Service and Filling Stations

- 1165.01 Intent.**
1165.02 Definitions.
1165.03 General requirements.
1165.04 Self-service permit required; application.
1165.05 Self-service permit fee.
1165.06 Self-service inspection; operating regulations.
1165.07 Additional inspections.
1165.08 Permit revocation.
1165.09 Attendants.
1165.10 Self-service auto laundry.
1165.99 Penalty.

CROSS REFERENCES

Abandoned service stations - see Ohio R. C. 3791.11 et seq.; BLDG. Ch. 1378
Self-service - see Ohio R. C. 3741.14

1165.01 INTENT.

It has come to the attention of Council that the gasoline industry is presently undergoing various changes resulting in requests for diversified use of traditional gasoline service stations, which uses have not been previously addressed in the Zoning Code. Council desires to enact regulations for such anticipated uses and controls of gasoline service stations for the protection of the public health, safety, welfare and general convenience.

(Ord. 86-82. Passed 11-23-82.)

1165.02 DEFINITIONS.

(a) "Gasoline service station" means a place for the dispensing, sale or offering for sale of motor fuels directly to users of motor vehicles, together with the sale of minor accessories and the servicing of and minor repair of motor vehicles. As used herein, the term "servicing" of motor vehicles shall mean tuning of motors, minor wheel and brake adjustment, waxing and polishing and other minor servicing and repair to the extent of installation of the items enumerated above but specifically prohibiting major automobile repairs including, but not limited to, upholstering work, auto glass work, painting, welding, tire recapping, auto dismantling and auto sales. The washing of automobiles shall be permitted provided that no chain conveyor, blower, steam cleaner, pressurized water systems, or other mechanical device is employed.

(b) "Automobile filling station" means a building or other structure or tract of land intended and used solely for the retail sale of gasoline or other motor fuels and oil into vehicles using the same for fuel or lubrication, provided, specifically that no services or retail sales other than those enumerated in this subsection are to be provided or undertaken on the premises or within any building or structure located thereon.

(c) "Self-service station" means a filling station wherein any person other than a supervisor, employee or attendant may dispense gasoline into his own motor vehicle either at a self-service island or a complete self-service filling station.

(d) "Pump" means an individual nozzle capable of dispensing gasoline into a motor vehicle regardless of the housing of the mechanics for the operation of the pump and regardless of such housings containing one or more nozzles for the dispensation of gasoline. Pump also means a mechanical device used to dispense different grades of gasoline and shall be considered a separate pump for each grade of gasoline dispensed.

(Ord. 86-82. Passed 11-23-82.)

(e) "Self-service auto laundry" means a building or structure used solely for the washing of motor vehicles by individuals on a self-service basis for a fee paid at the time of using the facility. A self-service auto laundry is a building or structure without any chain conveyor or other mechanical device for movement of the motor vehicle and consisting of a bay in which such vehicles may be hand washed and cleaned by members of the public.

(Ord. 48-88. Passed 9-13-88.)

1165.03 GENERAL REQUIREMENTS.

Gasoline service stations and self-service filling stations are a permitted use within a B-3 General Business District provided that a site plan is submitted to and approved by Council after recommendation of the Planning and Zoning Commission and meeting the following minimum requirements:

- (a) Council review and approval shall be for the purpose of maintaining the health, safety and welfare of the community. The Planning and Zoning Commission shall recommend approval of the site plan only after finding that the use is so arranged that the service station will not adversely affect the appropriate development or use of adjacent property and further that the service station will be constructed in accordance with the following development standards:
- (1) The minimum lot area required for a gasoline service station or self-service filling station shall be one acre on a corner lot and 32,500 square feet on an interior lot. A corner lot shall have no less than 200 feet of frontage on either intersecting street. An interior lot shall have a frontage of no less than 180 feet. The maximum lot coverage by structures shall be no more than fifteen percent (15%). A minimum of fifteen percent (15%) of the lot occupied by the gasoline service station or self-service filling station shall be appropriately landscaped and maintained as lawns with trees and shrubs.
 - (2) All buildings shall be set back not less than ninety feet from all existing or proposed street right-of-way lines, whichever is greater.
 - (3) Gasoline pumps, air and water hose stands and other appurtenances shall be set back not less than thirty-five feet from all existing or proposed street right-of-way lines, whichever distance is greater.
 - (4) Driveway widths entering the filling station shall have a maximum width of thirty-five feet.
 - (5) Any driveway approach shall enter the property not less than fifty feet from the intersection formed by the existing or proposed right-of-way lines or extensions thereof, whichever is greater, and not less than fifteen feet from any adjoining property line.
 - (6) Curbs in accordance with standard City specifications as set forth in Chapter 1103 shall be constructed on all streets adjacent to the gasoline service station site.
 - (7) Signs and lighting shall be shielded from residential property.
 - (8) No signs, storage or display of any kind shall be allowed within the street right of way. All signs shall be so located as not to obstruct the view of vehicles.
 - (9) The building itself shall conform to and be harmonious with the architecture of other buildings in the area.
 - (10) The garage doors of the service bays shall not face a main thoroughfare.
 - (11) Each such station shall have provisions for lavatories for both man and women separated by sound proof walls.
 - (12) Each such station shall have a pressurized air hose capable of dispensing air into automobile tires.
- (b) Prohibited activities include, but are not limited to, the following: those activities prohibited under Section 1165.02 and vehicle and trailer renting and leasing, motor vehicle body repair, undercoating, upholstery work and other such activities whose adverse external physical effects would extend beyond the property line. The following uses are also prohibited:
- (1) There shall be no outdoor open display or storage of merchandise other than the usual gasoline pumps, air and water hose stands.
 - (2) There shall be no use of pennants, banners, streamers, whirligigs, balloons, flashing lights or "point of sale" materials.
 - (3) There shall be no dumping of any oil, grease, kerosene, or any other petroleum products or any other similar materials into sewers of any kind.
 - (4) All refuse and storage areas shall be completely enclosed from view from outside areas.
 - (5) There shall be no parking of damaged motor vehicles, except on a temporary basis for seventy-two hours or less. Junk parts and junk vehicles shall not be kept on the outside of the building.

(Ord. 86-82. Passed 11-23-82.)

1165.04 SELF-SERVICE PERMIT REQUIRED; APPLICATION.

No person shall operate a self-service island or self-service filling station without first having obtained a permit therefor from the Fire Prevention Bureau for each gasoline pump to be operated on a self-service basis. The application for such permit shall be in such form and contain such information as shall be determined by the Fire Chief.

(Ord. 86-82. Passed 11-23-82.)

1165.05 SELF-SERVICE PERMIT FEE.

The fee for the permit required in Section 1165.04 shall be twenty-five dollars (\$25.00) for each pump to be used on a self-service basis. Such fee shall be for the fiscal year beginning January 1 of any calendar year or for any unexpired portion thereof.

(Ord. 86-82. Passed 11-23-82.)

1165.06 SELF-SERVICE INSPECTION; OPERATING REGULATIONS.

Prior to the issuance of the permit required in Section 1165.04, the Fire Prevention Bureau shall inspect the pumps and equipment to be used on a self-service basis to determine that the following minimum standards are complied with:

- (a) Each filling station offering self-service shall be under the direct control of a supervisor, employee or attendant at all times when gasoline or other flammable liquids are being dispensed or sold.

(Ord. 86-82. Passed 11-23-82.)

- (b) Gasoline and other flammable liquids shall be dispensed only by a person who is not smoking and who, in the judgment of such supervisor, employee or attendant appears to be able, and competent.

(Ord. 32-99. Passed 6-8-99.)

- (c) A sign, in block letters at least four inches in height, shall be conspicuously displayed on each gasoline pump island where self-service is offered stating that it is a self-service island.
- (d) Signs giving instructions for the operation of gasoline dispensing equipment, in block letters at least one-half inch in height, shall be conspicuously posted at each self-service filling station offering self-service.
- (Ord. 86-82. Passed 11-23-82.)
- (e) A sign bearing the following words in block letters at least two inches in height shall be conspicuously posted on each gasoline pump island where self-service is offered:
- (1) "STOP ENGINE";

- (2) "NO SMOKING";
- (3) "WARNING - IT IS UNLAWFUL AND DANGEROUS TO DISPENSE GASOLINE INTO UNAPPROVED CONTAINERS";
- (4) "PERSONS USING DISPENSERS WITH HOLD-OPEN LATCHES MUST REMAIN AT THE REFUELING POINT DURING REFUELING."

(Ord. 32-99. Passed 6-8-99.)

- (f) All signs required by this section shall be constructed of rigid, weather-resistant material.
- (g) Gasoline dispensing nozzles used by any person other than a supervisor, employee or attendant shall be of an approved automatic closing type without a hold-open latch.
- (h) Dispensers shall be equipped with remote master control devices to shut off all pumps in the event of an emergency. Signs identifying the pump shut-off controls shall be labeled "Emergency Pump Shutoff".
- (i) There shall be at least one foam type extinguisher of a minimum 10-B:C rating for every two dispensing devices and shall be located no further than seventy- five feet away from any dispensing device.
- (j) A two-way public address system shall be provided for direct communication between an attendant stationed at a remote control panel and a customer using a supervised self-service device at any pump island.
- (k) The dispensing area shall at all times be in clear view of the attendant and the placing or allowing of any obstacle to come between the dispensing area and the attendant control area shall be prohibited. The attendant shall at all times be able to communicate with persons in the dispensing area.
- (l) No delivery of any flammable liquids shall be made into portable containers unless the container is constructed of metal or is approved by the authority having jurisdiction, has a tight closure and is fitted with spout or so designed that the contents can be poured without spillage.

(Ord. 86-82. Passed 11-23-82.)

1165.07 ADDITIONAL INSPECTIONS.

The inspections required by Section 1165.06 shall be done on at least an annual basis by the Fire Prevention Bureau and may be done by the Fire Prevention Bureau at any time during the validity of the permit issued hereunder.

(Ord. 86-82. Passed 11-23-82.)

1165.08 PERMIT REVOCATION.

In addition to any other penalties prescribed in this chapter, the Fire Prevention Bureau may immediately revoke any permit issued hereunder and stop the operation of any self-service island or filling station for failure to comply with any provision of this chapter or any rules and regulations promulgated hereunder.

(Ord. 86-82. Passed 11-23-82.)

1165.09 ATTENDANTS.

- (a) Every service station shall have at least one competent attendant on duty during all hours of operation.
- (b) The station operator shall be responsible for instructing attendants as to fire code provisions for the dispensing of motor vehicle fuels and for the operation of dispensing devices, fire extinguishers and public address systems to the satisfaction of the Fire Prevention Bureau.

(Ord. 86-82. Passed 11-23-82.)

1165.10 SELF-SERVICE AUTO LAUNDRY.

- (a) Each building or structure intended for use as a self-service auto laundry shall comply with all building code and fire code requirements as well as having provision made for the recycling or removal of water used in the vehicle washing process.
- (b) Every self-service auto laundry shall have at least one competent station attendant on duty during all hours of operation.
- (c) Prior to the issuance of a permit for a self-service auto laundry a site plan setting forth drainage provisions and waste water disposal shall be submitted to and approved by the City Engineer. Any system for disposal of waste water other than through sanitary sewage lines shall be fully approved by the Ohio Environmental Protection Agency.
- (d) Each self-service auto laundry shall set forth on a conveniently and readily noticeable portion of the auto laundry the directions for use by individuals.
- (e) No self-service auto laundry shall be located within 150 feet of a residentially zoned or used parcel of land.

(Ord. 48-88. Passed 9-13-88.)

1165.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense. Each and every day during which the violation continues shall constitute a separate offense.

(Ord. 31-2018. Passed 4-10-18.)

CHAPTER 1167

I-1 Office-Industrial District

- 1167.01 Intent.**
- 1167.02 Permitted uses.**
- 1167.03 Other uses.**
- 1167.04 Use restrictions.**
- 1167.05 General requirements.**
- 1167.06 Site plan review.**
- 1167.07 Yard, area and bulk requirements.**
- 1167.08 Off-street parking.**
- 1167.09 Walls and landscaping.**
- 1167.10 Signs and lighting.**

CROSS REFERENCES

- Outside display defined - see ZON. 1123.03(l)
- Outside storage defined - see ZON. 1123.07(r)
- Nonconforming buildings and land - see ZON. 1181.03 et seq.

1167.01 INTENT.

The purpose of the I-1 Office Industrial District is to provide locations for office development, together with certain compatible, low-impact industrial-type uses.

(Ord. 98-2002. Passed 11-26-02.)

1167.02 PERMITTED USES.

In all I-1 Office Industrial Districts, no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses:

- (a) Administrative, executive and managerial office buildings.
- (b) Regional offices or home branch offices for regional, national and international corporations.
- (c) Office buildings for the use of any of the following occupations: law, medicine, engineering, drafting, writing, accounting, broadcasting, investing and other uses similar in nature.
- (d) Data processing and computer centers, including sales, service and maintenance of electronic and data processing equipment.
- (e) Warehousing, assembling and packaging of small electronic instruments and devices, toys, novelties and other small household items. Accessory buildings or uses customarily incidental to any of the above permitted uses, storage garage, off-street parking and permitted signs.
- (f) Cultivation, processing and testing of medical marijuana. Dispensaries of medical marijuana associated with the foregoing uses in this subsection (f) that are located on the same or contiguous lot are a permitted accessory use.

(Ord. 11-2017. Passed 2-28-17.)

1167.03 OTHER USES.

The Planning Commission may recommend and City Council may approve the establishment of additional uses which are not listed in Section 1167.02 and which are:

- (a) Related and reasonably necessary and convenient for the satisfactory and efficient operation of a complete and integrated Office Industrial District; and
 - (b) Similar in character to one or more of the uses permitted by Section 1167.02.
- The proposed use and any proposed conditions shall be fully described in a document submitted with the site plan. The Planning Commission may recommend and Council may approve or require any conditions deemed necessary to ensure the compatibility of the proposed use with the district.

(Ord. 98-2002. Passed 11-26-02.)

1167.04 USE RESTRICTIONS.

- (a) No interior display shall be visible from any property line.
- (b) The outdoor storage or display of goods or materials shall be prohibited irrespective of whether or not such goods are for sale.
- (c) Warehousing or indoor storage of goods or materials not incidental to the above permitted uses shall be prohibited.

(Ord. 98-2002. Passed 11-26-02.)

1167.05 GENERAL REQUIREMENTS.

An I-1 District shall be located with access to an arterial or collector street.

(Ord. 98-2002. Passed 11-26-02.)

1167.06 SITE PLAN REVIEW.

- (a) No building or structures shall be erected on land used in an I-1 Office Industrial District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission sixty days after the site plan has been presented to the Commission.

- (b) When recommending the approval of a site plan for an I-1 District, the Planning Commission may recommend such additional conditions as are necessary to secure the following objectives:
 - (1) That all the development features including the principal and accessory buildings, open spaces, service roads, driveways and parking areas shall be located so as to encourage pedestrian and vehicular traffic safety; and
 - (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.

(Ord. 98-2002. Passed 11-26-02.)

1167.07 YARD, AREA AND BULK REQUIREMENTS.

Yard, area and bulk requirements shall be regulated as set forth in Chapter 1173.

(Ord. 98-2002. Passed 11-26-02.)

1167.08 OFF-STREET PARKING.

- (a) Except as provided in subsection (b) hereof, off-street parking shall be as required in Chapter 1175.
- (b) Parking shall be located at least fifty feet from any public right of way, except as follows:
 - (1) Parking may be located in the areas of a lot between twenty-five feet and fifty feet from the right of way where a landscaped earth mound or masonry wall and other landscaping is installed and permanently

maintained in the area between the parking lot and the right of way.

- (2) The height of the mound or wall shall be at least three feet above the grade of the parking.

- (3) Additional planting shall be installed and maintained in the area between the parking lot and the right of way in conformance with a landscape plan submitted by the applicant and approved by the Planning Commission.

(Ord. 98-2002. Passed 11-26-02.)

1167.09 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177.

(Ord. 98-2002. Passed 11-26-02.)

1167.10 SIGNS AND LIGHTING.

Signs and lighting shall be permitted only when in conformity with the provisions set forth in Chapter 1179.

(Ord. 98-2002. Passed 11-26-02.)

CHAPTER 1169

Conditional Uses

1169.01 Purpose.

1169.02 Conditional uses generally.

1169.03 Application for conditional use permit.

1169.04 Notice and hearing.

1169.05 Review and action by Commission and Council.

1169.06 Issuance, expiration, revocation, transfer.

1169.07 Standards for all conditional uses.

1169.08 Standards for specific conditional uses.

1169.09 Similar uses.

1169.10 Applying standards to pre-existing uses.

CROSS REFERENCES

Regulated uses - see P. & Z. Ch. 1180

Nonconforming uses - see P. & Z. Ch. 1181

1169.01 PURPOSE.

The purpose of this Chapter is to establish standards and procedures for review of uses which have the potential to be compatible with the districts in which they are listed as conditional uses but which, due to the nature of their operation, appearance, or other characteristics, require individual review and control of their location, design, intensity, configuration, and impacts upon the district and the community in order to ensure such compatibility and preservation of the district and community.

(Ord. 5-2007. Passed 3-13-07.)

1169.02 CONDITIONAL USES GENERALLY.

(a) A use listed as a conditional use shall not be permitted by right. The identification of a use as a conditional use in a district shall not establish or imply any rights for approval of the use of any lot, nor shall the approval of a conditional use on one lot establish or imply any rights for approval of the same use on any other lot. Listing as a conditional use shall afford the opportunity to submit an application for a conditional use permit, which may be approved or denied on the basis of the provisions of this Zoning Code.

(b) When a use is listed in this Zoning Code as a conditional use for a district, the conditional use of land, building, or structure shall not be established until a conditional use permit has been reviewed and recommended by the Planning Commission and approved by City Council according to the procedures of this Zoning Code and until the conditional use permit is issued by the Building Commissioner.

(Ord. 5-2007. Passed 3-13-07.)

1169.03 APPLICATION FOR CONDITIONAL USE PERMIT.

An applicant for a conditional use permit shall submit an application to the Building Commissioner. At a minimum, an application shall include the following information:

(a) Use Information:

- (1) A statement of the specific conditional use or uses listed in this Zoning Code for which the application is submitted.
 - (2) A description of the activities proposed on the site, including the goods and services, hours of operation, anticipated number of employees, nature and volume of delivery activity, characteristics of vehicular activity, and other information which clearly documents the nature of the proposed use and its potential impacts.
 - (3) A statement discussing the compatibility of the proposed use with the existing and permitted uses of adjacent properties and with any plans adopted by the City, including an evaluation of the effects on adjoining properties of such elements as traffic circulation, noise, glare, odor, fumes, vibration, and storm water.
 - (4) A statement addressing each of the applicable criteria set forth in Section 1169.07 (Standards for all Conditional Uses) and, as applicable, of Section 1169.08 (Standards for Specific Conditional Uses).
- (b) Site Plan Information: Information and exhibits describing the site and building layout and locations of all structures, paved areas, uses on the lot, and all uses and zoning district designations of adjoining properties and properties across a public right-of-way.
- (c) Additional Information: Upon review of the application, the Planning Commission may find that additional information is necessary to make a determination of the compliance of the proposed use with the provisions of this Zoning Code. The Planning Commission may determine that additional studies or expert advice are necessary to evaluate a proposed conditional use relative to the requirements of this ordinance and shall advise the applicant if such studies or advice are required. The Planning Commission may accept the required studies prepared by qualified professionals engaged by the applicant or may require the applicant to deposit with the City funds as required to pay for such studies.

(Ord. 5-2007. Passed 3-13-07.)

1169.04 NOTICE AND HEARING.

(a) The Planning Commission shall, upon determining that the application for conditional use is complete, set a public and administrative hearing for its next regularly scheduled meeting and shall instruct the Secretary of the Commission to publish notice at least seven (7) days prior to the public hearing.

(b) The Planning Commission shall conduct a public and administrative hearing on the date and time published.

(Ord. 5-2007. Passed 3-13-07.)

1169.05 REVIEW AND ACTION BY COMMISSION AND COUNCIL.

(a) Action by Planning Commission. The Planning Commission shall review the application for conformance with the provisions of this Zoning Code, including the standards set forth in Section 1169.07 (Standards for all Conditional Uses) and, as applicable, of Section 1169.08 (Standards for Specific Conditional Uses), and shall, within a reasonable time after conclusion of the hearing, take one of the following actions:

- (1) Recommend approval of the proposed conditional use permit. In recommending approval, the Planning Commission may recommend appropriate conditions and safeguards which are more strict than the requirements of this Zoning Code, and which are in conformance with the intent and purposes of this Zoning Code for the protection of nearby property and the public health, safety and general welfare.
 - (2) Recommend denial of the application, stating in the motion the reason(s) for recommending denial.
 - (3) The recommendation of the Planning Commission shall be forwarded to City Council.
- (b) Action by Council. Within sixty (60) days (or a longer period with consent of the applicant) after receipt of a Planning Commission recommendation, City Council shall take action to approve, approve with additional conditions, or deny the permit.

- (1) Approval of a conditional use permit by City Council shall authorize the Building Commissioner to issue the conditional use permit.
 - (2) If City Council denies the conditional use permit, then the Clerk of Council shall notify the applicant in writing and no further action shall be taken.
 - (3) If no action is taken by Council within sixty (60) days after receipt of the recommendation of the Planning Commission, then the applicant may deem the application to have been denied.
- (Ord. 5-2007. Passed 3-13-07.)

1169.06 ISSUANCE, EXPIRATION, REVOCATION, TRANSFER.

(a) Upon conclusion of the procedures in 1169.03, 1169.04, and 1169.05, and approval of a conditional use by City Council, the Building Commissioner may issue a conditional use permit.

(b) Expiration of Approval. Approval of a conditional use permit approved by City Council shall expire twelve (12) months from the date of approval unless construction has commenced or the use established. A single extension of the conditional use permit, not to exceed six (6) months, may be granted by City Council after written request by the applicant.

(c) No application for a conditional use permit which has been denied wholly or in part by City Council shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions which would be sufficient to justify reconsideration by the Planning Commission and Council.

(d) Revocation.

- (1) If the Building Commissioner finds that any provision of this Chapter relating to a conditional use permit is being violated or that any condition, safeguard, or requirement of a conditional use permit is being violated or breached, the Building Commissioner shall send a written notice by certified mail to the owner of the property, indicating the nature of the violation and ordering the action necessary to correct it.
- (2) The notice shall state what action the Building Commissioner intends to take if the violation is not corrected and shall advise that the Building Commissioner's decision or order may be appealed to City Council within ten (10) days of receipt of the notice.
- (3) If no appeal is filed, the Building Commissioner shall take necessary and appropriate action to resolve the violation. If an appeal is filed, all action shall be stayed unless the Building Commissioner prepares a statement, as approved by the Law Director, certifying that the situation poses imminent peril to the public health, safety or welfare of persons or property and that immediate action is warranted.
- (4) If an appeal is filed, City Council shall set a date for hearing. At least ten (10) days prior to the hearing, written notice shall be issued to the property owner.
- (5) Council shall conduct the hearing at the date and time established, shall consider the appeal and the record and shall determine the action to be taken. Council may take any of the following actions:
 - A. Amend the terms of the conditional use permit.
 - B. Revoke the conditional use permit.
 - C. Order the Building Commissioner to take action necessary to correct the violation.
- (6) Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of this Chapter or pose a danger to the public health, safety, or welfare, the Building Commissioner may seek enforcement without prior written notice.

(e) Transfer of Conditional Use Permit to New Owner of Conditional Use. A conditional use permit shall expire when ownership of the use is transferred to a new owner. A conditional use permit may be transferred to a new owner of the use for which the original permit was granted provided that the new owner shall submit a written request for transfer of the permit. The request shall include a statement ensuring compliance with all conditions of the original permit. The Building Commissioner shall inspect the premises for conformance with the original permit, shall review the record regarding the permit and the operation of the use, and shall transfer the conditional use permit to the new owner if the use is found to conform to the permit conditions or is brought into conformance.

(Ord. 5-2007. Passed 3-13-07.)

1169.07 STANDARDS FOR ALL CONDITIONAL USES.

(a) The Planning Commission shall determine, in making a decision to recommend approval of a conditional use or to deny a conditional use permit, if the proposed use will comply with the general standards in this Section 1169.07 and the specific standards in Section 1169.08 pertinent to each use indicated therein. The Planning Commission may recommend and City Council may approve such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights and for insuring that the intent and objectives of this Zoning Code will be observed.

(b) The Planning Commission shall review the particular facts and circumstances of each proposed use in terms of the following standards and shall find adequate evidence showing that such use on the proposed

location:

- (1) Will be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
- (2) Will not be hazardous or unduly disturbing to existing or future neighboring uses;
- (3) Will not be detrimental to property in the immediate vicinity or to the community as a whole;
- (4) Will be served adequately by essential public facilities and services such as roads, police and fire protection, drainage structures, refuse disposal or schools, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service; and
- (5) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public roads.

(Ord. 5-2007. Passed 3-13-07.)

1169.08 STANDARDS FOR SPECIFIC CONDITIONAL USES.

In addition to the Standards for All Conditional Uses in Section 1169.07 above, the following standards shall apply to the specific conditional uses listed in this Section:

- (a) **Banquet Facility in O-S District.** A banquet facility may be permitted in the O-S District subject to the following conditions:
 - (1) All dining and service shall be conducted within a completely enclosed building.
 - (2) Buildings, parking, storage, and all other uses shall be set back at least 50 feet from residential districts.
- (b) **Restaurant, Bar, Tavern.**
 - (1) **Restaurant in O-S District.** A restaurant may be permitted as a conditional use in the O-S District subject to the following conditions:
 - A. All dining and service shall be conducted within a completely enclosed building.
 - B. Restaurant buildings, parking, storage, and all other uses shall be set back at least 50 feet from residential districts.
 - C. Drive-through facility is not permitted.
 - (2) **Restaurant, Bar or Tavern in B-1 District.** A restaurant, bar, or tavern may be permitted as a conditional use in the B-1 District subject to the following conditions:
 - A. Outdoor Dining and Service. All dining and service shall be conducted within a completely enclosed building provided that outdoor dining and service may be conducted in a location at least 100 feet distant from all residential districts. The outdoor dining and service areas shall not exceed two-hundred fifty (250) square feet and shall be enclosed with wood or masonry walls as approved in the conditional use permit. Loudspeakers and live music performance shall not be permitted in the outdoor area.
 - B. Restaurant buildings, parking, storage, and all other uses shall be set back at least 50 feet from residential districts.
 - C. Drive-through facility is permitted in compliance with the standards for drive-through facilities at Section 1169.08(h) and with the following:
 - I. A drive-through facility accessory to a restaurant shall not be permitted nearer than one hundred fifty (150) feet to a residential district.
 - II. A setback of at least ninety (90) feet from the public street right-of-way line is required.
 - III. Vehicular access to the property shall only be permitted from an arterial street. If located on a corner lot, the access shall be at least fifty (50) feet from the intersection of the right-of-way lines.
 - (3) **Restaurant with Outdoor Dining or Service in B-2 District.** A restaurant with outdoor dining or service may be permitted as a conditional use in the B-2 District subject to the following conditions:
 - A. Outdoor dining and service may be conducted in a location at least 100 feet distant from all residential districts.
 - B. The outdoor dining and service areas shall be enclosed with wood or masonry walls as approved in the conditional use permit.
 - C. Loudspeakers and live music performance shall not be permitted in the outdoor area unless it is determined that the sound will not be audible in any residential district.
 - D. Restaurant with drive-through facility shall not be permitted.
- (c) Amusement and Recreation uses such as assembly hall, meeting hall, bowling alley, billiard hall, theater, may be permitted subject to the following condition:
 - (1) Use shall be conducted within an entirely enclosed soundproofed building.
- (d) Veterinary clinics and veterinary hospitals may be permitted subject to the following conditions:
 - (1) The use shall be designed to ensure that it will not create a nuisance in terms of noise, odor, safety, health, or other impacts.
 - (2) All activities associated with the use, except the outdoor waste area, shall be conducted inside a completely enclosed building, including any areas for confinement of animals.
 - (3) An outdoor pet waste area shall be provided for use by client pet owners to allow pets to defecate and urinate. Area shall be located at least fifty (50) feet from any property line. Facility operator shall submit a plan for daily cleaning of the area.
 - (4) Pets may be confined in the facility for short periods necessary for medical recovery, but no pet boarding is permitted.
 - (5) The operator shall identify the nature of all wastes to be generated by the use and shall submit a plan for storage and disposal.
- (e) Hotel and motel uses may be permitted subject to the following conditions:
 - (1) A hotel or motel shall not be located on a lot abutting a residential district.
 - (2) Minimum lot shall be six (6) acres.
 - (3) Overnight parking of autos, pickup trucks, and recreational vehicles and similar vehicles designed for personal travel is permitted. Overnight parking of panel vans, semi tractors and trailers, or other vehicles is not permitted.
 - (4) The operator shall not permit a guest to occupy the hotel for more than thirty (30) consecutive days.
 - (5) Not more than twenty-five percent (25%) of the gross floor area may be used for uses incidental to the rental of rooms, including but not limited to newsstand, gift shop, lounge, or restaurant. Entry to incidental uses shall only be from an interior lobby or hall of the building.
- (f) Gasoline service stations and self-service auto laundries may be permitted subject to the following conditions:
 - (1) Gasoline service stations and self-service auto laundries as controlled by Chapter 1165.
 - (2) Gasoline service stations and self-service auto laundries shall also comply with requirements for drive-through facilities at Section 1169.08(h) below, except that gasoline pumps may be located in front of the principal building.
- (g) Automotive major repair uses may be permitted subject to the following conditions:
 - (1) The applicant shall submit a site plan to the Planning Commission detailing all intended uses and improvements of the lot, including paved areas and buildings, and all other information necessary to determine conformance with the provisions of this Zoning Code. The Commission shall make a report and recommendation to City Council. The zoning certificate shall only be issued in conformance with a site plan approved by City Council.
 - (2) Automotive major repair shall be limited to automobiles, small vans and light trucks. Recreational vehicles, commercial trucks, and other large or heavy vehicles and equipment shall not be repaired on the lot.
 - (3) Landscaping shall be installed and maintained in the following areas as approved in the site plan as follows:
 - A. A landscaped area shall be installed and maintained in all areas abutting the public right of way to a depth of not less than fifteen feet.
 - B. Where any lot line abuts a lot in a nonresidential zoning district, a landscaped area shall be maintained and installed to a width of not less than five feet.
 - C. Where any lot line abuts a lot in a residential zoning district, either:
 1. A solid wall six feet in height shall be installed abutting the property line; or
 2. A wood fence six feet in height shall be installed abutting the property line and all pavement, parking, storage and all other activities shall be set back at least thirty feet from the lot line.
 - (4) Exterior lighting shall only be installed as approved in the site plan.
 - (5) Vehicle doors shall not be located on any side of the building facing a residential zoning district. Vehicle doors shall not be located facing a public street unless the Planning Commission determines that the orientation is unavoidable. Windows and man-doors located on any side of the building facing a residential zoning district shall be self-closing in order to control noise impacts on the residential district.
 - (6) If the lot abuts a residential zoning district, automobile major repair shall not be conducted between the hours of 8:00 p.m. and 7:00 a.m.
 - (7) The following shall only be permitted in locations on the lot indicated on the approved site plan.
 - A. Vehicle parking, including vehicles which are missing body parts or which are severely damaged;
 - B. Storage of vehicle parts and other materials or wastes.
 - (8) Outside operations are prohibited except for hand washing or waxing of vehicles.
 - (9) Outside speakers, bells and similar sound-producing equipment are prohibited.
 - (10) Except as otherwise provided in this Zoning Code, vehicle sales and the exterior display or storage of materials for sale are prohibited.
- (h) Drive-through facilities may be permitted subject to the following conditions:
 - (1) The applicant shall provide a traffic study (which shall be satisfactory to the Planning Commission and City Council in preparer qualifications, content, analysis, conclusions and recommendations) which projects the vehicular use (including but not limited to vehicle types, volumes, and other information) of the proposed facilities and evidences compliance with the provisions of this Zoning Code.
 - (2) Lanes required for vehicle access to, waiting for use of, and service within a drive-through facility shall be designed with sufficient length to accommodate the peak number of vehicles projected to use the facility at any one time, to provide escape/abort lanes for vehicles desiring to leave the stacking lanes or to avoid disabled vehicles, and to minimize impacts on the use of other required parking or drives, impacts on abutting roads, and hazards to pedestrians.
 - (3) Drive-through facilities, their stacking areas, and routes of access shall be located to not interfere with or cause interference with vehicles or pedestrian movement on the public roads or within the site. Stacking areas for drive-through facilities shall not be the sole or primary site egress route. Stacking areas shall not utilize parking or aisles required for access to parking.
 - (4) Drive-through facilities shall be located on that part of a site which is most distant from or most screened from the abutting residential districts. Where site conditions necessitate locating a drive-through facility near to the residential district (and is not otherwise prohibited), the area between the facility and the residential district shall be screened as approved in the conditional use permit.
 - (5) Business establishments with drive-through facilities shall provide a minimum of four (4) stacking spaces per facility and additional spaces determined necessary in the traffic study.
 - (6) Drive-through facilities shall not be located in front of the principal building.
 - (7) The applicant shall eliminate or reduce the impacts of lighting, litter, noise, and exhaust resulting from the facility, especially impacts on nearby residential uses, through proper design of the site, operation of the use, and other methods.
 - (8) Drive-through facilities which utilize microphones or other audible signals shall be designed to minimize sound impacts upon abutting uses and shall not create more than 40 dBA at the property line.
 - (9) Hours of operation shall be as approved with the site plan. Conditions may be established restricting the hours of operation in order to reduce inappropriate impacts on abutting uses and on public street traffic and to ensure compatibility with normal vehicular activity in the district.
 - (10) Drive-through facility accessory to a restaurant shall comply with applicable provisions of Section 1169.08(b).
- (i) Garden centers may be permitted subject to the following conditions:
 - (1) Outdoor sales, storage, or display shall only be permitted in areas identified on the approved site plan. No outdoor sales, storage, or display is permitted within fifty (50) feet of any road right-of-way. The activities shall not occupy any required public or private sidewalk, parking area or driveway.
 - (2) Any outdoor sales, storage, or display area located closer than one hundred (100) feet to a residential district shall, if determined to be visible from the district, be screened by a landscape buffer strip or other means indicated on the approved site plan.
 - (3) Outdoor displays shall be maintained in a neat and orderly fashion.
 - (4) The site plan submitted with an application for a conditional use permit shall indicate the types of merchandise to be displayed and, if applicable, any seasonal changes of display.
 - (5) Outdoor storage shall not include the storage or accumulation of waste products, except as specifically approved in the site plan.
- (j) Day care centers may be permitted subject to the following conditions:
 - (1) The location, orientation, and capacity of dropoff and loading areas shall be sufficient to prevent obstruction of public streets and sidewalks.
 - (2) Sufficient on-site parking shall be provided for staff and visitors.

(Ord. 5-2007. Passed 3-13-07.)
- (k) Sweepstakes/internet cafes may be permitted subject to the following conditions:
 - (1) There shall be a parking standard of one parking space per computerized sweepstakes device in operation on the premises and an additional parking space per employee on duty on the premises.

- (2) No sweepstakes/internet cafe shall be located within five hundred (500) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, or religious institution, or within five hundred (500) feet of any establishment that has been issued a liquor permit by the State of Ohio.

This section shall not apply to any duly licensed sweepstakes/internet café in existence at a particular location at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio is established within five hundred (500) feet of said sweepstakes/internet café.

(Ord. 37-2011. Passed 8-23-11.)

- (f) Retail uses accessory to a permitted or conditionally permitted use in an O-S District may be permitted subject to the following conditions:

- (1) The primary purpose of an accessory retail use shall be to serve customers or employees of a permitted or conditionally permitted principal use of the O-S District.
- (2) The accessory retail use shall be wholly owned and operated as part of the principal use with which it is associated and shall occupy floor area not greater than twenty-five percent (25%) of the floor area of the entire business.
- (3) Access to the accessory retail use shall only be through the space occupied by the principal use.
- (4) The accessory retail use shall not have signs or advertising independent from that permitted for the principal use.

(Ord. 5-2007. Passed 3-13-07.)

1169.09 SIMILAR USE.

An applicant may submit an application for a conditional zoning certificate for a building or use which is not specifically listed as a permitted use or a conditionally permitted use in a district. The Planning Commission shall review the proposed use and recommend to City Council if the proposed use should be approved as a similar use based on the following standards and other applicable provisions of this Zoning Code. Further action by the Commission shall be delayed until Council determines that the proposed use is a similar use and shall be conditionally permitted in the district, at which time the Planning Commission shall proceed to review the application and shall make a recommendation to Council with regard to the conditional use permit and conditions.

- (a) Whether the use has characteristics and impacts consistent with those of one or more of the permitted uses in the district; and the use has characteristics and impacts more consistent with those of the permitted uses of the subject district than with the permitted uses of any other district.
- (b) Whether the establishment of the use in the district will significantly alter the nature of the district.
- (c) Whether the use will create dangers to health and safety or create offensive noise, vibration, dust, heat, smoke, odor, glare, traffic, or other objectionable impacts or influences to an extent greater than normally resulting from permitted uses listed in the subject district.
- (d) Whether the use typically requires site conditions or features, building bulk or mass, parking, or other requirements dissimilar from permitted uses; and whether the typical development of site and buildings for the use is compatible with those required for permitted uses and can be constructed in conformance with the standard regulations for height, lot dimensions, setbacks, etc. of the district. (Ord. 37-2011. Passed 8-23-11.)

1169.10 APPLYING STANDARDS TO PRE-EXISTING USES.

(a) A conditional use permit shall be required for modification of a use (and for modification of the site and structures associated with such use) which was legally existing prior to the effective date of this Chapter 1169 or of subsequent amendments, and which is listed as a conditional use by this Zoning Code or Chapter 1169, or of subsequent amendments thereto.

(b) When an application is submitted for a conditional use permit for modification and continuance of a use legally existing prior to the effective date of this Chapter 1169 or of subsequent amendments, the Planning Commission and Council shall exercise discretion in applying the standards set forth in Sections 1169.07 and 1169.08 which are applicable to the existing use. Such discretion may include waiver or partial application of the standards, subject to a finding or findings that compliance with one or more of the standards is infeasible or impractical.

(Ord. 5-2007. Passed 3-13-07.)

CHAPTER 1171

I-2 Industrial District

1171.01 Intent.

1171.02 Permitted uses.

1171.03 Use restrictions.

1171.04 General requirements.

1171.05 Performance standards.

1171.06 Violations of performance standards.

1171.07 Site plan review.

1171.08 Yard, area and bulk requirements.

1171.09 Off-street parking.

1171.10 Walls and landscaping.

1171.11 Signs and lighting.

CROSS REFERENCES

Storage of unlicensed motor vehicle - see ZON. 1175.10(b)

Mining, soil stripping prohibited - see ZON. 1177.07

1171.01 INTENT.

The purpose of the I-2 Industrial District is to provide locations for warehousing, wholesale and manufacturing establishments where infrastructure is sufficient to support and promote these uses and where their impacts on residential areas can be mitigated.

(Ord. 99-2002. Passed 11-26-02.)

1171.02 PERMITTED USES.

In all I-2 Industrial Districts no building or land, except as otherwise provided in this chapter, shall be erected or used except for one or more of the following specified uses:

- (a) Basic research, design and pilot or experimental product development when conducted within a completely enclosed building.
- (b) Research and office uses related to permitted manufacturing operations.
- (c) Warehousing and wholesale establishments.
- (d) Tool, die, gauge and machine shops.
- (e) The manufacture, compounding, processing, packaging or treatment of such products as cosmetics, pharmaceuticals, toiletries, food products, hardware and household supplies.
- (f) The manufacture, compounding, assembling or treatment of articles or merchandise from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fibre, fur, glass, hair, horn, leather, paper, plastics, precious or semiprecious metals or stones; sheet metal excluding large stampings such as automobile fenders or bodies, ferrous and nonferrous metals excluding large castings and fabrications, shell, textiles, tobacco, wax, wire, wood excluding saw and planing mills and yarns.
- (g) The manufacture of pottery, figurines or other similar ceramic products using only previously pulverized clay and kilns fired only by electricity or gas.
- (h) Manufacture of musical instruments, toys, novelties, and metal or rubber stamps or other small molded rubber products, not including pneumatic tires.
- (i) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs.
- (j) Laboratories--experimental, film or testing.
- (k) Warehouse, storage and transfer uses and electric and gas service building, public utility buildings, telephone exchange buildings, electrical transformer stations and substations and gas regulator stations; provided that outside storage is not permitted for any of these uses.
- (l) Accessory buildings and uses.
- (m) Off-street parking and loading facilities; parking garages.
- (n) Maintenance and storage only within wholly enclosed buildings.
- (o) Permitted signs.
- (p) Administrative, executive and managerial office buildings.
- (q) Regional offices or home branch offices for regional, national and international corporations.
- (r) Office buildings for the use of any of the following occupations: law, medicine, engineering, drafting, writing, accounting, broadcasting, investing and other uses similar in nature.
- (s) Data processing and computer centers, including sales, service and maintenance of electronic and data processing equipment.
- (t) Cultivation, processing and testing of medical marijuana. Dispensaries of medical marijuana associated with the foregoing uses in this subsection (t) that are located on the same or contiguous lot are a permitted accessory use.
- (u) Accessory buildings or uses customarily incidental to any of the above permitted uses such as storage garage, off-street parking and permitted signs.
- (v) Other Uses. The Planning Commission may recommend and City Council may approve the establishment of additional uses which are not listed above and which are:
- (1) Related and reasonably necessary and convenient for the satisfactory and efficient operation of a complete and integrated Office Industrial District; and
- (2) Similar in character to one or more of the uses permitted by Section 1171.02, (a) through (u).

The proposed use and any proposed conditions shall be fully described in a document submitted with the site plan. The Planning Commission may recommend and Council may approve or require any conditions deemed necessary to ensure the compatibility of the proposed use with the district.

(Ord. 11-2017. Passed 2-28-17.)

1171.03 USE RESTRICTIONS.

(a) In all industrial districts no building shall be erected, altered or moved and no land shall be used for carrying on of manufacturing activities of the character of or similar to tanneries, slaughterhouses, stockyards, glue factories, soap factories, oil refineries, drop forgings or other uses the normal operation of which produce or cause noxious, offensive, unhealthful and harmful odors, fumes, dust, smoke, light, waste, noise or vibration.

(Ord. 99-2002. Passed 11-26-02.)

(b) The processing of raw material for shipment in bulk form to be used in an industrial or commercial operation at another location is prohibited, except for the processing of raw materials for legal pharmaceutical drugs and medical marijuana.

(Ord. 11-2017. Passed 2-28-17.)

(c) No interior display shall be visible from any property line.

(Ord. 99-2002. Passed 11-26-02.)

1171.04 GENERAL REQUIREMENTS.

An I-2 District shall be located with access to an arterial or collector street.

(Ord. 99-2002. Passed 11-26-02.)

1171.05 PERFORMANCE STANDARDS.

No use, otherwise allowed, shall be permitted within the I-2 Industrial District which does not conform to the following standards of use, occupancy and operation, which standards are hereby established as the minimum requirements to be maintained within the area.

- (a) Smoke. No person, firm or corporation shall permit the emission of any smoke from any source whatever to a density greater than that density described as

No. 1 on the Ringelmann Chart; provided, that the following exceptions shall be permitted: smoke, the shade of appearance of which is equal to but not darker than No. 2 on the Ringelmann Chart for a period or periods, aggregating four minutes in any thirty minutes.

Method of Measurement. For the purpose of grading the density of smoke, the Ringelmann Chart, as now published and used by the United States Bureau of Mines, which is hereby made a part of this

chapter, shall be the standard. However, the Umbrascopes readings of smoke densities may be used when correlated with the Ringelmann Chart.

- (b) Dust, Dirt and Fly Ash. No person, firm or corporation shall operate or cause to be operated, maintain or cause to be maintained, any process for any purpose or furnace or combustion device for the burning of coal or other natural or synthetic fuels, without maintaining and operating, while using such process or furnace or combustion device, recognized and approved equipment, means, method, device or contrivance to reduce the quantity of gas or airborne solids or fumes emitted into the open air, which is operated in conjunction with such process furnace or combustion device so that the quantity of gas or airborne solids shall not exceed 0.20 grains per cubic foot of the carrying medium at a temperature of 500 degrees Fahrenheit.

Method of Measurement. For the purpose of determining the adequacy of such devices, these conditions are to be conformed to when the percentage of excess air in the stack does not exceed fifty percent at full load. The foregoing requirement shall be measured by the A.S.M.E. Test Code for dust separating apparatus. All other forms of dust and dirt shall be completely eliminated insofar as escape or emission into the open air is concerned. The Director of Public Safety may require such additional data as is deemed necessary to show that adequate and approved provisions for the prevention and elimination of dust and dirt have been made.

- (c) Noise. The intensity level of the sounds being emitted from any operation within districts regulated by this section shall not exceed the following decibel levels when adjacent to the following types of use districts:

In Decibels	Adjacent Use	Where Measured
50	All Residential Districts	Common Property Line
55	Office-Service District	Common Property Line
55	Neighborhood Business District	Common Property Line
60	Regional Business Districts	Common Property Line
60	General Business Districts	Common Property Line
60	Industrial Office District	Common Property Line
75	Major Street	At Street Line
60	Secondary residential street (residential opposite)	At Street Line

Objectionable noises, due to intermittence, beat frequency or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

Method of Measurement. The sound level, in decibels, measured at the points adjacent to the various use districts shall meet the established levels ninety percent of the time, and shall not exceed the established sound levels by more than ten percent. The sound levels shall be measured with an approved standard sound-level meter incorporating a forty decibel frequency weighting network, or by any method subsequently approved by the U.S. Bureau of Standards.

- (d) Glare and Heat. Such operations producing an intensity of light and heat (such as welding operations and acetylene torch cutting) which would prove detrimental to any person or to the public or endanger the health, comfort or safety of any such person or the public, shall be performed within a completely enclosed building or behind a fence so as to completely obscure the operation from view from any point beyond the property line, except during the period of construction of the facilities to be used and occupied.

- (e) Sewage Wastes. No use or structure shall be established unless connected to an approved public sanitary sewer. Wastes disposed into the sanitary sewer shall comply with the regulations of the authority operating the sewer.

- (f) Odor. The emission of obnoxious odors of any kind shall be unlawful.

Method of Measurement. For the purpose of defining an odor, as such, it is hereby established that at such point where the measurement of the threshold of smell can be achieved, it shall be considered a noxious concentration and shall not be exceeded. These measurements will show the minimum concentration at which the first sensation of odor is had, and shall be made in ounces of the substances per thousand cubic feet of air (example: maximum for ethyl selano mercaptan shall be 18 millionths of an ounce per 1,000 cubic feet of air).

- (g) Gases. The escape or emission of any gas which is injurious or destructive in character shall be unlawful and may be summarily abated.

- (h) Fire and Explosive Hazards. The storage, handling and use of flammable or explosive materials shall be permitted only in structures having incombustible exterior walls, and all operations in connection therewith shall be provided with adequate safety and protective devices against hazards of fire and explosion as well as with adequate fire-fighting and suppression equipment and devices standard to the operation involved.

(Ord. 99-2002. Passed 11-26-02.)

1171.06 VIOLATIONS OF PERFORMANCE STANDARDS.

In every district regulated by the performance standards as set forth in Section 1171.05, any use of any facility or equipment which results in a violation of the performance standards shall be, and is hereby declared to be a violation of this chapter and a nuisance, and the same may be prosecuted under the penal provisions set forth in Chapter 1187.

(Ord. 99-2002. Passed 11-26-02.)

1171.07 SITE PLAN REVIEW.

(a) No building or structure shall be erected or land used in an I-2 Industrial District unless the site plan has been approved by Council. Council shall not approve the site plan unless it receives a report and recommendation from the Planning Commission, but Council may act on the site plan if a report and recommendation is not received from the Planning Commission within sixty days after the site plan has been presented to the Commission.

- (b) When recommending the approval of a site plan for an I-2 District, the Planning Commission may recommend such additional conditions as are necessary to secure the following objectives:

- (1) That all the development features including the principal and accessory buildings, open spaces, service roads, driveways and parking areas shall be located so as to encourage pedestrian and vehicular traffic safety; and

- (2) That the design of such land use will not discourage the appropriate development or impair the value of existing or proposed development in the area surrounding the subject development.

(Ord. 99-2002. Passed 11-26-02.)

1171.08 YARD, AREA AND BULK REQUIREMENTS.

Yard, area and bulk requirements shall be regulated as set forth in Chapter 1173.

(Ord. 99-2002. Passed 11-26-02.)

1171.09 OFF-STREET PARKING.

- (a) Except as provided in subsection (b) hereof, off-street parking shall be as required in Chapter 1175.

- (b) Parking shall be located at least fifty feet from any public right of way, except as follows:

- (1) Parking may be located in the areas of a lot between twenty-five feet and fifty feet from the right of way where a landscaped earth mound or masonry wall and other landscaping is installed and permanently maintained in the area between the parking lot and the right of way.

- (2) The height of the mound or wall shall be at least three feet above the grade of the parking.

- (3) Additional planting shall be installed and maintained in the area between the parking lot and the right-of-way in conformance with a landscape plan submitted by the applicant and approved by the Planning Commission.

(Ord. 99-2002. Passed 11-26-02.)

1171.10 WALLS AND LANDSCAPING.

Walls and/or landscaping shall be as required in Chapter 1177.

(Ord. 99-2002. Passed 11-26-02.)

1171.11 SIGNS AND LIGHTING.

Signs and lighting shall be permitted only when in conformity with the provisions set forth in Chapter 1179.

(Ord. 99-2002. Passed 11-26-02.)

CHAPTER 1172

Wireless Telecommunication Tower Overlay District

1172.01 Intent.

1172.02 Permitted uses.

1172.03 General requirements and performance.

1172.04 Fees.

1172.05 Definitions.

1172.01 INTENT.

(a) The WTTTO Wireless Telecommunication Tower Overlay District is established to provide for the construction and use of wireless telecommunication towers and facilities as a permitted use, conditional use, or accessory use depending upon the specific land areas of the City and circumstances in which they are proposed to be located. The purpose of this Overlay District is to balance the competing interests created by the Federal Telecommunications Act of 1996 (Public Law 104-104) and the interests of the City in regulating wireless telecommunication towers and related facilities for the following reasons: to provide for orderly development within the City; to protect property values; to maintain the aesthetic appearance of the City; to provide for and protect the health, safety and general welfare of the residents of the City; to protect residential properties, parks and open spaces from the adverse effects of towers and related facilities; to promote collocation of wireless telecommunication facilities in order to decrease the number of towers in the City; and to maintain, where possible, the integrity of the existing zoning regulations contained in the Zoning Code.

(b) The Wireless Telecommunication Tower Overlay District regulations shall control and supersede wherever they are inconsistent with other provisions of the Zoning Code. If no inconsistency exists between the provisions of this Overlay District and the provisions of the underlying zoning district, the underlying zoning district regulations and other provisions of this Zoning Code shall remain in full force and effect and shall regulate all land use and development.

(c) The Wireless Telecommunication Tower Overlay District establishes a hierarchy of acceptable land areas for location of wireless telecommunication towers and related facilities through the establishment of such use as a permitted use in certain land areas, as a conditional use in other land areas, or as an accessory use for erection of antennas only, which determination is dependent upon the location and characteristics of such land areas.

(Ord. 12-97. Passed 4-22-97.)

1172.02 PERMITTED USES.

(a) Principally Permitted Uses. A wireless telecommunication tower facility may be permitted on any property owned or controlled by the City under such conditions, standards and regulations as deemed appropriate by action of the City Council.

(b) Conditionally Permitted Uses. A wireless telecommunication tower facility may be permitted in areas other than those areas set forth in subsection (a) hereof as a conditional use only in the areas indicated as a WTTTO District on the Zone Map and upon the approval of the Planning and Zoning Commission, provided the applicant demonstrates compliance with each of the following standards, as well as the standards set forth in Section 1172.03 herein:

- (1) There is no technically suitable space for the applicant's antenna(s) and related facilities reasonably available on an existing tower within the geographic area to be served, including the areas set forth in subsection (a). With the building permit application, the applicant shall list the location of every tower, building or structure and all of the areas set forth in subsection (a) that could support the proposed antenna(s) or area where it would be technically suitable to locate so as to allow it to serve its intended function. The applicant must demonstrate that a technically suitable location is not reasonably available on an existing tower, or a technically suitable location is not available in any area set forth in subsection (a). If another existing tower or an area set forth in subsection (a) is technically suitable, the applicant must demonstrate that it has requested to collocate on the existing tower and the collocation request was rejected by the owner of the tower, or that it has requested the City Council to permit it to locate a tower facility in all technically suitable area(s) set forth in Subsection (a) under reasonable terms and that each request was rejected. In all circumstances, owners of existing towers shall promptly respond in writing to requests for collocation, but in no event shall they respond more than thirty (30) days from the date of receipt of a written request for

collocation. If another telecommunication tower is technically suitable, the applicant must further show that it has offered to allow the owner of that other tower to collocate an antenna(s) on another tower within the City which is owned or controlled by the applicant, if any, on reasonably reciprocal terms and the offer was not accepted.

- (2) As a condition of issuing a conditional building permit to construct and operate a tower in the City, the owner/operator of the telecommunication tower is required to allow collocation until said tower has reached full antenna capacity, but in no event fewer than two (2) additional antenna platforms for two (2) additional wireless telecommunication antenna owners/operators unrelated to the owner/operator of the tower. Agreement to this provision must be included in the applicant's lease with the landowner, if different from the owner/operator of the tower. Written documentation must be presented to the Building Commissioner evidencing that the landowner of the property on which the tower is to be located has agreed to the terms of this subsection (b) as well as all other applicable requirements, regulations and standards set forth in this chapter.
- (3) The color of the tower shall be as required by the Architectural Board of Review.
- (c) Accessory Use. The erection or construction of a wireless telecommunication antenna(s) on an existing wireless telecommunication tower shall be a permitted accessory use as a collocation on such a tower and shall be approved upon submission of an application for a building permit to the Building Commissioner which meets all applicable regulations in Section 1172.03 hereof related to the placement of the wireless telecommunication equipment and related facilities associated with such antenna(s).

(Ord. 12-97. Passed 4-22-97.)

1172.03 GENERAL REQUIREMENTS AND PERFORMANCE.

Except as otherwise provided in this chapter, all wireless telecommunication tower facilities shall comply with the following standards:

- (a) Design. All wireless telecommunication towers shall be of a monopole design, as opposed to a lattice design. Towers and antennas shall be designed to meet all Building Code requirements.
- (b) Maximum Height of Tower and Related Facilities. A wireless telecommunication tower shall be less than 200 feet in height as measured from the average ground level at the base of the tower. The intent of this height restriction is to avoid, if at all possible, the necessity for lighting of the tower. No equipment building for a wireless tower facility shall exceed ten feet in height from building grade.
- (c) Color. Unless otherwise required by the Architectural Board of Review, the color of a wireless telecommunication tower shall be a neutral gray.
- (d) Additional Permitted Use. A wireless telecommunication tower facility may be located on a lot with another use.
- (e) Minimum Lot Area. The minimum lot area shall be the same as that required for the underlying zoning district and the lot area shall be sufficient to provide for all requirements of setbacks, yards and building coverage as specified in the underlying zoning district.
- (f) Location of Tower on the Lot. A wireless telecommunication tower must comply with the setback and yard requirements applicable to buildings in the underlying zone in which it is located. Such tower must be placed upon the lot in such a way as to minimize the visual impact from adjoining streets, roads and properties.
- (g) Spacing. There shall be a separation of at least one quarter mile between wireless telecommunication towers.
- (h) Fencing. Fencing shall be provided for public safety reasons. A fence at least six feet in height, but no greater than eight feet in height, shall be erected completely around the wireless telecommunication tower and any related support facilities. "No Trespassing" signs of no greater than two square feet shall be posted on the fence on four sides of the wireless telecommunication facility with a telephone number of a person to contact in the event of an emergency.
- (i) Buffer Zones. A landscaped buffer area of not less than fifteen feet in depth shall be placed between the wireless telecommunication facilities and the public rights-of-way and any adjacent properties from which a direct view can be had of the facilities, other than the tower itself. The fifteen-foot landscape buffer shall consist of a tight screen fence of hardy evergreen shrubbery not less than six feet in height. The landscaping shall be continuously maintained and promptly restored, if necessary.
- (j) Outdoor Storage. Outdoor storage of any supplies, vehicles or equipment related to the use of the wireless telecommunication facility is prohibited except during the facility construction period and to supply emergency power to the facility only during a power outage.
- (k) Lighting. Except as required by applicable law or this chapter, a wireless telecommunication antenna or a tower shall not be illuminated and lighting fixtures or signs shall not be attached to the antenna or tower. If lighting is required by Federal Aviation Administration ("FAA") regulations, white strobe lights shall not be permitted at night unless no other alternative is permitted by the FAA. Lighting for security purposes shall only be permitted at the wireless telecommunication facility with the prior approval of the Planning and Zoning Commission.
- (l) FCC Compliance. Prior to receiving final inspection by the Building Commissioner and authorization to commence the use, documented certification shall be submitted by the applicant that the wireless communication facility complies with all current Federal Communications Commission ("FCC") regulations for non-ionizing electromagnetic radiation (NIER).
- (m) Advertising. No advertising shall be permitted on the wireless telecommunication facility.
- (n) Time Limit for Commencement and Completion of Construction. After issuance of a building permit to construct a wireless telecommunication facility, the applicant shall commence construction within 180 days and shall complete construction within one year or the building permit shall expire. As a condition of issuance of the permit, the Building Commissioner shall require the applicant and the owner of the property to certify that if construction is not commenced within the 180 days or completed within one year, that the site will be available for another wireless telecommunications facility.
- (o) Removal of Facilities.
- (1) The owner or operator shall agree to remove a nonfunctioning wireless telecommunication facility within six (6) months of ceasing its use. The owner/operator of the antenna and/or tower shall, on no less than an annual basis from the date of issuance of the building permit, file a declaration with the Building Commissioner as to the continuing operation of every facility which is subject to this chapter. The owner/operator of the antenna and/or tower shall sign a written consent agreeing to permit an annual inspection of the wireless telecommunication facility by the Building Commissioner or his designee.
- (2) The owner or operator shall be required, as a condition of issuance of a building permit, to post a cash or surety bond acceptable to the Director of Law of not less than one hundred dollars (\$100.00) per vertical foot from natural grade of the wireless telecommunication tower which bond shall insure that an abandoned, obsolete or destroyed wireless communication antenna or tower shall be removed within six (6) months of cessation of use and abandonment.

(Ord. 12-97. Passed 4-22-97.)

1172.04 FEES.

The Building Commissioner shall collect the fees for applications for building permits as required by this section in accordance with the following schedule:

- (a) New wireless telecommunication tower facility. A fifteen hundred dollar (\$1,500) deposit upon which expenses incurred by the City will be drawn and the balance, if any, returned to the applicant upon final inspection prior to authorization of commencement of the use.
- (b) New wireless telecommunication antenna and related facilities (without a tower) - five hundred dollars (\$500.00).
- (c) Annual inspection fee - one hundred dollars (\$100.00).
- (d) Reimbursement of Expenses. The applicant for a wireless communication tower and/or antenna facility shall be responsible for all expenses incurred by the City for any technical and/or engineering services deemed necessary by the Building Commissioner, the Mayor, the Planning and Zoning Commission, or the Architectural Board of Review to perform the reviews required by this section which are not covered by the fees set forth in this section.

(Ord. 12-97. Passed 4-22-97.)

1172.05 DEFINITIONS.

- (a) "Telecommunication" means technology permitting the passage of information from the sender to one or more receivers in a usable form by means of any electromagnetic system, and specifically includes the term "personal wireless services" as defined by 47 U.S.C. §332(c)(7).
- (b) "Wireless telecommunication antenna" means an antenna system designed to transmit or receive communications as authorized by the Federal Communications Commission (FCC) excluding amateur radio operator antennas.
- (c) "Wireless telecommunication equipment building" means the structure or cabinet in which the electronic receiving and relay equipment for a wireless telecommunication facility is housed.
- (d) "Wireless telecommunication facility" means a facility consisting of the equipment and structures involved in receiving telecommunication or radio signals from a mobile radio communications source and transmitting those signals to a central switching computer which connects the mobile unit with the land based telephone lines.
- (e) "Wireless telecommunication tower" means a tower including but not limited to self-supporting lattice or monopole which elevates the wireless communication antenna and may include accessory transmission and receiving equipment.
- (f) "Monopole" means a single, slender and typically cylindrical, vertical structure to which antennas or antenna support structures are affixed.
- (g) "Lattice" means a framework or structure of crossed metal strips typically resting on three (3) or more members constructed vertically to which antennas are affixed.
- (h) "Substantial evidence" means more than a mere scintilla of evidence. It means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.
- (i) "Technically suitable" means the location of a wireless telecommunication antenna(s) reasonably serves the purpose for which it is intended within the band width of frequencies for which the owner or operator of the antenna(s) has been licensed by the FCC to operate without a significant loss of communication capability within developed areas of the City.

(Ord. 12-97. Passed 4-22-97.)

CHAPTER 1173

General Provisions; Schedule of Regulations

1173.01 Intent.

1173.02 Yards.

1173.03 Public facility and residential districts.

1173.04 Dimensional standards for nonresidential districts.

1173.05 Schedule of regulations' notes.

CROSS REFERENCES

Floor area defined - see ZON. 1123.04(e)

Yard defined - see ZON. 1123.08(e)

Prohibited uses - see ZON. 1125.09

1173.01 INTENT.

Except as hereinafter provided, no building or land or part thereof located in the City shall be used, altered, constructed, reconstructed, moved within or into the City except in conformity with the provisions of this chapter which apply to the district in which it is located.

(Ord. 72-72. Passed 8-31-72.)

1173.02 YARDS.

- (a) No yard, court or other open space provided about any building for the purpose of complying with the provisions of these regulations shall be used as a yard, court or other open space for any other building existing or intended to exist at the same time.
- (b) Structural projections which extend outside the enclosing walls and which are an integral and functional part of the building design such as cornices, roof overhangs, bay windows and awnings may project into required yards a distance of two feet six inches.
- (c) The depth of the front yard on a single-family residential corner lot shall be not less than the required setback, and the width of the side yard on the side street shall be not less than one-half of the depth of the front yard required for the adjoining lot which fronts on the side street unless the Zone Map shows otherwise, in which case the Zone Map distance shall control.
- (d) All yards which are not used for vehicular parking or other lawful accessory use shall be landscaped in accordance with Chapter 1177.
- (e) In order to promote safe movement of vehicles at and near street intersections and in order to promote more adequate protection of the safety of children, pedestrians, property and other vehicles and occupants, no permanent or temporary fence, wall, shrubbery, sign, vehicle or other obstruction to vision above a height of three feet from the established street grades shall be permitted within the triangular area formed at the intersection of any street right-of-way lines by a straight line drawn between the right-of-way lines at a distance, along each right-of-way line, of forty feet from this point of intersection.

(Ord. 72-72. Passed 8-31-72.)

1173.03 PUBLIC FACILITY AND RESIDENTIAL DISTRICTS*

ZONING DISTRICT	REQUIRED LOT AREA		MIN. AREA REQUIRED FOR DEVELOPMENT PURPOSES	MIN. LOT WIDTH Feet	MAX. HEIGHT		MIN. YARD SETBACK IN FEET				MIN. FLOOR AREA PER UNIT Sq.Ft.	MAX. LOT COV-ERAGE Percent
	Sq. Ft.				Feet	Stories	Front	Least Side	Total Sides	Rear		
PF					45	4	100 (a)	100(a)	200(a)	100 (a)		20
R-1	15000		15,000 sq.ft.	75	30	2	60	6	(b)	(k)	1450(c) 1600(d)	20
R-2	12000		12,000 sq.ft.	75	30	2	60	6	(b)	(k)	1450(c) 1600(d)	25
R-3 Detached	9375	Exclusive of area required as common open spaces	50 acres	75	30	2	60	6	(b)	(k)	1450(c) 1600(d)	25
R-3 Attached	6000		50 acres	48 per unit	30	2	60	(e)	(e)	(k)	1250(c) 1450(d)	30
RTF	7500		15,000 sq.ft.	100	30	2	60	7	20	(k)	1400	25
RMF- 1	4800		3 acres	200	30	2	90(g)	(f) (g)	(f) (g)	(g)	(h)	25
RMF- 2	2400		5 acres	300	65	6	(g) 100	(f) (g)	(f) (g)	(g)	(h)	25
RS-1	4800		10 acres	200	30	2	(g) 100	(f) (g)	(f) (g)	(f) (g)		

1173.04 DIMENSIONAL STANDARDS FOR NONRESIDENTIAL DISTRICTS.*

Zoning District	Minimum Lot Area (acres)	Minimum Area for District (acres)	Min. Lot Width & Frontage (feet)	Maximum Height	Minimum Yard Setback (feet)	Minimum Floor Area (sq. ft.)	Maximum Lot Coverage (percentage)
				Feet Stories	Front Rear Least Total Side Sides		
O-S	2 acres		150	30 2	75 (i) (i) (i)		
NOTE: Office buildings in the O-S District may be constructed to a height of 36 feet and 3 stories subject to a conditional use permit.							
B-1	0.4	10	150	20 1	75 (i) (i) (i)		
B-2	1.5	25	800	60 3	200 200 200		
I-1	1.0	10	150	45 4	75 (i) (i)		
	Corner Lot in I-1 District						
	1.25	10	200	45 4	75 (i) (i)		
I-2	1.0	10	150	(i) (i)	75 (i) (i)		
	Corner Lot in I-2 District						
	1.25	10	200	(i) (i)	75 (i) (i)		
* See, Schedule of Regulations' Notes Section 1173.05							

(Ord. 5-2007. Passed 3-13-07.)

1173.05 SCHEDULE OF REGULATIONS' NOTES.

- (a) For one-story and two-story structures. For every story above two, each side, front and rear yard distance shall be increased by not less than twenty feet.
- (b) The least side yard shall be not less than six feet and shall be that side yard where an attached garage having no habitable living area above the garage is located and any portion of the dwelling behind the garage is only one story in height. Not less than twenty percent of the average width of the lot shall be devoted to side yards, provided, however, that not more than twenty feet in width need be so devoted.
- (c) For one-story units.
- (d) For two-story units or the two uppermost levels of tri-level, (split level) units.
- (e) The total side yard distance between each group of attached single-family dwellings and between any group of attached single-family dwellings and a detached single-family dwelling located within an R-3 District shall be not less than thirty feet.
- (f) Side yards need not refer to spacing between buildings for a planned development for two or more buildings on the same parcel; in such instance the distance between buildings is regulated by the Building Distance Formula as set forth in Section 1147.07, and where because of building arrangement the formula is not applicable, the minimum distance shall be fifty feet.
- (g) Along those side and/or rear property lines which abut a single-family residential district or which are seventy-five feet or less from property zones in a single-family residential district classification as measured along a line which is drawn at right angles to the property line at the point on such line which is closest to such single-family residential district, the minimum yard shall be the greater of (i) 100 feet, or (ii) the yard as determined by the following formula:

$$Y = \frac{L + 2H}{3}$$

Along those side and/or rear property lines which do not have the above described relationship to property zoned in a single-family residential district classification, the minimum required yard shall be determined by the following formula:

$$Y = \frac{L + 2H}{4}$$

The symbols used above shall be defined as follows:

Y = required yard

L = the total length of that portion of a lot line from which when viewed directly from above, lines drawn perpendicular from the lot line will intersect any part of the building other than permitted yard encroachments.

H = height of building as defined in Section 1123.02.

Where a lot line abuts a street, the required front yard (not including any existing or proposed right of way) shall be the greater of: (i) the yard as determined by the formula:

$$Y = \frac{L + 2H}{4}$$

or (ii) the number of feet indicated in the schedule.

(h) As set forth in Sections 1143.05, 1147.05 and 1144.03.

(Ord. 100-2002. Passed 11-26-02.)

- (i) Side and rear yards shall be:
- (1) At least fifteen (15) feet where the lot line abuts a nonresidential district or a multifamily district;
 - (2) At least fifty (50) feet where the lot line abuts a single-family residential district;
 - (3) Provided that where a lot line abuts a single-family residential district, a yard of not less than twenty (20) feet may be permitted, provided that the site development complies with the following:
 - A. Site plan approved by Planning Commission and City Council.
 - B. Masonry wall, not less than six (6) feet in height.
 - C. Minimum of one (1) tree and three (3) shrubs per forty (40) feet of common lot line.
 - D. No building, parking, storage, or other use of the yard.
 - E. No operable windows or doors on side of building facing lot line, except emergency doors required by building or fire codes.
 - F. Roof slope at least 3:12 on of roof side facing residential district.
 - G. Side walls facing residential district shall be conventional residential material such as brick, shingle, or horizontal siding approved in site plan.

(Ord. 5-2007. Passed 3-13-07.)

(j) Where the side or rear yard of a lot abuts a lot in an industrial district, the minimum side and rear yard shall not be less than fifteen feet and not less than a distance equal to the height of the wall.

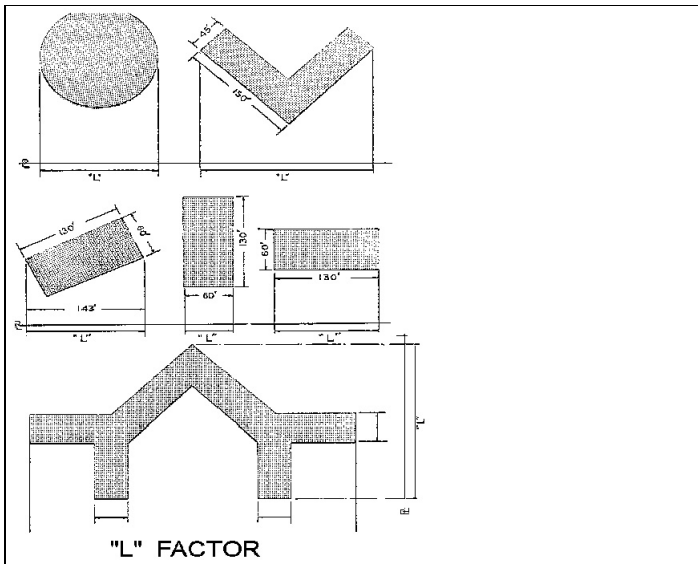
Where the side or rear yard of a lot abuts a lot in a residential district, the yard shall not be less than 100 feet. The yard may be reduced to fifty feet provided the following improvements are installed in the yard as approved in a site plan:

- (1) A masonry wall, not less than six feet in height, located in a manner to minimize impacts of the use upon abutting residential districts.
- (2) Based on the distance over which the boundaries of the industrial district and the residential district coincide, a minimum of twenty shrubs per 100 linear feet and five trees per 100 linear feet shall be planted in the reduced yard area. No outdoor use (including but not limited to parking and storage) shall be permitted in the reduced yard area.

On a corner lot, the side yard abutting a public right of way shall be not less than fifty feet.
- (k) The setback of the rear yard shall be not less than twenty percent of the depth of the lot, but need not be more than 100 feet.

An unattached accessory building permitted in an R-1, R-2, R-3 and RTF Residential District may be located in a rear yard but not less than twenty feet from any dwelling on an adjoining lot, and not less than ten feet from a rear or side lot line.
- (l) Maximum height shall be seventy-five feet, provided that all parts of the structure which exceed thirty feet shall be set back from residential districts a distance not less than one hundred feet and from all other property lines a distance equal to the minimum yards set forth in the table above but not less than a distance equal to the height of that part of the structure.

(Ord. 100-2002. Passed 11-26-02.)



CHAPTER 1174

Heliports and Helistops

1174.01 Prohibition of landing helicopters other than at heliport or helistop; definitions.

1174.02 Minimum specifications.

1174.03 Rooftop or elevated heliport or helistop.

1174.04 Submission of plans.

1174.05 Approval of heliport or helistop.

CROSS REFERENCES

Municipal airports - see Ohio R.C. 713.02, 717.01, 719.01

Aeronautics - see Ohio R.C. Ch. 4561

Heliports - see OAC Ch. 5501: 1-5

1174.01 PROHIBITION OF LANDING HELICOPTER OTHER THAN AT HELIPORT OR HELISTOP; DEFINITIONS.

(a) No person shall land, discharge, load or takeoff in a helicopter or by other steep gradient aircraft at any place within the City except at a heliport or helistop, the location and construction of which has been approved by the Director of Public Safety and which conforms to the specifications and requirements of this chapter.

(b) For the purposes of this chapter, the following words shall mean:

- (1) "Helicopter" means an air-borne vehicle used for the transportation of persons or material whose support in the air is normally derived from the vertical lift or force produced by airfoils or wings mechanically rotated about an approximately vertical axis.
- (2) "Heliport" means an area used by helicopters or by other steep gradient aircraft which may include passenger and cargo facilities, maintenance, overhaul and fueling services, storage and tie-down space, hangars and other accessory facilities.
- (3) "Helistop" means an area on the ground or on a roof, used by helicopters or steep gradient aircraft for the purpose of picking up or discharging passengers or cargo, but not including fueling service, maintenance or overhaul.

(Ord. 52-87. Passed 7-14-87.)

1174.02 MINIMUM SPECIFICATIONS.

In addition to aviation and structural requirements which may be imposed by proper authority, heliports and helistops, where permitted, shall comply with the following requirements:

- (a) Hard-Surfaced Areas. Every location approved or used as a heliport or helistop shall consist of a hard-surfaced area, free of dust and gravel, not less than 125 feet by 125 feet in size when located on the ground, or not less than sixty feet by sixty feet when located on a level rooftop or elevated platform, which area shall be set aside for exclusive use for such purposes, free of trees, wires and other obstructions, and enclosed by a fence at least three feet in height, and so located as not to obstruct the glide angle of aircraft using such hard-surfaced areas.
- (b) Approach Paths. At least two approach paths free and clear of obstructions shall be available to such heliport and helistop, having a width of at least 1,000 feet at a distance of 1,000 feet from the heliport or helistop, and at 500 feet of elevation, and tapering down to the width of the heliport or helistop. No approach path shall be used and no helicopter or other steep gradient aircraft shall be flown at an elevation of less than 500 feet over a residence building, school or other public building, or closer than 200 feet to any other building, structure, tree or public highway.
- (c) Helistops. No fueling, repairing or maintenance of helicopters or other steep gradient aircraft shall be performed at a helistop, except in case of emergency, and no fuel shall be stored.

(Ord. 52-87. Passed 7-14-87.)

1174.03 ROOFTOP OR ELEVATED HELIPORT OR HELISTOP.

In addition to aviation and structural requirements which may be imposed by proper authority, and to other regulations contained in this chapter, every rooftop or platform heliport and helistop shall be constructed in accordance with the following minimum specifications:

- (a) Material used for a rooftop or elevated heliport or helistop shall be of noncombustible material with a fire resistance rating of not less than two hours.
- (b) No opening or openings in the roof or platform shall be permitted in the immediate landing area.
- (c) At least two approved means of egress, remote from each other, shall be provided from each rooftop landing area. Such egress shall be protected by doors having a Class B rating. All means of ingress and egress shall be identified and illuminated.
- (d) The landing area and all openings shall be diked or curbed to a height of at least four inches so as to confine fuel spillage to its confines.
- (e) Fire extinguishing systems consisting of chemical portable extinguishers, building standpipe systems, or another source of water supply, and at least two hose stations remote from each other, shall be provided subject to detailed specifications and approval of the Fire Chief.
- (f) An auxiliary pole station at or in close proximity to the landing pad, or a master or street box fire alarm directed to the Fire Division of the City shall be installed and maintained in good working order.
- (g) Separate drains for the heliport or helistop shall be provided so that no gasoline or flammable liquids will be permitted to drain into a sewage system. Flammable liquid separators shall be provided.
- (h) "No Smoking" signs shall be installed on the roof or platform.

(Ord. 52-87. Passed 7-14-87.)

1174.04 SUBMISSION OF PLANS.

Every person, firm or corporation intending to establish and use a heliport or helistop within the City shall first submit plans for approval to the Director of Public Safety, consisting of the following:

- (a) A statement as to the intended use of the heliport or helistop, whether public or private, commercial or otherwise, the identity and financial responsibility of the management, frequency of flights and size and manufacture of equipment intended to be used.
- (b) A plan of the proposed site showing dimensions of the entire usable area, dimensions of actual landing and take-off areas, all obstructions within 1,000 feet of the heliport or helistop, indicating their heights, and drawings of flight and approach paths within 1,000 feet of the heliport or helistop.
- (c) A report by a professional engineer approved by the Building Commissioner showing that the roof structure or platform is designed to support concentrated loads on any one square foot equivalent to three-fourths gross weight of the largest helicopter or steep gradient aircraft to be accommodated.

(Ord. 52-87. Passed 7-14-87.)

1174.05 APPROVAL OF HELIPORT OR HELISTOP.

No approval of plans and operations shall be given for such proposed heliport or helistop unless the Director of Public Safety is satisfied that all provisions of this chapter and other provisions of the Codified Ordinances and other pertinent ordinances and regulations will be complied with, that the public safety will be protected, and that the use and enjoyment of neighboring property will not be adversely affected. Every such approval shall be subject to:

- (a) Continuing compliance with the provisions of this chapter and with applicable Federal Aviation Agency regulations;
- (b) The prohibition of smoking within the heliport or helistop area; and
- (c) The right and authority of the Director of Public Safety to cancel such approval and prohibit the use of such heliport or helistop for noncompliance with the provisions of this chapter, or F.A.A. regulations, or for any other reasonable cause or ground, based upon the protection of the public safety, health or welfare.

(Ord. 52-87. Passed 7-14-87.)

CHAPTER 1175

Off-Street Parking

1175.01 Intent.

1175.02 Establishment of regulations.

1175.03 Approval, permits and certificate of occupancy.

1175.04 Measurement units.

1175.05 Schedule of parking requirements.

1175.06 Location of parking facilities.

1175.07 Design, construction and maintenance of facilities.

- 1175.08 Driveways and access.
1175.09 Illumination of parking facilities.
1175.10 Use restrictions.
1175.11 Off-street loading and unloading facilities.
1175.12 Improvements to legal nonconforming drives and parking areas.
1175.13 Residential parking facilities.

CROSS REFERENCES

Off-street parking facilities - see Ohio R.C. 717.05 et seq.
Parking and parking space defined - see ZON. 1123.07(e), (f)
Site plan defined - see ZON. 1123.07(p)
Enclosure of parking areas by buffer strips and masonry walls - see ZON. 1177.02(a)

1175.01 INTENT.

Off-street parking requirements and regulations are established in order to achieve, among others, the following purposes:
(a) To relieve congestion so streets can be utilized more fully for movement of vehicular traffic;
(b) To promote the safety and convenience of pedestrians and shoppers by locating parking areas so as to lessen vehicular movements in the vicinity of pedestrian traffic; and
(c) For such purposes to provide regulations and standards for accessory off-street parking and loading facilities in accordance with the objectives of the Master Plan of the City.

(Ord. 72-72. Passed 8-31-72.)

1175.02 ESTABLISHMENT OF REGULATIONS.

Accessory off-street parking and loading facilities and drives shall be provided for all residential, institutional, office, business and service uses in conformance with the provisions of this chapter prior to the issuance of a certificate of occupancy for such uses.
(a) Whenever a building or use requiring off-street parking is increased in floor area or any other determining unit of measure, and such building or use does exist on the effective date of this chapter. (Ordinance 72-72, passed August 31, 1972) the minimum number of parking spaces required shall be based upon the entire building or use including the addition.
(b) Whenever the use of an existing building is changed to a more intensive use which requires more off-street parking or loading facilities, the minimum number of parking spaces required shall be based upon the more intensive use.
(c) Off-street parking existing at the effective date of this chapter (Ordinance 72-72, passed August 31, 1972) in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or new use.

(Ord. 72-72. Passed 8-31-72.)

1175.03 APPROVAL, PERMITS AND CERTIFICATE OF OCCUPANCY.

(a) No building or structure shall be erected or used, or land used for off-street parking, loading or driveway purposes for more than three required parking spaces unless a site plan therefor has been approved by the Planning Commission.

(b) On all residential, commercial or industrial parcels, all parking surfaces, including access aisles and parking drives, shall be improved with either concrete or asphalt or with other materials that may be approved by the Planning Commission upon the recommendation of the City Engineer.

(c) No off-street parking or loading facilities shall be constructed without proper permit issued by the Building Inspector.

(d) All driveway and parking surfaces shall be constructed per specifications as follows:

- (1) In commercial and industrial districts, all parking surfaces, including access aisles and parking drives, shall be improved with concrete or asphalt material or, if approved by the Planning Commission, another suitable material. Surfaces designed for automobiles, sport-utility vehicles and light trucks may be constructed of four inches (4") of 4,000 PSI concrete reinforced with 6 x 6, 10 / 10 welded wire fabric or with asphalt consisting of two and a half inches (2.5") of number 402 base coat and two inches (2") of number 404 finish coat installed over a four-inch (4") thick compacted layer of stone aggregate.
- (2) In residentially-zoned districts, driveways and parking surfaces for one-, two- or three-family dwellings, or multi-family dwellings in areas where no heavy-truck traffic - e.g., garbage trucks, delivery vehicles, semi-trailer truck - is expected or permitted shall be paved with concrete or asphalt material, or, if approved by the Planning Commission, another suitable material. Concrete paving shall be a minimum thickness of four inches (4") of 4,000 PSI concrete reinforced with 6 x 6, 10/10 welded wire fabric or approved alternate. Asphalt shall consist of four-inch (4") thick compacted stone aggregate base layer, a minimum one and a half (1.4") thickness of number 402 base coat and a minimum of one-inch of number 404 finish coat. Paving on multi-family parcels in areas supporting heavy-truck traffic, such as access to dumpsters, shall be a minimum of eight inches (8") of reinforced concrete or an asphalt specification approved by the City Engineer.
- (3) All paving in the public right-of-way, including any portion of a public sidewalk included within the driveway areas, shall be Portland Cement Concrete in accordance with Ohio Department of Transportation's Specification No. 499, Class C, with a five percent to seven percent (5% - 7%) percent air entrainment, and a minimum thickness of seven inches (7") in all residentially-zoned districts, or a minimum thickness of nine inches (9") in all commercial or industrial districts. Concrete in the public right- of-way shall be reinforced using a minimum of 6 x 6, 8/8 rigid sheet welded wire fabric, or by a method and with material approved by the City Engineer.
- (4) All driveway and parking surfaces shall be graded to drain and eliminate standing water, provide positive drainage away from buildings and to prevent runoff from going upon adjacent properties, streets and sidewalks.
- (5) The stone aggregate base layer for concrete paving and asphalt paving shall be placed on an approved sub-grade.
- (6) All poured-in-place concrete shall comply with the applicable requirements set forth in the latest editions of the American Concrete Institute (ACI) publications 318 entitled Building Code requirements for Structural Concrete, ACI 325 for the Construction of Concrete Paving, ACI 330 for the installation of unreinforced concrete parking lots and paving, ACI 302.1R entitled Guide to Concrete Floor and Slab Construction, ACI 332R entitled Guide to Residential Cast-in-Place Concrete Construction and/or ACI 360R entitled Guide to Design of Slabs-on-Ground.

(d) An application for a permit to construct, replace or to make major repairs or alterations to a building or parking or loading area, and for a certificate of occupancy for a change in use, shall be accompanied by two sets of site plans drawn to scale and dimensioned, showing that the provisions, schedules and standards for designing parking areas set forth in this chapter will be fully complied with.

(Ord. 77-2016. Passed 8-23-16.)

1175.04 MEASUREMENT UNITS.

Definitions and standards are hereby established for determining required parking and loading facilities, as follows:

- (a) "Off-street parking space" means an open or enclosed area directly accessible from a public street, directly accessible from a drive or aisle, and not less than nine feet six inches wide by twenty feet long, exclusive of all drives, aisles, ramps and turning space.
- (b) "Gross floor area" for determining the parking requirements, means the sum of the horizontal floor areas of all floors of the building or structure and of all accessory buildings, except buildings or structures used for parking, measured from the exterior face of the exterior walls of each building and/or structure.
- (c) "Seats" for places of assembly, means the number of seating units indicated on approved plans or based on six square feet of floor area per seat, exclusive of all aisles.
- (d) "Off-street loading space" means an open or enclosed part of a building, directly accessible to a public street or service drive, used for the loading or unloading of goods and products accessory to the main use and having dimensions not less than ten feet wide by forty feet long exclusive of all drives, aisles, ramps and turning space.
- (e) "Floor area" for determining loading requirements, means the sum of the horizontal floor areas of all the floors of the main building or structure and of all accessory buildings measured from the exterior face of all enclosing walls.

(Ord. 19-97. Passed 3-25-97.)

1175.05 SCHEDULE OF PARKING REQUIREMENTS.

The minimum number of off-street spaces shall be determined in accordance with the following schedule:

	Number of Required	Per Each Unit of
<u>Use</u>	<u>Parking Spaces</u>	<u>Measure as Follows:</u>
(a) <u>Residential</u>		
Single-family, attached and detached	2 enclosed	Dwelling unit.
Multi-family and two-family	2 (1 enclosed)	Dwelling unit.
(b) <u>Public and Community Facilities</u>		
Places of Worship	1	Four seats or eight feet of pew in the main unit of worship.
Convents, homes for the aged, convalescent homes	1	Two beds.
Elementary schools, junior high schools or auditoriums	2	Classroom or one per four seats in auditoriums or assembly area, whichever is greater.
High schools	4	Classroom or one per four seats in auditorium or assembly area, whichever is greater.
Nursery schools, day nurseries, child care centers	1	350 square feet of gross floor area.
Hospitals	1	One bed.
Medical centers or clinics	1	150 square feet of gross floor area.
(Ord. 18-97. Passed 3-25-97.)		
(c) <u>Business Uses.</u>		
Banks, business offices or professional offices or lawyers, architects, engineers or similar or allied professions	1	200 square feet of gross floor area.

Beauty parlor, barber shops	1	200 square feet of gross floor area.
Bowling alleys	6	Per each alley.
Dance halls, exhibition halls and assembly halls without fixed seats	1	100 square feet of gross floor area.
Establishments for sale and consumption on the premises of beverages, food or refreshment	1	Fifty square feet of customer service area or for each two seats, whichever requires the greater number of spaces.
Gasoline service station	1	3,000 square feet of lot area.
Hotel or motel	1	Rental unit and resident unit.
Mortuary establishments	1	Thirty square feet of assembly room used for services, but not less than twenty spaces.
Private clubs, fraternities, dormitories	1	100 square feet of gross floor area.
Professional offices of doctors and dentists	1	200 square feet of gross floor area.
Retail store	1	200 square feet of gross floor area.
Shopping center exceeding 600,000 square feet of gross leasable area (GLA)		5.0spacesper1,000squarefeetf gross leasable area, providedthat: (1) theater use shall not exceed 10% of the total GLA; no additional parking shall be required for the first 750 theater seats; 3 parking spaces shall be provided for each additional 100 seats in excess of the first 750 seats; and (2) food service use shall not exceed 5% of the GLA without providing additional parking as approved by the Zoning Board of Appeals; and (3) office use shall not exceed 10% of the GLA without providing additional parking as approved by the Zoning Board of Appeals.
Theaters and auditoriums	1	Three seats.

(Ord. 68-98. Passed 9-8-98.)

(d) Industrial.

Industrial establishments including manufacturing, research and testing laboratories, creameries, bottling works, printing, plumbing or electrical workshops		600 square feet of gross floor area excluding office area which shall be one space per 200 square feet of gross floor area.
Storage and warehousing	1	1,500 square feet of gross floor area, excluding office area which shall be one space per 200 square feet of gross floor area.

(e) Nonscheduled Buildings or Uses. For buildings or uses not specifically scheduled, the requirements for off-street parking facilities shall be in accordance with a use which the Planning Commission considers as being most similar in nature.

(f) Single and Mixed Uses.

- (1) Two or more buildings or uses may collectively provide the required off- street parking in which case, the required number of parking spaces shall not be less than the sum of the requirements for each individual use, computed separately.
- (2) In cases of dual functioning of off-street parking where operating hours do not overlap, upon appeal, the Board of Appeals may recommend to Council a modification of the requirements.

(Ord. 18-97. Passed 3-25-97.)

1175.06 LOCATION OF PARKING FACILITIES

(a) Required off-street parking for other than residential use shall be either on the same lot or within 200 feet of the building or use it is intended to serve, measured without crossing a major thoroughfare, from the nearest point of the building or use to the nearest point of the required off-street parking facility. The principal use shall be permitted to continue only so long as the off-street requirements of this chapter are complied with, as set forth in Section 1175.05.

(b) Any area once designated as required off-street parking shall not be changed to any other use unless and until equal facilities are provided elsewhere.

(c) Wherever parking facilities are permitted on land other than the lot occupied by the building or use to which it is accessory, such facilities shall be in the same ownership as the zoning lot occupied by the building or use to which the parking facilities are accessory. Such ownership shall be by deed or a long-term lease agreement, and recorded, requiring each such owner to maintain the required number of parking facilities for the duration of the use served as a condition precedent to the continuation of such use.

(d) Accessory parking facilities for residential uses shall be located on the same lot as the dwelling served. Driveways shall not be used for permanent overnight parking within the required front yard.

(e) All required off-street parking for other than residential use shall be located within the same classification of the zoning district as the principal use to which the parking is accessory.

(Ord. 59-74. Passed 6-25-74.)

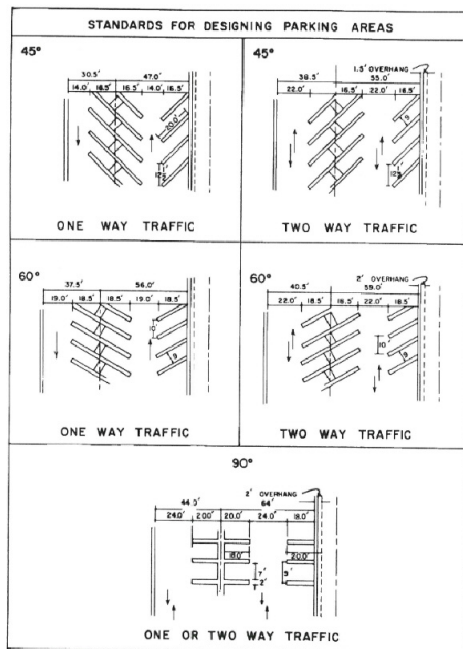
1175.07 DESIGN, CONSTRUCTION AND MAINTENANCE OF FACILITIES.

Whenever the off-street parking requirements in Section 1175.05 require an off-street parking facility, such off-street parking facility shall be designed, constructed and maintained in accordance with the following standards and regulations:

(a) Design Standards.

- (1) Parking facilities shall be designed and provided as illustrated in a document entitled "Standards for Designing Parking Areas", which is hereby made a part of this section by reference as if fully written out herein. Copies of this document are on file in the City Hall. (See Figure 1 below)
- (2) Parallel parking spaces shall be twenty feet in length with a six foot maneuvering space for each two parking spaces.
- (3) Where parking abuts a sidewalk or other pavement of seven foot minimum width, two feet may be credited toward the total required parking space length dimension (except for parallel parking); provided that no part of such two feet credit shall be part of any public right of way.

FIGURE 1



(b) **Construction Requirements.**

- (1) All parking and loading areas and drives shall be provided with an adequate base and a three-inch asphalt or adequate concrete pavement as specified by the City Engineer. All parking and loading areas and drives shall provide adequate drainage so that all water is drained within the lot on which the parking area or drive is located in such manner that water shall not drain off the parking facility pavement except through the proper sewers.
- (2) Bumper stops, curbing or wheel chocks shall be provided to prevent any vehicle from damaging or encroaching upon any required wall, fence or buffer strips or upon any building adjacent to the parking lot. Curbing shall be installed as specified by the City Engineer.
- (3) Sidewalks within the parking facility area of not less than five feet in width shall be constructed at such line and grade as determined by the City Engineer.
- (4) In order to insure pedestrian safety, sidewalks of not less than seven feet in width may be required by the Planning and Zoning Commission where any driveway or parking area abuts a building.

(c) **Maintenance Requirements.**

- (1) Except for parallel parking all parking spaces shall be clearly striped with double lines twenty-four inches apart to facilitate movement and to help maintain an orderly parking arrangement. Striping shall be maintained and shall be clearly definable at all times, except when weather conditions obscure the visibility of the pavement.
 - (2) Off-street parking areas in all multi-family and nonresidential zoning districts shall be maintained and kept in good repair so as not to be a hazard to the health and safety of occupants, employees or the general public.
- (d) **Maintenance of Exterior Drives, Parking and Auto Maneuvering Areas.** Upon inspection of off-street parking areas, multi-family apartments parking areas, nonresidential zoning district parking areas, driveways, parking and auto maneuvering areas or portions thereof within the City, if the following conditions exist, repair or replacement is required:
- (1) Height differential between portions of driveway pavement of three-quarters of one inch.
 - (2) Multiple cracks within a control joint segmented block of pavement creating three or more pieces and causing the pieces to exhibit a shifting surface.
 - (3) An abrupt dip or raised area having two inches or more deviation from a straight-line grade within a five-foot distance.
 - (4) Loose, cracked, chipped, sealed or deteriorated surface over fifty percent (50%) or more of a surface area.
 - (5) Gaps or missing areas exceeding a one and one-half inch in width.
 - (6) Loose, rocking or missing pavement areas.
 - (7) Pavement blocks having cross slopes reverse from the intended slope and causing ponding of mud or water.
 - (8) A surface that is smooth, or slippery when wet and/or dry, so as to cause a danger to vehicles or pedestrians, such as a smooth steel plate or smooth steel troweled concrete.
 - (9) Water, gas or other valve boxes and cleanouts, etc. that are not within three-quarters of one inch of grade.
 - (10) As applicable, entire pavement blocks replacement is required with no saw cuts smaller than five feet by five feet. All edges that are butted to new concrete shall be saw cut or hand trowel cut. Additionally, all concrete must be installed to industry standards in accordance with ACI 302.1R entitled Guide to Concrete Floor and Slab Construction, ACI 332R, entitled Guide to Residential Cast-in-Place Concrete Construction, and/or ACI 360R entitled Guide to Design of Slabs-on-Ground.

(Ord. 37-2021. Passed 5-11-21.)

1175.08 DRIVEWAYS AND ACCESS.

- (a) All parking facilities shall have access from a clearly limited and defined driveway to a public right of way and shall be planned to interfere as little as possible with the use of adjacent property and with pedestrian and vehicular traffic. Whenever possible, the center line of the access driveways on the frontage street shall be at least fifty feet from the right-of-way lines or extensions thereof, of intersecting streets; and two separate driveways, spaced at not less than 120 feet intervals, shall be provided of which one shall be limited to entrance and one limited to exit. Entrances and exits shall be limited to three lanes. The width of such entrances and exits, measured at the setback line, shall conform to the following schedule:

	Width (in feet)	
	Minimum	Maximum
One Lane	10	12
Two Lanes	18	24
Three Lanes	27	33

In all cases the radius of the edge of the apron shall be at least twelve feet so that a car entering from the curb lane shall be perpendicular to the setback line at the driveway without obstructing vehicles in other traffic lanes.

- (b) All parking spaces shall have access from an aisle on the site. Backing directly onto a street shall be prohibited.
 - (c) Vehicular access to a parking lot shall not be across any zoning district that would not permit the principal use or parking lot.
 - (d) All interior and abutting streets shall have rights of way of a sufficient width to accommodate the vehicular traffic generated by the uses permitted in the district, or adequate provision shall be made at the time of the approval of the traffic plan for such sufficient width of rights of way. The right of way provided to satisfy this condition shall conform with the right-of-way standards as provided in Chapter 1101.
 - (e) The Director of Public Safety may require the posting of such traffic control signs as he/she deems necessary to promote vehicular and pedestrian safety.
- (Ord. 72-72. Passed 8-31-72.)

1175.09 ILLUMINATION OF PARKING FACILITIES.

- (a) Parking areas shall be illuminated to protect the public safety; the lighting fixtures shall be designed and located so as not to reflect direct rays of light in adjoining residential districts and street; intensity shall not be of excessive brightness or cause a safety hazard to users of such parking spaces or occupants of adjoining premises. Expended or inoperative lighting bulbs or implements shall be replaced or repaired within ten days after proper notice has been given to the owner of the parking facility that such bulbs or implements have ceased to be operative.

- (b) Outdoor areas of vacant buildings or structures with the exception of vacant 1, 2 or 3-family dwellings must be illuminated, including parking areas, as required by this section, and all common drives, walkways and sidewalks that such building and structures have with adjacent buildings or structures must be illuminated. A lighting plan for the exterior of vacant buildings or structures and the common drives, walkways, and sidewalks that such buildings or structures have with adjacent buildings or structures must be submitted to the Building Commissioner for approval at least ten (10) days prior to the building become vacant. The interior of the ground floor of any vacant buildings or structures must maintain egress lighting as required by the Ohio Building Code as if the building or structure was occupied.

(Ord. 12-2017. Passed 2-28-17.)

1175.10 USE RESTRICTIONS.

- (a) The required off-street parking area shall be for occupants, employees, visitors and patrons and shall be limited in use to passenger vehicles not exceeding a net weight of three tons. The storage of merchandise, motor vehicles for sale or the repair of vehicles with or without the possibility of remuneration is prohibited in the area.

- (b) No vehicle shall be parked or stored on any property in any zone within the City of Richmond Heights for more than fourteen (14) days unless the vehicle is currently licensed, completely assembled and fully operational.

Historical, off-road or other vehicles not complying with the requirements herein because of the extent of their damage, deterioration, missing or deflated tires or other parts, or which are rusted through or partly through in an area which covers one hundred fifty (150) square inches or more, shall be stored completely within a closed building or shall be removed from the site. No repairs of any vehicle shall be made in the driveway of any residence unless the repairs are minor in nature and the vehicle is owned by the property owner.

- (c) No motor vehicle, camper, boat trailer or similar trailer or item shall be parked on any surface other than an approved, paved, parking surface when stored within any zone in the City of Richmond Heights. In residentially-zoned districts, boats, campers and other recreational vehicles shall be stored on the side or rear yard area behind the front corner of the dwelling unit. (Ord. 76-2016. Passed 10-11-16.)

1175.11 OFF-STREET LOADING AND UNLOADING FACILITIES.

On the same premises with every building, structure or part thereof, erected, altered and occupied for manufacturing, storage, warehouse goods, display, a department store, a wholesale store, a market, a hotel, a hospital, a mortuary, a laundry, a dry cleaning establishment, or other uses similarly involving the receipt or distribution of vehicles or materials or merchandise, there shall be provided prior to the issuance of a certificate of occupancy and maintained on the lot, adequate space for standing, loading and unloading services adjacent to the opening used for loading and unloading. The space shall be designed so that no part of a truck shall project into a public street or sidewalk during the loading and unloading process.

The minimum number of off-street loading and unloading spaces shall be determined in accordance with the following schedule:

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in Terms of Square Feet of Useable Floor Area
0 to 3,000	None
3,000 to 20,000	One space
20,000 to 100,000	One space plus one space for each 20,000 square feet of excess over 20,000 square feet
100,000 to 500,000	Five spaces plus one space for each 40,000 square feet of excess over 100,000 square feet
Over 500,000	Fifteen spaces plus one space for each 80,000 square feet of excess over 500,000 square feet

Space required and allocated for any off-street loading shall not be used to satisfy the space requirements for off-street parking. No loading space may be on any street frontage and provisions for handling all freight shall be on those sides of any building which do not face on any street or proposed street, except where such areas are obscured, from such street, with a solid masonry wall, not less than six feet in height. (Ord. 72-72. Passed 8-31-72.)

1175.12 IMPROVEMENTS TO LEGAL NONCONFORMING DRIVES AND PARKING AREAS.

(a) No improvements to a legal nonconforming stone or asphalt driveway, by the installation of a new asphalt or concrete surfacing material, shall be constructed without a proper building permit issued by the Division of Building, Zoning and Housing.

(b) The application for a building permit shall be accompanied by two sets of site plans, drawn to scale and dimensioned, showing that the provisions, schedules and standards for designing parking areas set forth in this chapter will be fully complied with. Sufficient topographical details shall be included on the site plans to indicate that the newly installed paved surfaces shall drain to a proper sewer, that storm water and melting ice will not be impounded on the surface, and that drainage shall not present a nuisance to adjacent properties.

(c) Construction details for asphalt or concrete surfacing materials, to be shown on the site plan, shall be as specified by the City Engineer. Copies of these specifications shall be made available by the Division of Building, Zoning and Housing.

(d) All pavement installed within the public right-of-way shall be concrete.

(e) The site plan shall be approved by the Commissioner of Building, Zoning and Housing, and if requested by the Commissioner, the plan shall also be approved by the City Engineer.

(Ord. 65-99. Passed 10-12-99.)

1175.13 RESIDENTIAL PARKING FACILITIES.

On a lot in the R-1, R-2, or R-3 District on which a one-family or two-family dwelling is the principal use, a driveway in the front yard and, on a corner lot, a driveway in the side yard abutting the right-of-way, shall only be permitted which complies with the following:

- (a) The driveway shall be designed and constructed to provide a direct vehicular access from the right-of-way to the door(s) of the private garage in the shortest possible route.
- (b) On an interior lot, the driveway shall only access the public right-of-way in one location on the front lot line. On a corner lot, the driveway may access the public right-of-way in one location on the front lot line and one location on the side street lot line. (Ord. 82-01. Passed 10-23-01.)
- (c) The width of the driveway shall meet the following regulations:
 - (1) The width of the driveway for a one- or two-vehicle residential garage shall not exceed eighteen (18) feet in width;
 - (2) The width of the driveway may be increased to twenty-seven (27) feet when the driveway is for a three-vehicle garage in which the vehicles are to be parked side by side and the maximum twenty-seven (27) feet width shall not begin at a point greater than thirty (30) feet in front of the garage; or
 - (3) The width of the driveway may be increased to a maximum width of 27-feet if all of the following conditions are met:
 - A. The width of the driveway may be increased beginning at the front wall of the garage and extending to a point not exceeding thirty (30) feet in front of the garage. The radius or transition to the existing driveway shall not be included in the permitted thirty (30) feet in front of the garage;
 - B. The additional width of the driveway must be added on the side of the existing driveway opposite the non-garage portion of the front of the dwelling;
 - C. The materials of the additional width of the driveway must match the materials of the existing driveway;
 - D. Drawings and/or sketches must be drawn to scale, submitted to the Division of Building, Housing and Zoning for review and approval, and must show the drainage, materials and layout of both the existing and proposed driveway; and
 - E. Any portion of the driveway shall be set back a minimum of two (2) feet from the adjacent property line.

(Ord. 54-2017. Passed 7-25-17.)

(d) The driveway, and any additional paved area permitted by this section, shall be constructed of concrete, or of similar hard surface material, as approved by the City Engineer.

(e) All pavement shall be graded to direct storm water into a storm water drainage system as approved by the City Engineer.

(f) No other paved area designed for or having the potential for vehicular use shall be permitted.

(g) A building permit may be issued for any residential driveway, or for any additional paved area permitted by this section, only after a detailed site plan, to scale, has been approved by the City Engineer. (Ord. 82-01. Passed 10-23-01.)

CHAPTER 1177

Walls, Landscaping and Ecological Preservation

1177.01 Intent.

1177.02 Establishment of regulations.

1177.03 Standards for walls.

1177.04 Landscape plan review.

1177.05 Standards; landscaping and buffer strips.

1177.06 Inspection by Landscape Architect.

1177.07 Environmental and ecological preservation.

1177.08 Fees.

CROSS REFERENCES

Buffer strip defined - see ZON. 1123.02(f)

Landscaping defined - see ZON. 1123.06(a)

1177.01 INTENT.

(a) The general provisions for walls and landscaping are designed and intended to maintain the character and value of single-family residential districts and to provide protection to these districts from any adverse effects resulting when adjacent property is designated and used for off-street parking in multiple-family or nonresidential use districts.

(b) In addition to the above-stated purpose of this chapter, the provisions of this chapter are designed to encourage and provide a transitional buffer between residential and nonresidential use districts.

(c) It is further the intent of this chapter to prevent undue erosion of the soil, pollution of the atmosphere and natural waterways, interference with drainage and the natural water supply, and an unreasonable loss of oxygen, by limiting the unnecessary removal of trees and vegetation prior to, and during, any construction work. (Ord. 158-89. Passed 3-13-90.)

1177.02 ESTABLISHMENT OF REGULATIONS.

Walls and/or landscaping shall be provided in conformance with the provisions of this chapter which apply to the district in which it is located.

- (a) Whenever open or unenclosed off-street parking or loading facilities in multiple- family or nonresidential districts are located in required rear and side yards which are adjacent to single-family residential districts, an unpierced solid masonry wall shall be required in such multiple-family or nonresidential districts; provided, however, that a buffer strip of not less than thirty feet in width may be permitted in lieu of such wall upon a finding by the Planning and Zoning Commission that the buffer strip would provide equal or greater protection to the single-family residential districts.
- (b) Whenever multiple-family or nonresidential districts abut or are adjacent to single-family residential districts, without being separated by a street, and where the multiple-family or nonresidential district does not have the above described relationship where open or unenclosed parking facilities are located in required yards, there shall provided in the multiple-family or nonresidential district, a buffer strip of not less than thirty feet in width.
- (c) Whenever in this Zoning Code, a solid, unpierced masonry wall or buffer strip is required and would thus be located within forty feet of a street intersection, the wall or buffer strip shall be angled or offset in such manner as to comply with the corner clearance provisions of Section 1173.02, and where the wall or buffer strip is required to be placed within forty feet of a street right of way, the Planning Commission or Council having site plan review may reduce the required height or waive the requirement upon a finding that the wall or buffer strip would constitute a traffic hazard.

(Ord. 72-72. Passed 8-31-72.)

(d) On every lot in the O-S Office-Service District and B-1 Local Business District, a landscaped yard shall be constructed and maintained abutting the public right-of-way, except where interrupted by approved points of vehicular access, and shall meet the following requirements:

- (1) The yard shall be at least twenty (20) feet deep, measured perpendicular to the right-of-way;
 - (2) Wherever parking is located in the yard abutting the public right-of-way, an earth mound, masonry wall, natural rocks, or a combination thereof shall be constructed to a height of at least three (3) feet above street grade with location and orientation which screens the view of parked vehicles.
 - (3) At least one (1) tree and three (3) shrubs shall be installed for each twenty (20) feet of frontage on the right-of-way; and
 - (4) The landscape plan shall be submitted to the Planning Commission for review and approval. The Commission may approve variations to the above requirements for purposes of safety or practicality.
- (e) The following standards shall apply in the B-1 District:
- (1) At least twenty-five percent (25%) of any required front yard shall be landscaped.
 - (2) This landscaping requirement is necessary to maintain the transitional character of the area that this District is intended to preserve.
- (f) The following standards shall apply in the B-2 District:
- (1) Not less than five percent (5%) of the site, exclusive of buildings, shall be landscaped.
 - (2) This requirement is necessary to provide for the safety and welfare of pedestrians in large parking areas and to provide for effective traffic control regulations.

(Ord. 5-2007. Passed 3-13-07.)

1177.03 STANDARDS FOR WALLS.

(a) Wherever in this Zoning Code a solid, unpierced masonry wall is required, the wall shall be erected parallel to and on, or approximately on, the common property line to a height of not less than four feet and not more than six feet measured from the average surface of the off-street parking facilities within the adjacent thirty feet of the multiple-family or nonresidential district.

(b) The wall shall be faced with brick on the side facing the single-family districts. The brick facing is necessary to reduce the possibility of any adverse effects upon the single- family districts that may be caused by the development of off-street parking facilities in the multiple-family or nonresidential districts.

(c) Whenever a solid, unpierced masonry wall is required to be constructed, such wall shall be constructed prior to the issuance of a certificate of occupancy for such multiple- family or nonresidential use.

(Ord. 72-72. Passed 8-31-72.)

1177.04 LANDSCAPE PLAN REVIEW.

- (a) All development plans and site plans for any multiple-family or nonresidential districts, and subdivision plans for any single-family residential districts, with the exception of individual residential lots intended for use for construction of one residential home (subject however to Section 1177.07), shall incorporate in such plans a separate plan showing landscaping which has been prepared by a registered landscape architect. The landscape plans must include size, type, caliper and number of all plantings. Landscape plans shall be reviewed and approved by the City Landscape Architect, the Planning Commission and Council prior to the issuance of any clearing, grading or building permit.
- (b) Each landscape plan shall include a tree plan depicting all trees over four inch caliper currently standing in areas to be disturbed for construction of the buildings, roads and parking areas indicating those proposed to be removed and those proposed to be retained. The plan shall detail what steps will be taken to replace those trees proposed to be removed for clearing and construction.
- (c) No person shall cut down any trees or remove any topsoil, excavate or grade any lot, parcel or piece of land for the purpose of preparing the same for construction of a building or structure until such time as the owner or agent of the property has been issued site plan approval as required by this section or pursuant to a subdivision plan duly approved in accordance with the procedures set forth in the Subdivision Regulations.
- (d) Any tree clearing, topsoil removal, excavation or grading commenced after the receipt of site plan approval or a duly authorized subdivision plan shall be completed within six months from the date of the issuance or approval unless an extension of time for the completion of such activity is granted by the Commission. Any tree clearing, soil removal, excavation or grading which is once commenced and is unable to be completed for reasons beyond the control of the property owner or their agent shall be seeded with grass or otherwise planted to prevent the erosion of soil.
- (e) Whoever violates any provision of this section shall be subject to the penalties set forth in Chapter 1187 of the Zoning Code. In addition thereto the Building Commissioner shall withhold any building permits or stop any work in progress until the violation is corrected by the replacement of like topsoil illegally removed or the replacement with like caliper trees or plantings that have been illegally cut or the property restored to proper grade.

(Ord. 158-89. Passed 3-13-90.)

1177.05 STANDARDS; LANDSCAPING AND BUFFER STRIPS.

Wherever in this Zoning Code landscaping is required, the area required to be landscaped shall be made fertile and planted prior to the date of issuance of a final certificate of occupancy, and thereafter reasonably maintained with permanent plantings and materials equal in characteristics to the suggested plant materials in subsections (c) and (d) below.

- (a) Lot Planting Requirements.
- (1) The unpaved or unimproved portions of all lots in all districts which are not in a natural wooded state or in which the natural state has been disturbed by grading or filling, including but not limited to common areas, easements, disturbed wetlands or riparian areas, required front yards, side yards, rear yards and other open spaces, shall be landscaped with sod, grass or other horticultural materials prior to the date of issuance of a certificate of occupancy. This provision shall not be construed to prohibit private gardening or farming operations.
- (2) There shall be not less than one tree or shrub for each 3,000 square feet of the total lot area exclusive of buffer strip planting requirements, in all zoning districts of the City.
- (b) Buffer Strip Planting Requirements.
- (1) Buffer strips shall be landscaped with sod, grass or other horticultural materials.
- (2) The minimum planting width shall be thirty feet along the common property line.
- (3) Tree and shrub materials shall not be placed closer than four feet from a fence or wall line.
- (4) An evergreen (see subsection (c) hereof) shall be planted at least every ten feet of the length of the buffer strip.
- (5) Three intermediate shrubs (see subsection (d) hereof) shall be planted for each evergreen required in paragraph (4) of subsection (b) hereof.

(Ord. 12-2015. Passed 3-10-15.)

(c)	<u>Suggested Evergreen Planting</u>	<u>Required Size of Planting Stock</u>
	Medium Evergreens	
	juniper	
	red cedar	All medium evergreen plantings shall be a minimum of three to four feet in height.
	American arborvitae	
	(white cedar)	
	Canadian hemlock	
	Narrow Pyramidal Evergreens	
	pyramidal arborvitae	All pyramidal evergreen plantings shall be a minimum of three to four feet in height.
	columnar juniper	
	Irish juniper	
	taxus hicksi	
(d)	<u>Suggested Shrub Plantings</u>	<u>Required Size of Planting Stock</u>
	Tree-like shrubs:	
	flowering crabs	
	Russian olive	
	smoker bush	
	clump birch	All tree-like shrub plantings shall be a minimum of three to four feet in height.
	mountain ash	
	dogwood	
	redbud	
	rose of Sharon	
	Large Deciduous Shrubs:	
	viburnum	
	mock orange	All deciduous shrub plantings shall be a minimum of two to three feet in height.
	lilacs	
	butterfly bush	
	ninebark	
(e)	<u>Trees that are not permitted in off-street parking areas:</u>	
	box elders	poplars and cottonwoods
	soft maples	ailanthus (Chinese tree of heaven)
	fruit trees	ribes (gooseberry)
	nut trees	All thorned trees and shrubs; honey locust, etc.
	willows	
	elms	

(Ord. 72-72. Passed 8-31-72.)

1177.06 INSPECTION BY LANDSCAPE ARCHITECT.

Upon completion of the landscape improvements, the City Landscape Architect shall inspect the work completed. All plant material that does not meet the approved plans and specifications or is not in a viable, growing condition as determined by the City Landscape Architect shall be replaced with plants of the same or equal characteristics and size as originally specified and approved. Such replacements shall be made within six months of the date of inspection by the City Landscape Architect. After one growing season the City Landscape Architect shall again inspect the work completed and determine whether the landscape improvements are in accordance with the approved plans and specifications and, if they are not in accordance, he shall require any replacements necessary to bring the improvements into conformity with the approved plans and specifications.

(Ord. 158-89. Passed 3-13-90.)

1177.07 ENVIRONMENTAL AND ECOLOGICAL PRESERVATION.

(a) No person, firm, association or corporation shall engage in mining, commercial logging, extracting or soil stripping within the City. This section shall not be construed to prohibit construction excavations for building foundations and pipe laying or general site grading and filling for paving and landscaping purposes.

(Ord. 109-91. Passed 8-6-91.)

(b) In order to prevent undue erosion of the soil, pollution of the atmosphere and natural waterways, interference with drainage and the natural supply of water and an unreasonable loss of oxygen, no person, firm, association or corporation shall, prior to the written approval of the Planning Commission, remove or destroy by cutting, burning, bulldozing or by any other means any number of viable trees having a diameter or four inches or more measured at a distance of fourteen inches above the ground level, on any parcel of record.

(1) In order to secure a permit to remove any number of trees, an application for such approval shall be filed with the City Landscape Architect and the Building Inspector. The application shall set forth the name and address of each owner, lessee and person in possession of the lot or parcel upon which the trees are situated, the name and address of each person who shall be engaged in the destruction or removal of such trees, a statement as to whether such work will be performed under a written or oral agreement, as well as the essential terms of the agreement; a statement of the kind, number and dimensions of the trees to be removed, and a legal description of each lot or parcel, or in lieu thereof, a description of sufficient detail so that such lot or parcel may be readily located on the plat map of the City.

- (2) The application shall be forwarded to the Planning Commission by the City Landscape Architect and the Building Inspector together with their report and recommendations thereon.
- (3) The Planning Commission shall review and act on the application at a regular monthly meeting within sixty days after receipt of the application. The Planning Commission shall not approve the granting of a permit if it finds that such removal or destruction of trees is not necessary to facilitate site development and is likely to cause soil erosion, result in pollution or an unreasonably large loss of oxygen, interference with drainage and the natural supply of water, or that it will result in an unsightly and blighted condition. In no event shall the permit allow the removal or destruction of trees, as described in subsection (b) hereof, prior to the time of approval of a preliminary plan of a new subdivision, or if no new subdivision is to be created, prior to the time of the approval of a site plan or the issuing of a building permit for construction on such lot or parcel.

(Ord. 158-89. Passed 3-13-89.)

1177.08 FEES.

Council may from time to time set certain fees for the following reasons:

- Landscape plan review.
- Inspection of landscape improvements.
- Application for a permit to remove trees in excess of that allowed by the provisions of this chapter.

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1179

Signs

1179.01 Purpose.

1179.02 Definitions.

1179.03 Application of sign regulations.

1179.04 Computations and rules of measurement.

1179.05 Signs in nonresidential districts.

1179.06 Signs in residential districts.

1179.065 Electronic message display signs.

1179.07 Prohibited signs.

1179.08 Sign illumination, construction and maintenance standards.

1179.09 Regulations for nonconforming signs.

1179.10 Design standards.

1179.11 Administrative provisions.

CROSS REFERENCES

Sign defined - see ZON. 1123.07(n)

Special approval for temporary noncommercial signs - see ZON. 1185.05(c)

1179.01 PURPOSE.

The purpose of this Chapter is to promote the public health, safety and welfare through the provision of standards for existing and proposed signs of all types. More specifically, this Chapter is intended to:

- Enhance and protect the physical appearance of the community and to protect and enhance property values;
- Promote and maintain visually attractive, residential, retail, commercial and industrial districts and to protect and enhance property values;
- Ensure that signs are located and designed to reduce sign distraction and confusion that may be contributing factors in traffic congestion and accidents, and maintain a safe and orderly pedestrian and vehicular environment;
- Provide review procedures that enable the City to comprehensively evaluate the appropriateness of a sign to the site, building and surroundings; and
- Prohibit all signs not expressly permitted by this Chapter.

(Ord. 3-2006. Passed 2-28-06.)

1179.02 DEFINITIONS.

(a) Signs shall mean any visual communication display, object, device, graphic, structure or part, situated indoors or outdoors, or attached to, painted on or displayed from a building or structure, in order to direct or attract attention, or to announce or promote, an object, product, place, activity, person, institution, organization, or business or the like, by means of letters, words, model, banner, flag, pennant, insignia, logo, device designs, colors, symbols, fixtures, images, illuminations or representation used as, or which is in the nature of an announcement, direction, or advertisement. For the purpose of this Code, the word "sign" does not include flag, pennant, badge, or insignia of any government or governmental agency.

(b) Animated Sign shall mean any sign that uses flashing lights or movement of the sign or some element thereof, to depict action or create a special effect or scene.

(c) Awning or Canopy Sign shall mean any sign that is painted on, printed on or attached to an awning, canopy, or other fabric, plastic, or structural protective cover.

(d) Back Lighted Letter is an illuminated reverse channel letter with an open or translucent back so that light from the letter is directed against the surface behind the letter producing a halo lighting effect around the letter; also referred to as a silhouette or halo-lighted.

(e) Banner Sign shall mean a sign made of lightweight fabric or similar material with no enclosing framework that is secured to a building or other structure at one or more edges.

(f) Billboard Sign (synonymous with off-site advertising) shall mean a sign that directs attention to a business, commodity, service or entertainment conducted, sold, or offered elsewhere than upon the same lot.

(g) Building Sign shall mean any sign attached parallel to any part of a building and including wall signs, awning or canopy signs and window signs.

(h) Cabinet Sign is a sign structure consisting of the frame and face(s) not including the internal components, embellishments, or support structure.

(i) Changeable Copy Sign shall mean a portion of a sign with letters, characters, or graphics that are not permanently affixed to the structure, framing, or background allowing the letters, characters or graphics to be modified manually from time to time as situations change, such as a bulletin board or announcement board.

(j) Channel letter is a fabricated or formed three-dimensional letter that may accommodate light source. (Ord. 3-2006. Passed 2-28-06.)

(k) Electronic Message Display Sign is a variable message sign that utilizes computer generated messages or some other electronic means of changing copy.

(Ord. 23-2014. Passed 5-13-14.)

(l) Entrance or Exit Sign shall mean a sign located at the driveway entrance or exit and intended to provide for safe ingress and egress.

(m) Exterior Illuminated Sign is a sign that is illuminated by a light source that is directed towards and shines on the face of a sign; also called direct illumination.

(n) Flag Sign shall mean a piece of flexible material having a distinctive size, color, and design, used as a symbol, standard, signal, or emblem.

(o) Ground or Monument Sign shall mean a sign supported from the ground and not attached to any building, and shall include a "Post and Panel Sign."

(p) Halo lighted See definition (d) Backlighted letter.

(q) Ideological Sign shall mean any temporary sign announcing an idea, opinion or position on a social or political issue and containing no commercial message.

(r) Illuminated Sign shall mean a sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

(s) Instructional Sign shall mean a sign that has a purpose secondary to the use on the lot and that is intended to instruct employees, customers, or users as to matters of public safety or necessity such as specific parking requirements, the location or regulations pertaining to specific activities on the site or in the building, and including a sign erected by a public authority, utility, public service organization, or private industry that is intended to control traffic; direct, identify or inform the public; or provide needed public service as determined by the rules and regulations of governmental agencies or through public policy.

(t) Internally Illuminated Sign is sign illuminated internally through its sign face by a light source contained inside the sign.

(u) Marquee Sign shall mean a sign attached to a structure, other than an awning or canopy sign, projecting from a wall of a building above an entrance and extending over a street, sidewalk, or part thereof.

(v) Mobile Sign shall mean a sign that is on wheels, runners, casters, or has a frame to which wheels, runners, or casters may be affixed, parked trailers, parked vehicles, or other mobile devices, including tethered and/or anchored balloons.

(w) Pan Channel Letter is a dimensional letter that is constructed with sidewalls, a back, and a face making the letter a solid integral unity with the sidewalls and back having a pan-shaped cross section.

(x) Permanent Sign shall mean a sign that is not temporary.

(y) Post and Panel Sign shall mean a Sign Face supported between two posts on each end of the Sign Face. (See example of post and panel sign below.)



(z) Projecting Sign shall mean a sign that is attached to a building wall and extending twelve (12) inches or more perpendicular to the face of the wall.

(aa) Reverse Channel Letter is a fabricated dimensional letter with opaque face and sidewalls. (See definition (d) Backlighted letter.)

(bb) Roof Sign shall mean a sign erected, constructed or maintained wholly upon or over the roof or parapet wall of any building with the principal support on the roof structure.

(cc) Sign Face shall mean the area or display surface used for the message.

(dd) Sign Plate shall mean a wall sign not exceeding two (2) square foot in area.

(ee) Temporary Sign shall mean a sign that is designed to be used only temporarily and is not intended to be permanently attached to a building, a structure or permanently installed in the ground.

(ff) Wall Sign shall mean a sign painted on, attached to, or erected against the wall of a building or structure with the exposed face of the sign in a plane parallel to the plane of the wall and not extending more than twelve (12) inches therefrom and which does not project above the roofline or beyond the corner of the building.

(gg) Window Sign shall mean a sign that is applied or attached to a window or door, or a sign located near a window within a building for the purpose of being visible to and read from the outside of the building except for signs that are not legible from a distance of more than three (3) feet beyond the building in which such sign is located.

(Ord. 3-2006. Passed 2-28-06.)

1179.03 APPLICATION OF SIGN REGULATIONS.

(a) The regulations contained in this Chapter shall apply to signs outside of the public right-of-way, except when specifically stated otherwise.

(b) A sign may only be erected, established, painted, created or maintained in the City in conformance with the standards, procedures, exemptions and other requirements of this Chapter.

(c) All permanent signs shall comply with the sign design guidelines set forth in Section 1179.10, Design Standards.

(d) Architectural Features. Architectural features that are either part of the building or part of a freestanding structure are not considered signs and are thus exempt from these regulations. Architectural features include:

- Any construction attending to, but not an integral part of the sign, and which may consist of landscape or building or structural forms that enhance the site in general.
- Graphic stripes and other architectural painting techniques applied to a structure that serves a functional purpose or to a building when the stripes or other painting technique do not include lettering, logos or pictures.

(Ord. 3-2006. Passed 2-28-06.)

1179.04 COMPUTATIONS AND RULES OF MEASUREMENT.

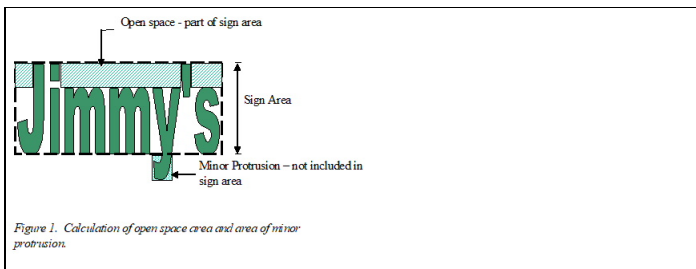
The following regulations shall control the computation and measurement of sign area, sign height, window area and building frontage:

(a) Determining Sign Area or Dimension.

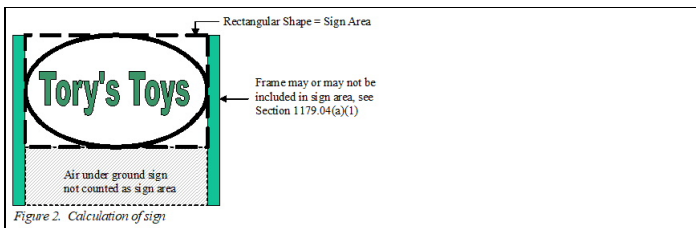
- Sign area shall include the face of all the display area of the sign. Sign area shall not include the frame and structural support unless such structural support is determined to constitute an integral part of the sign

design.

- (2) For a sign that is framed, outlined, painted or otherwise prepared and intended to provide a background for a sign display, the area of the sign shall be the area of one (1) rectangular shape that encompasses the entire background or frame.
- (3) For a sign comprised of individual letters, figures or elements on a wall or similar surface of a building or structure, or an irregular shaped ground sign, the area of the sign shall be the area of one (1) rectangular shape that encompasses the perimeter of all the elements in the display.
 - A. When separate elements are organized to form a single sign, but the elements are separated by open space, the area shall be the area of one (1) rectangular shape that comprises all the display areas, including the space between the elements.
 - B. One minor protrusion may be permitted to extend above or below the sign area when the area of the protrusion is less than 25% of the open space included in the sign area. For the purposes of this section, only the open space within the sign area that is located above and below the majority of the letters shall be included in the calculation. See Figure 1.



- (4) For ground signs and projecting signs:
 - A. The sign area shall be computed by the measurement of one (1) of the faces when two (2) identical display faces are joined, are parallel or within 30 degrees of being parallel to each other and are at no point separated by a distance that exceeds two feet apart.
 - B. No more than two display faces shall be permitted.
 - C. The portion of a solid sign base that is mostly screened by landscaping, up to a maximum height of two (2) feet, shall not be calculated as sign area.
- (5) Air under a ground sign between supporting posts, air between a projecting sign and the wall to which it is attached, and lighting fixtures and associated brackets shall not be included in the calculation of sign area. See Figure 2.



- (b) **Determining Sign Height.** The height of a sign shall be measured from the average natural grade at the base of the sign or support structure to the tallest element of the calculated sign area. A ground sign on a man-made base, including a graded earth mound, shall be measured from the average site grade prior to the addition of the sign.
- (c) **Determining Building Frontage and Building Unit.** For the purposes of these sign regulations, the length of the building wall that faces a public street or that contains a public entrance to the uses therein shall be considered the building frontage.
 - (1) The building frontage shall be measured along such building wall between the exterior faces of the exterior side walls.
 - (2) In the case of an irregular wall surface, a single straight line extended along such wall surface shall be used to measure the length.
 - (3) A building shall have only one building frontage except as otherwise set forth below.
 - (4) A building shall have two frontages whenever the lot fronts on two or more streets, or the building has a public entrance on a wall other than the wall that faces the street. The property owner shall determine which wall shall be the primary building frontage and which wall shall be the secondary building frontage. Only one outside wall of any business shall be considered its primary frontage and only one additional wall considered its secondary frontage.
 - (5) For multi-occupant buildings, the portion of a building that is owned or leased by a single occupant shall be considered a building unit. The building frontage for a building unit shall be measured from the centerline of the party walls defining the building unit.
- (d) **Determining Window Area.** The window area of a building shall be the total glass area of windows on the building frontage. For the purposes of determining window area for ground floor occupants, the ground floor shall be considered to be no more than fifteen (15) feet in height above grade. (Ord. 3-2006. Passed 2-28-06.)

1179.05 SIGNS IN NONRESIDENTIAL DISTRICTS.

Signs in nonresidential districts shall conform to the standards set forth in this Section, except for residential uses which shall comply with the standards set forth in Section 1179.06.

- (a) **Maximum Number and Area of Permanent Signs Attached to Buildings.** Permanent signs attached to buildings shall conform to the maximum number and area limitations set forth in Table 1179.05 (a). In addition to the sign area permitted in Table 1179.05 (a), each building shall be permitted to display numerals indicating the building's street address, provided the numerals and letters do not exceed eight (8) inches in height.

Table 1179.05(a) Permanent Signs Attached to Buildings		
Type	Maximum Number Permitted	Maximum Area
(A) Signplate	2/address and 1/entry	2 sq ft
(B) Building Sign	1/ground floor occupant frontage	1.5 square ft per linear ft of building frontage, not to exceed 100 sq ft (a)
(C) Projecting Sign	1/ground floor occupant frontage (b)	6 sq ft
(D) Instructional Sign	Shall be exempt from regulations when in compliance with Section 1179.05(e)	
(a) See Section 1179.05(b)		
(b) See Section 1179.05(c)		

- (b) **Building Signs.** The building sign permitted in Table 1179.05 (a) shall be either a wall sign, awning sign or window sign erected in compliance with the following additional regulations.

- (1) **Window Sign.**
 - A. **Ground Floor Occupants.** Notwithstanding the permitted area set forth in Table 1179.05 (a), a window sign shall not exceed 40 percent of the total glass area of the ground floor windows and shall comply with the sign design guidelines set forth in Section 1179.10 Design Standards.
 - B. **Upper Story Occupants.** For a multi-story building, each occupant above the ground floor shall be permitted one permanent sign to be placed in a window of the occupant space, not to exceed six (6) square feet or 25 percent of the area of the window in which the sign is placed, whichever is smaller. These signs shall be in addition to the maximum allowable area for building signs pursuant to Table 1179.05 (a).
- (2) **Awning Signs.** Awning signs may be permitted to extend over a public right-of-way provided such awning signs comply with the regulations of this Chapter.
- (3) **Corner Lots and Public Entrances Not Fronting a Street.** The maximum allowable area for building signs set forth in Table 1179.05 (a) shall be the area allowed for the occupant's primary frontage. In the event an occupant has a secondary frontage as defined in Section 1179.04 (c) additional sign area shall be permitted in compliance with the following:
 - A. The sign area for the secondary building frontage shall be 60 percent of the sign area permitted for the primary frontage.
 - B. The property owner may choose to locate the permitted building sign area on any exterior building wall provided the sign area on any one wall does not exceed the formula set forth in Table 1179.05 (a) and signs are attached to no more than two (2) exterior walls.
- (4) **Large Building Setbacks.** The maximum allowable area for a building sign may be increased by 25% for each additional 100 feet of building setback when the principal building is located more than 100 feet from the principal street on which the building is located and the building is visible from the street. The additional 25% in area for each additional 100 feet of setback can be used on a graduated scale basis for each additional 100 feet of setback. For example, a principal building with a setback of 150 feet from the principal street may have a building sign not to exceed 112.5% of the maximum allowable area. Notwithstanding the foregoing, no sign shall exceed 200% of the maximum allowable area.
- (5) **Illumination.** Building signs shall be illuminated only in compliance with Section 1179.08 .
- (c) **Projecting Signs.**
 - (1) Projecting signs shall be limited to occupants that have a minimum of 12 feet of occupant frontage.
 - (2) All projecting signs shall not extend above the roof line or exceed a height of 14 feet, whichever is less, and shall have a minimum clearance of seven (7) feet from the ground to the bottom of the sign, except when the projecting sign is located above a landscaped area or other area that does not permit pedestrian traffic beneath the sign.
 - (3) **Illumination.** Projecting signs shall be illuminated only in compliance with Section 1179.08 .
- (d) **Permanent Ground Signs.** Permanent ground signs permitted in nonresidential districts shall comply with the following regulations:
 - (1) **Maximum Number, Area and Height, Minimum Setback of Permanent Ground Signs.** Permanent ground signs shall comply with the maximum number, area and height limitations and minimum setback from the street right-of-way set forth in Table 1179.05 (d). (Ord. 3-2006. Passed 2-28-06.)

Table 1179.05(d) Permanent Ground Signs

	Maximum Number	Maximum Area	Maximum Height	Minimum Setback ^(b)
1. Primary Sign ^(a)				
a. Building Setback ≥ 30 feet ^(b)	1 per lot ^(c)	40 sq ft	9 ft	15 ft
b. Building Setback ≥ 12 but < 30 feet ^(b)	1 per lot ^(c)	32 sq ft	9 ft	Equal to height of sign
2. Entrance/Exit Signs	2 per driveway (1 in, 1 out)	2 sq ft	3 ft	0
3. Instructional Signs	Shall be exempt from regulations when in compliance with Section 1179.05(c)			
(a) Not permitted on the site when the building is setback less than 12 feet from the street right-of-way.				
(b) From the street right-of-way.				
(c) Except as otherwise permitted in Section 1179.05(d)(2) for lots that exceed 500 feet in street frontage.				

(Ord. 3-2006. Passed 2-28-06; Ord. 23-2014. Passed 5-3-14.)

- (2) **Additional Ground Signs.** One additional primary ground sign shall be permitted for every additional five hundred (500) feet of street frontage or fraction thereof per lot greater than five hundred (500) feet. For example, if the street frontage of the lot is 501 feet, up to two primary ground signs are permitted and three primary ground signs are not permitted unless the street frontage of the lot is at least 1,000 feet. For corner lots, each street frontage shall be calculated separately. Ground signs on the same lot shall be separated by a minimum of two hundred (200) feet, as measured along the street right-of-way line. For corner lots, both sides of the intersection shall be used in measuring spacing.
- (3) **Minimum Sign Setback from Intersection.** On corner lots, ground signs shall comply with the minimum sign setback from both streets right-of-way, as set forth in Table 1179.05 (d).
- (4) **Minimum Sign Setback from Side Lot Lines.** Ground signs shall be located a minimum of fifteen (15) feet from any side lot line, except that when a side lot line coincides with a residential district boundary line or a lot used for residential purposes, the minimum setback shall be thirty (30) feet.
- (5) **Base and Skirting.** Ground signs, other than temporary signs and post and panel signs, shall have a solid base or solid skirting around the bottom of the sign extending from the bottom of the sign panel down to the ground.
- (6) **Landscaping.** Ground signs shall be erected in a landscaped setting and not on sidewalks, drives or in parking lots. Neither the landscaping nor the ground sign shall obstruct the view of vehicles entering or exiting the property. There shall be landscaping around the base of the ground sign pursuant to a plan approved by the City's Landscape Architect and the landscaping shall be continuously maintained according to the plan during the existence of the sign. Any changes to the approved plan must be approved by the City's Landscape Architect.
- (7) **Changeable Copy.** Ground signs may have up to 30% of the sign area set forth in Table 1179.05 (d) devoted to changeable copy.
- A. The changeable copy shall not be changed more than eight (8) times per day, and no more than one (1) time per hour.
- B. Changeable copy may only be manually changed.
- C. All changeable copy shall comply with the lettering style, lettering color, background color and all other elements approved by the Architectural Board of Review. No alphabetic letter or number shall be used as a substitute for a different alphabetic letter or number or a different color of letter.
- (8) **Multi-Occupant Facilities.** When a ground sign is permitted on a site that has more than one occupant, it is the property owner's responsibility to determine if the sign area shall be devoted to identification of the building(s), the anchor occupant, all occupants, or some combination thereof.
- (9) **Illumination.** Ground signs shall be illuminated only in compliance with Section 1179.08 .
- (e) **Instructional Signs.** Instructional signs that are clearly intended for instructional purposes shall be permitted as needed provided such signs comply with the following:
- (1) The signs are not larger than necessary to serve the intended instructional purpose;
- (2) The number of instructional signs located on the site are the minimum needed to serve the intended instructional purpose;
- (3) Lettering on the sign does not exceed two (2) inches in height; and
- (4) The signs are not in a location and do not possess design characteristics that constitute or serve to attract attention beyond the perimeter of the site.
- (f) **Temporary Signs In Nonresidential Districts.** The following regulations for temporary signs in nonresidential districts are in addition to the maximum sign area set forth in Tables 1179.05 (a) and 1179.05 (d).
- (1) Temporary signs may be ground signs, window signs or banner signs.
- (2) The total area of temporary window signs shall not exceed 25% of the total transparent glass area of the window in which the sign is placed.
- (3) The total maximum number and area permitted for temporary ground signs and temporary banner signs shall be regulated based on the district in which the lot is located.
- A. In Districts B-1 and B-3, a maximum of two (2) signs per parcel shall be permitted provided the total area of all temporary ground signs and temporary banner signs shall not exceed twelve (12) square feet per parcel.
- B. In Districts, B-2, O-S, I-1 and I-2, a maximum of four (4) signs per parcel shall be permitted provided the total area of all temporary ground signs and temporary banner signs shall not exceed thirty-two (32) square feet per parcel.
- (4) Temporary ground signs shall have a maximum height of six (6) feet and shall be located a minimum distance from the public right-of-way that is equal to the height of the sign.
- (5) One temporary ideological ground sign permitted in Subsection 1179.05 (f)(3) may be erected for an unspecified time. All other temporary ground signs and temporary banner signs shall be permitted for a maximum of fifteen (15) consecutive days, and not more than a total of seventy-five (75) days per calendar year.
- (6) Temporary signs that are erected in order to announce or advertise a specific event shall be removed within three (3) days after the close of such event.
- (Ord. 3-2006. Passed 2-28-06.)

1179.06 SIGNS IN RESIDENTIAL DISTRICTS.

Signs in residential districts shall comply with the regulations set forth in this section.

- (a) **Sign Standards.** Signs in residential districts shall be limited in number, area, height and setback based on the type of use, as set forth in Table 1179.06 (a).

Table 1179.06(a) Signs in Residential Districts					
				Regulations for Ground Signs	
Type	Maximum Number Permitted	Maximum Total Sign Area per Type	Maximum Area Per Sign	Maximum Heights	Min. Setback from ROW
(A) Signs for Single-Family Dwellings, Duplexes and Townhouses:					
1. Permanent Signs					
a. Signplate or window sign	per DU(a)	2 sq ft	2 sq ft	--	--
b. Ground Sign	1/building	2 sq ft	2 sq ft	5 ft	0(b)
2. Ground Sign for Residential Subdivision	2/subdivision entrance	(c)	15 sq ft	8 ft	--
3. Temporary window or ground sign(d)	per building (a)	12 sq ft	6 sq ft	5 ft	0(b)
(B) Multi-Family Buildings:					
1. Permanent Signs					
a. Signplate or window sign	per DU(a)	2 sq ft	2 sq ft	--	--
	1/public entrance to building	2 sq ft	2 sq ft	--	--
b. Ground Sign	1/development entrance	15 sq ft	15 sq ft	8 ft	equal to height of sign
2. Temporary sign (b)					
a. Window Sign	per DU(a)	2 sq ft	2 sq ft	--	--
b. Ground sign	per building (a)	16 sq ft	6 sq ft	5 ft	0 (b)
(C) Parcels Used for Nonresidential Purposes:					
1. Permanent Signs					
a. Signplate	1/address	2 sq ft	2 sq ft	--	--
b. Primary Wall Sign	1/building	40 sq ft	40 sq ft	--	--
c. Primary Ground Sign	1/500 feet or less of parcel frontage(e)	25 sq ft plus 5 sq ft for every 50 ft of frontage >100 ft	40 sq ft	9 ft	15 ft
2. Temporary ground sign or banner sign (d)	per parcel (a)	16 sq ft/200 feet of parcel frontage (e)	16 sq ft	8 ft	equal to height of sign
(D) Instructional Sign:	Shall be exempt from regulations when in compliance with Section 1179.06(e)				

- (a) No limit on the number provided the total area of this type of sign does not exceed the maximum area permitted.
- (b) But no closer than 10 feet from the pavement of the travel lane of the public or private street.
- (c) See also subsection 1179.06(b)(4).
- (d) See also subsection 1179.06(c).
- (e) Or fraction thereof, except as otherwise permitted in Section 1179.06(b)(5) for lots that exceed 500 feet in street frontage.

DU = Dwelling Unit

(Ord. 3-2006. Passed 2-28-06; Ord. 23-2014. Passed 5-13-14.)

(b) Supplemental Regulations for All Ground Signs.

- (1) Ground signs shall be erected in a landscaped setting and not on sidewalks, drives or in the paved areas of parking lots. Ground signs may be placed in parking lots when placed on islands and landscaped as required by other provisions of this Code. (Ord. 23-2014. Passed 5-13-14.)
- (2) No part of a ground sign, the wall or entry feature on which a sign is mounted, or the landscaping shall obstruct the view of vehicles entering or exiting the property.
- (3) For residential subdivisions, the ground sign shall have a maximum of two (2) sign faces per entrance and be either a double-faced ground sign or two (2) single-sided sign faces attached to walls or entry features located one on each side of the street entrance.
- (4) For all parcels used for nonresidential purposes in residential districts, one (1) additional primary ground sign shall be permitted for every five hundred (500) feet of street frontage or fraction thereof per lot greater than five hundred (500) feet. For corner lots, each street frontage shall be calculated separately. Ground signs on the same lot shall be separated by a minimum of two hundred (200) feet, as measured along the street right-of-way line. For corner lots, both sides of the intersection shall be used in measuring spacing.
- (5) For all parcels used for nonresidential purposes, a maximum of 30% of the permitted ground sign area may be devoted to changeable copy.
 - A. The changeable copy shall not be changed more than once per day.
 - B. Changeable copy shall only be manually changed.
 - C. All changeable copy shall comply with the lettering style, lettering color, background color and all other elements approved by the Architectural Board of Review. No alphabetic letter or number shall be used as a substitute for a different alphabetic letter or number.

(c) Supplemental Regulations for Temporary Signs.

- (1) Temporary signs for residential uses and temporary window signs for parcels used for nonresidential purposes permitted in Table 1179.06(a) may be erected for an unspecified time.
- (2) On parcels used for nonresidential purposes, one temporary ground sign that does not exceed six (6) square feet may be erected for an unspecified time. All other temporary ground signs and temporary banner signs shall be permitted for a maximum of fifteen (15) consecutive days, not more than seventy-five (75) days per calendar year.
- (3) Notwithstanding subsections (1) and (2) above, vacant parcels in residential districts shall be permitted one temporary sign that may be erected for an unspecified time. The permitted sign area shall be eight (8) square feet for every two hundred (200) feet of lot frontage or fraction thereof, provided the sign shall not exceed thirty-two (32) square feet.
- (4) Temporary signs that are erected in order to announce or advertise a specific event shall be removed within three (3) days after the close of such event.
- (d) **Illuminated Signs in Residential Districts.** Permanent signs shall be permitted to be illuminated, provided such illumination complies with Section 1179.08.
- (e) **Instructional Signs.** Instructional signs that are clearly intended for instructional purposes shall be permitted as needed on a lot in a residential district when the lot is devoted to a multi-family or nonresidential use provided such signs comply with the following:
 - (1) The signs are not larger than necessary to serve the intended instructional purpose;
 - (2) The number of instructional signs located on the site are the minimum needed to serve the intended instructional purpose;
 - (3) Lettering on the sign does not exceed two (2) inches in height; and
 - (4) The signs are not in a location and do not possess design characteristics that constitute or serve to attract attention beyond the perimeter of the site.

(Ord. 3-2006. Passed 2-28-06.)

1179.065 ELECTRONIC MESSAGE DISPLAY SIGNS.

- (a) Electronic message display signs shall be limited to ground signs only and shall be permitted subject to the Administrative Provisions of Section 1179.11 and the provisions of this section:
 - (1) Electronic message display signs shall be permitted in all nonresidential districts and in residential districts on parcels which are used for institutional or other nonresidential uses.
 - (2) Only one electronic message display sign shall be permitted on each parcel and shall be considered as the primary ground sign for that parcel. Additional non-electronic ground signs may be added if permitted by this chapter.
 - (3) The electronic message display area of each sign shall be fully framed and shall be subject to the size limitations of Table 1179.05(d). The sign base shall not be included in the maximum permitted sign area, nor shall a non-electronic header over the top of the electronic reader board that is used to identify the owner or the address of the parcel. However, the entire sign assembly, including the base, electronic message board and header, are subject in total to the maximum height in Table 1179.05(d).
 - (4) Electronic message display signs shall be located a minimum of 200 feet from any residentially-zoned district or 200 feet from any lot line separating a residentially and nonresidentially used parcel in a residentially-zoned district. Notwithstanding the foregoing setback requirement, electronic message display signs may be located from 100 feet to 200 feet from a residential district or a residentially-used parcel provided that the sign is illuminated no longer than 6:00 a.m. to 10:00 p.m. any day of the week.
 - (5) Electronic message display signs shall not advertise establishments, products, services or events not actually located on or associated with the specific property upon which the sign is located or its occupant.
 - (6) Each message shall remain fixed for a minimum of ten (10) seconds, and individual messages shall be separated by a three (3) second pause, during which pause a still image or blank screen shall be shown. The entire message shall change at once. Messages shall not flash, blink, scroll, rotate or include movable or animated text or images.
 - (7) The electronic message display sign may be capable of producing a full color spectrum for pedestrian and traffic viewing; However, no sign shall emulate a traffic control device, nor shall displays use the colors of green, yellow or red in such a way, in the discretion of the Building Commissioner, as to confuse passing motorists.
 - (8) The changeable copy portion of the sign shall not exceed the sizes found in Table 1179(a) for the permitted area of ground signs. Sign bases and headings shall not be included in the maximum allowable area of the sign.
- (b) **Illumination and luminance.**
 - (1) Each owner must be capable of dimming, both manually and by photo cell or other automatic means, the digital display intensity of the sign.
 - The light intensity level of the display must automatically adjust to natural ambient light conditions.
 - (2) No electronic message display sign may be illuminated to a degree of brightness that is greater, in the opinion of the Building Commissioner, than necessary for adequate visibility, nor shall the sign exceed the maximum luminance level of 0.3 foot candles above ambient light levels for the location and time of day when measured at the distances recommended by the International Sign Association (ISA) and based on the digital display size.
 - (3) The owner shall provide from the manufacturer of each electronic message display sign, prior to the issuance of a permit, a certification that the values permitted herein will not be exceeded.
 - (4) Electronic message display signs shall comply with the provisions of Section 1179.08(a)(5). (Ord. 23-2014. Passed 5-13-14.)

1179.07 PROHIBITED SIGNS.

All signs not expressly permitted in this Chapter shall be prohibited in the City. Such signs include but are not limited to the following:

- (a) Roof Signs;
- (b) Billboards;
- (c) Flags intended for advertising or commercial purposes;
- (d) Marquee signs;
- (e) Kiosk signs;
- (f) No mobile signs shall be erected, constructed, displayed or maintained except those on licensed commercial delivery and service vehicles. Such vehicles shall not be parked in any district closer to the street than the front line of the principal building, unless the principal building has a rear parking area; in which case, all such vehicles shall not be parked closer to the street than the rear line of said building.
- (g) Temporary directional signs, other than Municipal or emergency signs or those temporary signs as may be approved by City Council.
- (h) Flashing, moving, inflatable, blinker, racer type, intermittent, rotating, moving or revolving signs, whirlygig devices, tethered inflatable signs, pennants, ribbons, streamers, spinners, exposed light bulbs, and strings of lights not permanently mounted to a rigid background, and other similar types of attention-getting devices.
- (i) The interior illumination of signs, except as expressly permitted in Section 1179.08(a)(2) and signs with characters, letters, figures, designs or outlines by electric lights or luminous tubes as part of the sign.
- (j) Merchandise, equipment, products, vehicles or other items not themselves for sale and placed for attention getting, identification or advertising purposes.
- (k) Permanent signs erected or attached to accessory structures.

(Ord. 23-2013. Passed 5-13-14.)

1179.08 SIGN ILLUMINATION, CONSTRUCTION AND MAINTENANCE STANDARDS.

In addition to ensuring compliance with the numerical standards of these regulations, the Architectural Board of Review shall consider the proposed sign according to the following standards:

- (a) **Illumination.** Signs shall be permitted to be illuminated in compliance with the following:
 - (1) **External Illumination:** All signs that are permitted to be illuminated as enumerated in Sections 1179.05 and 1179.06 above shall be externally illuminated, except as otherwise permitted in subsection (2) below and the external illumination shall comply with the following:
 - A. Only direct lighting from an external source shall be used to illuminate the sign.
 - B. The source of light shall not be visible from the street or adjacent property.
 - C. No variances to this Section 1179.08(a)(1) shall be sought or granted. (Ord. 3-2006. Passed 2-28-06.)
 - (2) **Internal Illumination:**
 - A. Internal illumination of signs is permitted for parcels in all nonresidential districts and certain parcels in residential districts provided that only reverse pan channel, or halo-lighted letters, characters or graphics are utilized or as provided for in Section 1179.065(b) for electronic messaging display signs.
 - B. Internally illuminated cabinets are permitted provided such cabinets shall consist of a solid opaque background with "knock-out" areas for copy, graphics and embellishments.
 - (3) Signs shall not include animated, flashing, or moving text or imaging. Messages may be intermittent only as provided for in Section 1179.065.
 - (4) Light shall not be from a colored light source.
 - (5) All illumination shall be extinguished between the hours of 10 p.m. or at close of business, whichever is later, and 6:00 a.m. Notwithstanding the hours set forth herein, signs in nonresidential districts shall be permitted to be illuminated during the hours of 10 p.m. to 6 a.m., provided that the message is static during those hours.
 - (6) No temporary sign shall be illuminated or have the potential to be illuminated.
 - (7) Electronic message display signs shall be permitted to be illuminated as set forth in Section 1179.065(b). (Ord. 23-2014. Passed 5-13-14.)
- (b) **Construction Standards.**
 - (1) The construction, erection, safety and maintenance of signs shall comply with Part Thirteen - the Building Code.
 - (2) Signs shall be structurally sound and located so as to pose no threat to pedestrian or vehicular traffic.
 - (3) Permanent signs shall be constructed and erected to withstand wind pressures of at least thirty (30) pounds per square foot of surface, and shall be fastened, suspended or supported so that they will not be a menace to persons or property.
 - (4) Permanent signs shall be fabricated on and of materials that are of good quality and good durability.
 - (5) No sign shall be erected so as to project over and obstruct any window, door, fire escape, balcony, platform, stairway, ladder, vent or other means of ingress of any building.
 - (6) No sign shall be attached to a utility pole, tree, trash receptacle, bench or other structure not intended or approved as a sign support.
 - (7) Temporary signs shall be durable and weather-resistant and fastened or anchored sufficiently, whether attached to the building or positioned in the ground.

- (8) No sign regulated by any of the provisions of this Chapter shall be erected in the right-of-way, in proximity to railroad crossings, or at the intersection of any streets in such a manner as to obstruct free and clear vision; or at any location where, by reason of the position, shape, or color, it may interfere with, obstruct the view of, or be confused with, any authorized traffic sign signal or device as defined in the Manual of Uniform Traffic Control Devices; or which makes use of the words "STOP," "LOOK," "DANGER", or any other word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.
- (9) No temporary sign shall have moveable lettering or lettering capable of being moved or replaced.
- (c) **Maintenance.** All signs shall be maintained in accordance with the following:
- (1) The property owner, occupant, or other person responsible for the sign shall maintain the sign in a condition fit for the intended use and he or she shall have a continuing obligation to comply with all building code requirements and the requirements of this Chapter.
 - (2) If the Building Commissioner finds that any sign is unsafe, insecure, a menace to the public; or constructed, erected, or maintained in violation of the provisions of this Code, notice shall be given in writing by the Building Commissioner to the property owner, occupant, or other person responsible for the sign. The property owner, occupant, or other person responsible for the sign shall, within forty-eight (48) hours of such notification, correct such unsafe condition or remove the sign. If the correction has not been made within the forty-eight (48) hours, the sign may be removed or altered by the City to comply with these regulations at the expense of the property owner, occupant, or other person responsible for the sign. The Building Commissioner may cause any sign, which, in the City's opinion, creates an immediate danger to persons or property to be removed immediately and without prior notice.
 - (3) Whenever any sign, either conforming or nonconforming to these regulations, is required to be removed for the purpose of repair, refurbishing, or repainting, the same may be done without a permit or any payment of fees provided that all of the following conditions are met:
 - A. There shall be no alteration or remodeling to the sign face, lettering (except as otherwise permitted for changeable copy), sign base, sign support(s) or the mounting of the sign itself.
 - B. There shall be no enlargement or increase in any of the dimensions of the sign or its structure.
 - C. The sign shall be accessory to a legally permitted, conditional or nonconforming use.
 - (4) The Building Commissioner may order any sign to be painted or refurbished whenever needed to keep the sign in a neat and safe condition. All supports, guys, braces and anchors for such signs shall be maintained in a safe condition, and it shall be unlawful for the owners or person having charge of such sign not to remove the same after receiving notice from the Building Commissioner.
 - (5) Any permanent sign which advertises a business no longer conducted on the premises or fails to serve the purposes for which it was intended, or evidences a lack of maintenance, shall be removed by the owner, agent, or person having the beneficial use of the building, structure or land upon which such sign is located, within thirty (30) days after written notice by the Building Commissioner. A party served with such notice shall have the right to appeal the Building Commissioner's order by filing a notice of appeal with the Zoning Board of Appeals within thirty (30) days of receipt of the notice. Upon failure to file a timely notice of appeal and failure to comply with such notice within the time specified in such order, the Building Commissioner is hereby authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the property on which such sign is located.
 - (6) If a sign, its letters or its message are designed and approved by a City issued permit to be internally illuminated and the sign or any of its letters or message are only partially lit, all illumination of the sign shall be discontinued until the sign is repaired and properly illuminated as it was designed and approved in the permit for the sign.
- (Ord. 3-2006, Passed 2-28-06.)

1179.09 REGULATIONS FOR NONCONFORMING SIGNS.

- (a) **Maintenance of Nonconforming Signs.** Nonconforming signs shall be maintained in good condition pursuant to this Chapter and may continue until such sign is required to be removed as set forth in this Chapter.
 - (b) **Alteration, Relocation or Replacement of Nonconforming Signs.** A nonconforming sign shall not be structurally altered, relocated or replaced unless it is brought into compliance with the provisions of this Chapter, except as otherwise permitted in this Chapter.
 - (c) **Reconstruction of Damaged Sign.** If a sign face and/or its support is damaged to the extent where the repair cost exceeds 50% of the replacement cost of the sign, the sign shall be removed or brought into compliance with this Chapter. If the repair costs do not exceed 50% of the replacement cost of the sign, the sign may be repaired, subject to approval of consistency in design by the Architectural Board of Review and provided all repair work is completed within sixty (60) days of the date the damage was incurred.
 - (d) **Termination.** A non-conforming sign shall immediately lose its legal non conforming status, and shall be brought into conformance with this Chapter or removed, when any of the following occur:
 - (1) The size or shape of the sign is changed.
 - (2) The sign structure is altered.
 - (3) If the property upon which the sign is located ceases to be used for a period of six (6) months or more.
 - (e) **Historic Signs.** The Architectural Board of Review may grant exceptions to these standards whenever a sign has been designated as a historic landmark pursuant to applicable law.
- (Ord. 3-2006, Passed 2-28-06.)

1179.10 DESIGN STANDARDS.

All permanent signs reviewed by the Architectural Board of Review shall comply with the following Standards.

- (a) **Diversity/Cohesiveness of Signs Seen in a Series.** Within a commercial area or development where multiple storefronts are situated side by side, the level of variety or cohesiveness in the design of signs that are seen in a series or sequence should be commensurate with the level of variety or cohesiveness presented by the architecture of the building(s):
 - (1) Variety in the design of signs among different storefronts should be encouraged when the architecture of the building(s) suggests variety. (See Figure 3.)

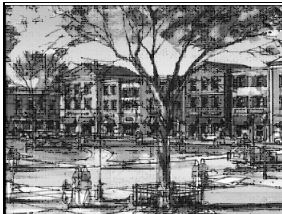


Figure 3 Environment where individual stores are articulated through varied architectural design.

- (2) Storefronts with common architectural elements should have signs that share continuity of design so that the placement and design of individual signs contribute to the cohesive appearance created by the common architectural elements. For example, a series of storefronts that, because of their architecture and design, have the appearance of a single building should have occupant signs that share common elements. (See Figure 4.)

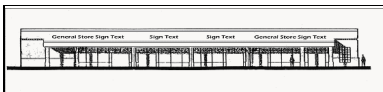


Figure 4 Building where all storefronts share common architectural features.

- (3) **Sign Plans.** Owners of multi-occupant buildings shall develop Sign Plans in conformance with Section 1179.11 (c)(4) for the building and site to aid in determining the level of variety/cohesiveness required for signs.
- (b) **Placement of Signs on Buildings.** Signs should be designed and placed on buildings to be compatible with and complement the appearance of the building.
 - (1) All signs should be reviewed for their impact on the overall building facade.
 - (2) The sign and associated lighting fixtures should complement the architecture of the building on which it is placed and should be placed in an appropriate location on the building facade.
 - (3) If the building design does not clearly identify the appropriate placement for a sign panel (see Figure 5), then individual letters are encouraged unless there is a clear location for adding panels, such as establishing one or more repetitive, common architectural features in order to create a repetitive sequence. (See Figure 6.)

Figure 5 Figure 6

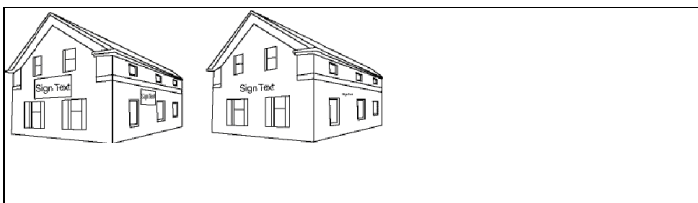


Figure 5 Building with no specific sign placement location using sign affixed

to a panel verses individual letters. Awkward placement of sign panels.

Figure 6 Building is better suited to sign comprised of individual letters.

- (4) Whenever a new or renovated sign is proposed for an existing building:
 - A. It may be determined that building alterations are needed in order for the proposed sign to be properly placed on the building facade.
 - B. Any inappropriate and extraneous elements from past remodeling project(s) should be removed prior to the installation of the proposed sign to improve the clarity and design of the proposed sign and restore the intended character of the building.
- (5) A sign should be confined within the fascia consistent with signs on adjacent buildings and shall not extend beyond the identified signable area on the building or over the edges of the sign panel.
- (6) In multi-occupant buildings, signs for first floor occupants should not extend above the windowsill of the second story unless the establishment is also located on the second floor.
- (7) Colors of the sign and the sign background should be compatible with the building's colors.
- (c) **Specific Standards for Window Signs, Projecting Signs, and Ground Signs.**
 - (1) **Window Signs.** Permanent window signs should be comprised of individual letters, logos, or design elements that are not encompassed by a solid opaque background so as not to obscure the view through the window. (See Figure 7.)



Figure 7 Transparent window sign.

- (2) **Projecting Signs.** The size of the lettering and graphics on a projecting sign should be appropriate for viewing by pedestrians.
- (3) **Ground Signs.** The design and placement of ground signs and associated lighting fixtures should complement the overall visual appearance of the site:
 - A. Ground signs should be designed to relate to and share common design elements with the building and the sign(s) attached to the building.
 - B. Whenever a building is located thirty (30) feet or more from the street, its ground sign should be placed on a solid base.
 - C. Approved year-round landscaping shall be used around the base of the sign to screen lighting fixtures and sources in compliance with Section 1179.08(a)(1)(B). (See Figure 8.)



Figure 8 Signs shall be appropriately landscaped.

- D. When properly screened, the lower two (2) feet of the solid base of a ground sign may be exempt from the sign area calculation. (See Figure 8.)
 - E. Ground signs should be spaced or combined along the street frontage in a manner that ensures that one ground sign does not obscure the view of another ground sign.
 - F. A ground sign that provides a directory of occupants for a multi- occupant building should have simplicity of design to compensate for the additional amount of information provided (i.e. utilize common elements such as the same background color, or other common elements, etc.)
- (d) **Overall Design of Signs (Wall, Awning, Window, Projecting and Ground Signs).**
- (1) The size and shape of the sign shall be in proportion to the space the sign is to occupy:
 - A. A sign (whether comprised of a panel or individual letters) should not exceed approximately 70% of the height and length of the signable area of the building. (See Figures 9, 10 and 11.)



Figure 9 Signable area of building is that portion of a building façade

that can accommodate a sign with an open area framed by the

architectural elements of the building.

Figure 10

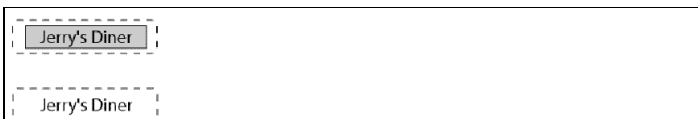


Figure 11

Figure 10 Height and width of sign panel should not exceed 70%

of the height and width of signable area. Height and width

of lettering should not exceed 70% of the height and width of sign panel.

Figure 11 Height and width of sign comprised of individual letters

should not exceed 70% of the height and width of signable area.

- B. The lettering within a sign panel should not exceed approximately 70% of the height and length of the sign panel. (See Figure 10.)
- (2) Elements of the sign should create an overall cohesive design, reflect simplicity, avoid visual clutter and ensure legibility. Each sign should:
- A. Be consolidated into a minimum number of elements, whether words, symbols, or graphics.
 - B. Have a simple shape,
 - C. Have appropriate contrast,
 - D. Be designed with a limited number of, and harmonious use of, colors,
 - E. Be constructed with a minimum number of materials.
- (3) The message should be easy to read from the intended vantage point public street, public sidewalk, or public parking lot - but not be out of scale with the building, site or streetscape.
- A. The ratio of the message to the background should permit easy recognition of the message.
 - B. Lettering size should be the size needed to ensure the sign can be seen from the intended distance.
 - C. The number of items of information displayed should be consistent with the amount of information that can be comprehended by the intended viewer.
 1. Generally ten (10) items or less of information per sign are a typical amount of information the average person can comprehend while driving. This is based upon the principle that the more readable the type face and the better the contrast between the letter and the background, the more readable and comprehensible the sign.
 2. An item of information includes a symbol, geometric shape, logo, word, abbreviation or number, or a grouping of letters and numbers which together convey meaning. For signs combining different shapes, each shape may be considered an item of information. (See Figure 12.)

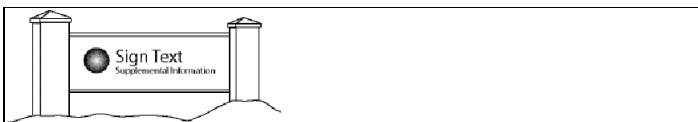


Figure 12 Calculation Number of Items

Logo = 1 item

Sign Text = 2 items

Supplemental Information = 3 items

Total = 6

- D. Lettering and numbers less than three (3) inches in height should only be used when intended to be viewed from a vantage point on the interior of the site, such as after the vehicle has entered the site or by pedestrians.
 - E. For awning signs, the sign graphics should be located on the portion of the awning fabric that hangs perpendicular to the horizontal plane of the ground, below the awning's support structures.
- (4) All plaques hanging from the same projecting sign supports should have a compatible size, shape and color so that the entire projecting sign has an overall cohesive design.
 - (5) All wall signs, projecting signs, ground signs and wall signs mounted on a panel should have a compatible frame or border.
 - (6) The aggregate exterior lighting used to illuminate any one sign face in a residential district should not exceed an initial lumen output of 2850 lumens (equivalent to a 150 watt incandescent A lamp).
- (e) **Sign Construction.** All signs shall be framed, constructed, and erected so as to complement the overall appearance of the building and site as well as the overall appearance of the sign.
- (1) **Sign Graphics.** A sign's graphic elements shall be executed in a professional manner.
 - (2) **General Sign Construction.**
 - A. All signs shall be constructed, and erected in a professional and workmanlike manner.
 - B. Signs shall be structurally sound and located so as to pose no threat to pedestrian or vehicular traffic.
 - (3) **Materials.**
 - A. Signs should be fabricated on and of materials that are of permanent quality, good durability and are complimentary to the building of which they become a part.

- B. Materials used should be those materials that weather well and reduce maintenance.
- C. Signs should have a matte finish, not have a glossy or reflective finish.
- (4) **Framing And Supports.**
 - A. Visible frames or supports for freestanding or projecting signs should be:
 - 1. In scale with the size and character of the building;
 - 2. Designed either as a key element of the sign or minimized so as not to detract from the sign.
 - B. All signs attached to buildings shall be attached in a manner that preserves the historic integrity of the building.
 - C. No part of any sign shall be revolving, oscillating or otherwise designed to move to attract attention.

(Ord. 3-2006. Passed 2-28-06.)

1179.11 ADMINISTRATIVE PROVISIONS.

- (a) **Compliance with this Chapter.** No person shall erect, locate, move, alter, or replace any sign or cause a sign to be located or maintained, unless all provisions of this Chapter have been met.
- (b) **Signs Requiring a Permit.** To ensure compliance with these regulations, a permit shall be obtained for all signs, unless specifically exempted below. All temporary ground signs and banner signs, except ideological signs, shall be registered with the Department of Building, Zoning and Housing on forms provided by the Department of Building, Zoning and Housing.
- (c) **Application Requirements.**
 - (1) An application for a permit shall be made to the Building Commissioner on the form provided and in the manner required.
 - (2) When any person other than the owner of the property submits an application, the owner of the property or an authorized agent for the owner shall also sign such application.
 - (3) Each application shall be accompanied by drawings to scale, showing:
 - A. The design and layout proposed including the total area of the sign, the size, character and color of letters, lines and symbols.
 - B. The method of illumination, if any.
 - C. The exact location of the sign in relation to the building and property.
 - D. Details and specifications for construction, erection and attachment as may be required by the Ohio Basic Building Code.
 - (4) Applicants shall, when required pursuant to this Section, submit a Sign Plan for review and approval by the Architectural Board of Review.
 - A. A Sign Plan shall be required for all multi-occupant buildings and shall be submitted by the owner of a multi occupant building whenever:
 - 1. A new multi-occupant building is constructed; or
 - 2. An existing building is renovated, or remodeled and after the renovation or remodeling, there is more than one occupant that occupies the remodeled or renovated building; or
 - 3. When a replacement sign is proposed for an existing multi-occupant building.
 - B. The Sign Plan shall create a set of specific standards for sign design and placement on the proposed building, and on the site.
 - C. The Sign Plan shall include the following:
 - 1. Building sections and elevations drawn at an appropriate scale.
 - 2. Computation of the maximum total sign area and the maximum area of signs for individual storefronts or building units affected by the Sign Plan.
 - 3. An accurate indication on the elevation/section drawings of the location of each existing and proposed sign.
 - D. The Sign Plan shall specify one or more standards for consistency among all signs on the multi-occupant building(s) included in the Sign Plan with regard to and in the priority of the elements listed below:
 - 1. Uniform sign placement and/or sign height;
 - 2. Uniform size and/or shape;
 - 3. Type of sign construction (materials) and letter components (i.e., sign panel vs. raised letters) and framing;
 - 4. Type of lighting, and the type of lighting fixtures, if any;
 - 5. Uniform background colors or harmonious use of a limited range of complementary background colors, and/or harmonious use of a limited range of complementary colors for the sign lettering.
 - E. The complexity of the Sign Plan shall be based on the level of variety/cohesiveness of the building architecture and the surrounding area. When a building exhibits a high degree of architectural uniformity, the Sign Plan should require a high degree of consistency among sign elements and, therefore, should specify standards for most or all of the elements set forth in subsection (D) above.
- (d) **Sign Review.**
 - (1) The Architectural Board of Review shall review and act on applications for permanent signs that exceed two (2) square feet, according to the standards set forth in this Chapter and the review procedures for development plan review set forth in this Code.
 - (2) The Building Commissioner shall review all temporary signs, except as otherwise specifically exempted below.
 - (3) The erection of the following signs shall not require a permit provided that all applicable regulations of this Chapter are complied with:
 - A. Signplates for residential uses;
 - B. Temporary signs;
 - C. Maintenance of existing signs in compliance with Section 1179.07.
- (e) **Referral of Applications to the Architectural Board of Review.** The Building Commissioner, upon receiving an application, shall examine such plans, specifications and other data and the premises upon which it is proposed to erect the sign or other advertising structure.
 - (1) If it appears that the proposed sign is in compliance with this Chapter and all other ordinances of the City, the application shall be referred to the Architectural Board of Review, when its approval must be obtained before the permit is issued.
 - A. The Architectural Board of Review has the discretion to waive the submission of any items as deemed appropriate.
 - B. When approved by the Architectural Board of Review, the application shall be returned to the Building Commissioner, who shall issue the permit.
 - C. If the work authorized under a permit has not been completed within six (6) months after the date of issuance, the Building Commissioner shall not issue a permit in connection with any application referred to the Architectural Board of Review for review unless the Board approves the same. The Board shall conduct such review as a matter over which it has original jurisdiction.

(Ord. 3-2006. Passed 2-28-06.)

CHAPTER 1180

Regulated Uses

- 1180.01 Purpose.**
- 1180.02 Definitions.**
- 1180.03 Location regulations.**
- 1180.04 Application procedure; waiver provisions.**
- 1180.99 Penalty; equitable remedies.**

CROSS REFERENCES

Obscenity and sex offenses - see GEN. OFF. Ch. 533

1180.01 PURPOSE.

In the enactment, execution and enforcement of this chapter, it is recognized that there are certain uses which, due to the nature of their operation, are recognized as having seriously objectionable operational characteristics, particularly when several of such uses are concentrated in close proximity to each other thereby having a detrimental effect upon the surrounding area. The regulation of these uses is necessary to insure that the detrimental effects will not contribute to the blighting, downgrading or other diminution of property values of the surrounding neighborhood. The primary purpose of these regulations is to prevent a concentration of these uses in any one area. Uses subject to these controls are:

- (a) Adult book store;
- (b) Adult motion picture theatre;
- (c) Adult peep show;
- (d) Massage establishment.

(Ord. 8-90. Passed 3-13-90.)

1180.02 DEFINITIONS.

As used in this chapter, the following terms shall have the following definitions:

- (a) "Adult book store" means an establishment having as a substantial or significant portion of its stock in trade, books, magazines and other periodicals or motion picture films, video tapes or sound recordings which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," (as defined below) or an establishment with a segment or section devoted to the sale or display of such material.
- (b) "Adult motion picture theatre" means an establishment wherein motion pictures are shown which present material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," (as defined below) for observation by patrons therein.
- (c) "Adult peep show" means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas," (as defined below), for observation by patrons therein by means of coin-operated or manually-operated viewing devices.
- (d) "Massage establishment" means an establishment or operation within the meaning of Ohio R.C. 4731.15 and 715.61.
- (e) "Specified sexual activities" and "specified anatomical areas".
 - (1) For the purpose of this section, "specified sexual activities" is defined as:
 - A. Human genitals in a state of sexual stimulation or arousal;
 - B. Acts of human masturbation, sexual intercourse or sodomy; bondage, sadomasochism or bestiality;
 - C. Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
 - (2) "Specified anatomical areas" is defined as:
 - A. Less than completely and opaquely covered:
 - 1. Human genitals, pubic region,
 - 2. Buttock, and
 - 3. Female breast below a point immediately above the top of the areola; and
 - B. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

(Ord. 8-90. Passed 3-13-90.)

1180.03 LOCATION REGULATIONS.

Except as otherwise provided under the waiver provisions of this chapter, no building or land shall hereafter be used for any of the uses set out in Section 1180.01 if:

- (a) The boundaries of the site of the proposed location is within one thousand feet of a residentially-zoned district; or
- (b) The boundaries of the site of the proposed location is within one thousand feet of a church or elementary, intermediate or high school; or
- (c) There are already in existence one or more regulated uses within one thousand feet of the boundaries of the site of the proposed regulated use.

(Ord. 8-90. Passed 3-13-90.)

1180.04 APPLICATION PROCEDURE; WAIVER PROVISIONS.

Applications to establish any of the above regulated uses shall be forwarded immediately by the Building Commissioner to the Planning Commission.

- (a) The Planning Commission may recommend Council waive the one thousand feet separation regulation if, after receiving evidence at a regular meeting, the following specific findings are made:

- (1) That the proposed use will not be contrary to the public interest or injurious to nearby properties, nor adversely affect the general welfare of the neighborhood, and that the spirit and intent of this chapter will be

observed.

- (2) That the proposed use will not enlarge or encourage the development of a "skid row" area.
- (3) That the establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.
- (4) That all applicable regulations of this chapter will be observed.
- (b) Prior to any recommendation granting permission for such regulated use, the Planning Commission shall give due notice of receipt of any application under consideration (Notice of Application) to all persons to whom any real property within one thousand feet of the premises in question shall be addressed, and to the occupants of all single, two, three and four family buildings and to the managers of all multi-unit buildings over four families (who shall be requested to post such notice in an appropriate location within the multi-unit building) and to all places within one thousand feet, and to any neighborhood improvement organizations known to exist in the area (who have informed the Commission in writing of their existence). Such notice shall be delivered personally or by mail addressed to the respective owners and if the tenant's name is not known, the term "Occupant" may be used.
- (c) The Notice of Application shall inform the recipient of the applicant's name, the applicant's proposal, the local address and the lot number and subdivision name of the premises in question, and the section of the Zoning Ordinance under which the proposal is being processed. Such notice shall also invite the expression of comments, statements or opinions either in writing or in person with a time period expiring not less than fourteen days from the mailing date of such Notice of Application.
- (d) Subsequent to the deadline for response to the Notice of Application, a decision shall be made by the Planning Commission (taking into consideration the comments, statements and opinions expressed) to recommend to Council to either approve, approve with conditions or deny the proposal in accordance with the standards set forth in this section. The recommendation of the Planning Commission shall be subject to the approval of Council.
- (e) A copy of the recommendation of the Planning Commission shall be mailed to the applicant and to all persons responding to the Notice of Application informing them that the Commission's recommendation will not take effect pending a public hearing and decision by Council.
- (f) Council may waive the locational requirements upon appeal of any of the regulated uses if the findings required in Section 1180.04(a) are specifically made and after receiving a report and recommendation from the Planning Commission.
- (g) In recommending or approving a permit for any regulated use the Planning Commission or Council may impose any such conditions or limitations upon the establishment, location, construction, maintenance or operation of the regulated use as may in its judgment be necessary for the protection of the public interest. Any evidence and guarantee may be required as proof that the conditions stipulated in connection therewith will be fulfilled.
- (h) When the decision of Council becomes final, Council shall immediately notify the Building Commissioner in writing indicating the approval, approval with conditions (in which case the conditions shall be set out in detail) or denial.

If the decision of Council approves, or approves with conditions, the requested waiver, the Building Commissioner shall, if all other applicable building code and zoning code regulations have been complied with, issue an occupancy permit subject to any conditions imposed.

(Ord. 8-90. Passed 3-13-90.)

1180.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates any provision of this chapter, or any effective rule or regulation promulgated hereunder, or fails to comply therewith or with any written notice or written order issued hereunder, or refuses to permit lawful entry by the Building Commissioner or other city department heads or their representatives, and whoever interferes with, obstructs or hinders the Building Commissioner while he is attempting to make a lawful inspection, is guilty of a misdemeanor of the first degree, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(b) The imposition of any penalty shall not preclude the Director of Law from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance, or to restrain, correct or abate a violation, or to prevent the occupancy of a building, structure or premises or to require compliance with the provisions of this chapter or other applicable laws, ordinances, rules or regulations, or the orders or determinations of the Building Commissioner or Council.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1181

Nonconforming Uses

1181.01 Intent.

1181.02 Establishment of regulations.

1181.03 Nonconforming buildings.

1181.04 Nonconforming land.

1181.05 Nonconforming use of buildings or land.

1181.06 Nonconforming due to amendments.

CROSS REFERENCES

Nonconforming uses, retroactive measures - see Ohio R. C. 713.15

Nonconforming building defined - see ZON. 1123.07(a)

Nonconforming lot defined - see ZON. 1123.07(b)

Nonconforming use defined - see ZON. 1123.07(c)

Nonconforming signs defined - see ZON. 1179.10

1181.01 INTENT.

Regulations for the continuance, maintenance, repair, restoring, moving and discontinuance of nonconforming buildings, land and uses are established in order to achieve, among others, the following purposes:

- (a) To permit the continuance but control of lawful nonconformity so as to minimize any adverse effect on the adjoining properties and development;
- (b) To regulate their maintenance, repair and extension;
- (c) To restrict their rebuilding if substantially destroyed;
- (d) To require their permanent discontinuance if not operated for certain periods; and
- (e) To require conformity if it is discontinued, to bring about eventual conformity in accordance with the objectives of the Master Plan of the City.

(Ord. 72-72. Passed 8-31-72.)

1181.02 ESTABLISHMENT OF REGULATIONS.

Any lawful, nonconforming use existing at the time of the effective date of this chapter (Ordinance 72-72, passed August 31, 1972) may be continued, provided that the building or land or use thereof is not structurally changed, altered, enlarged or moved, unless such altered, enlarged or moved building or use conforms to the provisions of this Zoning Code for the district in which it is located.

The enactment of this chapter shall not be deemed to affect, alter or change any variance heretofore granted by the appropriate administrative or legislative body of the City or by a court of competent jurisdiction upon review of the action of such administrative or legislative body.

(Ord. 72-72. Passed 8-31-72.)

1181.03 NONCONFORMING BUILDINGS.

(a) Maintenance and Repair. A nonconforming building may be continued to be used and normal repairs may be made. Normal repairs include the ordinary maintenance of a building or structure and the replacement of equipment; they do not include the replacement of structural parts except when required by law to restore to a safe condition.

(b) Additions. A nonconforming building may be added to or enlarged, provided the additions are made to conform to all the regulations of the district in which it is located.

(c) Moving. A nonconforming building may be moved to any other location on the same lot or to another lot, provided the building moved will conform with all regulations of the district.

(d) Restoration. Nothing in this chapter shall prevent the restoration of a building damaged by fire, explosion, act of God, or act of a public enemy, subsequent to the effective date of this chapter or shall prevent the continuance of the use of such buildings or part thereof provided that such building is not damaged to an extent more than fifty percent of its reproduction value, and provided further that the restoration is made within two years from the date of damage and that the same use is made of the premises.

(Ord. 72-72. Passed 8-31-72.)

1181.04 NONCONFORMING LAND.

Lots of record prior to passage of the Zoning Code, or amendments thereto which created such nonconforming lot(s) of record, with less area or width than heretofore established may be used in accordance with the following provisions:

(a) In an R-1, R-2, R-3 or RTF District, a single-family dwelling and customary accessory buildings may be erected on any single nonconforming lot of record which existed prior to passage of the Zoning Code or any amendment thereto became effective (Ordinance 72-72, passed August 31, 1972). Such lot must be in separate ownership and not contiguous to another lot or lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district, provided that yard dimensions and requirements other than those applying to area or width, or both, of the lot shall conform to the regulations for the district in which such lot is located. Variances of requirements listed in this Code shall be obtained only through action of the Board of Zoning Appeals and City Council.

(b) Notwithstanding the foregoing, if such lot is contiguous to another lot or lots owned by the same person, all of the contiguous lots owned by the same person shall be merged and resubdivided so as to conform to the more recently enacted zoning requirements to the extent that it is reasonably possible and practical. For the purposes of this section, lots shall be considered as owned by the same person when they are owned by: the same individual or corporation; an individual and another in joint tenancy, as tenants-in-common, or as an estate by the entireties and either of the owners owns other lots individually or as a joint tenant or tenant-in-common with another; when any of the lots are owned by an individual and other lots are owned by his or her spouse, parents, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; when any of the lots are owned by an individual and other lots are owned by a corporation in which such individual is an officer or director or stockholder; and when any of the lots are owned by two or more corporations which have any individual who is an officer, director or stockholder in all of such corporations.

(Ord. 111-95. Passed 2-13-96.)

1181.05 NONCONFORMING USE OF BUILDINGS OR LAND.

"Nonconforming use of buildings or land" means the use of buildings or land existing lawfully at the time this Zoning Code or any amendments thereto became effective (Ordinance 72-72, passed August 31, 1972), but which does not conform to the use regulations of the district in which it is located.

(a) Change or Expansion of Use. A nonconforming use of buildings or land may only be changed to a conforming use. The nonconforming use of a part of a building or a parcel of land shall not be extended unless recommended by the Board of Appeals and approved by Council.

(1) Resumption. No nonconforming use, if discontinued or changed to a use permitted in the district in which it is located, shall be resumed or changed back to a nonconforming use.

(2) Discontinuance. A nonconforming use shall be deemed discontinued for the purpose of this section if no nonconforming use is made of the property for a period of six months.

(b) Change in Building or Expansion. A nonconforming use shall not be moved from one building to any other location on the same lot or another lot unless the use conforms to all the regulations of the district.

(Ord. 72-72. Passed 8-31-72.)

1181.06 NONCONFORMING DUE TO AMENDMENTS.

The foregoing provisions of this chapter shall also apply to buildings, land, structure or other uses hereafter becoming nonconforming as a result of future reclassification of districts or of other amendments made to this Zoning Code.

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1183

Conditional Zoning

- 1183.01 Intent.
- 1183.02 Conditions as part of a rezoning.
- 1183.03 Enforcement and guarantees.
- 1183.04 Records.
- 1183.05 Procedure.
- 1183.06 Final development plan.
- 1183.07 Recommendation by Commission to Council.
- 1183.08 Public hearing by Council.
- 1183.09 Public examination of documents.
- 1183.10 Vote by Council.
- 1183.11 Modification of final plan.
- 1183.12 Effective date of amendment or supplement.
- 1183.13 Zoning map amendments.
- 1183.14 Appeal.

CROSS REFERENCES

Defined - see P. & Z. 1123.03(x)
Zoning Board of Appeals - see P. & Z. Ch. 1185
Enforcement and penalty - see P. & Z. Ch. 1187

1183.01 INTENT.

(a) It is the intent of this section to provide a flexible and adaptable zoning method through conditional zoning, whereby a zoning classification not otherwise provided for in the Zoning Code may be allowed subject to certain conditions, offered by the zoning applicant for the protection of the community, that are not generally applicable to land similarly zoned. Such conditions would restrict, not expand, the uses normally permitted by such zoning classification. No use which is prohibited in any zoning classification shall be permitted as conditional zoning.

(b) Conditional zoning may be applied in any district except residential districts.

(c) Conditional zoning is restricted to uses and projects not specifically authorized in any one zoning classification and shall not be used to permit in any zoning classification a use which is already specifically authorized in another zoning classification. For example, conditional zoning shall not be used to permit in a business use zoning classification any use which is specifically authorized in an industrial use zoning classification.

(d) Each application for conditional zoning shall be based upon the factual situation of the particular property and particular use for which the conditional zoning is applied. The granting of any specific application for any specific use shall not be deemed to be precedent or require the granting of conditional zoning for the same or a similar use for any other.

(Ord. 54-88. Passed 1-10-89.)

1183.02 CONDITIONS AS PART OF A REZONING.

In his conditional zoning request, an owner, prior to public hearings before the Municipal Planning Commission and Council, may agree, in writing, to accept reasonable conditions in addition to the regulations provided for the zoning district provided that:

- (a) The rezoning itself must give rise to the conditions;
- (b) Such conditions shall have a reasonable relation to the rezoning;
- (c) Such conditions shall not include a cash contribution to the City;
- (d) Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities;
- (e) Such conditions shall not include payment for or construction of off-site improvements unless essential to the rezoned use;
- (f) No condition shall be offered that is not related to the physical development or physical operation of the property; and
- (g) All such conditions shall be in conformity with the Continuing Comprehensive Plan.

The initial written statement of the offered conditions, with any supporting materials shall be signed by the owner and made a part of the request for rezoning. The offered conditions shall be explained fully by the owner or his agent at the public hearings before the Planning Commission and Council. At the Planning Commission public hearing, the owner may revise or amend his written statement or may request that the application be continued to a specified future date to allow revision or amendment of his written statement or offered conditions. After the Planning Commission has formally taken action on the application and its offered conditions, the written statement of conditions shall not be further revised or amended without referral back to the Planning Commission for review and processing as a new request.

(Ord. 54-88. Passed 1-10-89.)

1183.03 ENFORCEMENT AND GUARANTEES.

(a) The Building Commissioner shall administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

- (1) The ordering in writing of the remedy of any noncompliance with such conditions;
 - (2) Recommendation for legal action to insure compliance with such conditions including injunction, abatement or other appropriate action or proceeding.
- (b) Council shall require a guarantee in an amount sufficient for and conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by Council, or agent thereof, upon the submission of satisfactory evidence that construction of such improvements has been completed. Failure to meet all conditions shall constitute cause to deny the issuance of an occupancy permit or a zoning certificate.

(c) In any case where the applicant fails to commence or continue construction in accordance with the timetable established in his application, Council may, at its option revoke the conditional zoning by appropriate legislation.

(Ord. 54-88. Passed 1-10-89.)

1183.04 RECORDS.

(a) The official zoning map shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. A Conditional Zoning Index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zoning district or zone. The symbol on the zoning map to designate conditional zoning shall be an asterisk followed by a serial number, as * 1, *2, etc. These symbols, together with the number of the ordinance establishing each, shall also be compiled into a table which shall be shown on the zoning map.

(b) A separate file of these ordinances shall be kept by the Secretary of the Municipal Planning Commission.

(Ord. 54-88. Passed 1-10-89.)

1183.05 PROCEDURE.

(a) The applicant shall, in a letter addressed to the Municipal Planning Commission Chairman, describe the conditions to be incorporated in his rezoning application and the reasons and justification therefor. Four weeks should be allowed for review of the application prior to presentation at the Municipal Planning Commission meeting. The Municipal Planning Commission shall consider this a preliminary plan.

(b) The applicant shall submit to the Commission a preliminary plan of the entire project for which the zoning change is requested. The preliminary plan shall include preliminary study information to validate the following:

- (1) Storm drainage area for storm sewer system;
 - (2) Sanitary system capacity;
 - (3) Water distribution system;
 - (4) Electric distribution system;
 - (5) Emergency ingress and egress arrangements;
 - (6) Street lighting system;
 - (7) Sidewalks.
- (c) In addition to such preliminary plan, the applicant shall supply the following information:
- (1) An expected starting date for the project, relative to the effective date of change in zoning;
 - (2) An expected completion date for the project;
 - (3) The approximate total cost of the project;
 - (4) The expected benefit to the community, e.g. jobs, housing units, recreational facilities, parks, schools, et al.
 - (5) The anticipated impact on the utilities of the Municipality including, but not limited to, the storm sewers, the sanitary sewers and plant and water and electrical usage;
 - (6) The anticipated impact on traffic with suggestions for the resolution of anticipated problems; and
 - (7) The expected environmental impact as to air, water, noise, flora and fauna.

(d) Next, the Commission, with the assistance of the City Engineer and the department heads, shall investigate and ascertain that the location, size and other characteristics of the site in the preliminary plan comply with the following conditions:

- (1) That the proposed project is consistent with the existing growth and development pattern established in the community;
- (2) That it will not adversely affect neighboring property;
- (3) That the project is at a location where traffic congestion does not exist on the streets to be utilized and where objectionable congestion would probably not be created as a result of the project or, if traffic is already a problem at the proposed location, that the traffic situation be analyzed as completely as possible to assure that all reasonable means of minimizing congestion are considered. Turning lanes, one-way routes, limits during certain hours, additional routes, etc. may be indicated.
- (4) That the plan of the project provides for integrated and harmonious design of buildings and for adequate and properly arranged facilities for internal traffic circulation, off-street parking and loading, landscaping and such other features and facilities as may be necessary to make the project attractive and efficient.

(Ord. 54-88. Passed 1-10-89.)

1183.06 FINAL DEVELOPMENT PLAN.

(a) Upon determination by the Planning Commission that the proposed development project as shown by the preliminary plan thereof conforms to the requirements of all applicable provisions of this Zoning Code and the Subdivision Regulations, the proponent shall prepare and submit a final development plan which shall incorporate any changes or modifications required or suggested by the Commission.

(b) The final development plan in ordinance form, shall be submitted to Council where it will be read for the first time and referred to the Commission for formal consideration.

(Ord. 54-88. Passed 1-10-89.)

1183.07 RECOMMENDATION BY COMMISSION TO COUNCIL.

The Planning Commission shall, within sixty days of such reference by Council, after public hearing as required by the Municipal Charter, approve, disapprove or make suggestions concerning the proposed amendment or supplement, and shall submit such recommendation, together with the text and map pertaining thereto, to Council.

(Ord. 54-88. Passed 1-10-89.)

1183.08 PUBLIC HEARING BY COUNCIL.

Before any such proposed amendment or supplement may be passed, Council shall hold a public hearing thereon and shall give thirty days notice of the time and place thereof in a newspaper of general circulation in the Municipality.

(Ord. 54-88. Passed 1-10-89.)

1183.09 PUBLIC EXAMINATION OF DOCUMENTS.

During the thirty-day period following the publication of notice of public hearing, the text or a copy of the text of such amendment or supplement, together with the maps or plans or copies thereof forming part of or referred to in such amendment or supplement, and the maps, plans and reports submitted by the Planning Commission, shall be on file for public examination in the office of the Clerk of Council.

(Ord. 54-88. Passed 1-10-89.)

1183.10 VOTE BY COUNCIL.

Within twenty days after such public hearing, Council shall either adopt or deny the recommendations of the Planning Commission or adopt some modification thereof. No such amendment or supplement which violates, differs from or departs from the recommendation of the Commission shall take effect unless passed or approved by not less than five members of Council.

(Ord. 54-88. Passed 1-10-89.)

1183.11 MODIFICATION OF FINAL PLAN.

Minor modifications and adjustments or rearrangements of the plan may be authorized by the Planning Commission after approval and adoption by Council.

(Ord. 54-88. Passed 1-10-89.)

1183.12 EFFECTIVE DATE OF AMENDMENT OR SUPPLEMENT.

Amendments or supplements adopted by Council shall become effective under the provisions of the Municipal Charter.

(Ord. 54-88. Passed 1-10-89.)

1183.13 ZONING MAP AMENDMENTS.

When an amendment to this Zoning Code, changing the zoning of any area, becomes effective, it shall be the duty of the City Engineer to cause such change to be entered on the Zoning Map on file in the office of the Clerk of Council.

(Ord. 54-88. Passed 1-10-89.)

1183.14 APPEAL.

An applicant for conditional zoning aggrieved by a decision of the Building Commissioner pursuant to Section 1183.03, may petition Council to review such decision.

(Ord. 54-88. Passed 1-10-89.)

CHAPTER 1185

Zoning Board of Appeals

EDITOR'S NOTE: Council by Resolution 88-73, passed October 9, 1973 has approved rules and regulations of the Zoning Board of Appeals relative to procedure and hearings before the Board. Copies of such rules are on file with the Council Clerk.

1185.01 Intent.

1185.02 Organization.

1185.03 Duties and powers.

1185.04 Administrative review.

1185.05 Special approval.

1185.06 Variances.

1185.07 Hearings.

1185.08 Record and report to Council.

1185.09 Fees.

CROSS REFERENCES

Appeals from zoning decisions - see Ohio R. C. 713.11

Variance defined - see ZON. 1123.08(f)

Recommendation of change or expansion of use - see ZON. 1181.05

1185.01 INTENT.

Procedures for the administration and enforcement of this Zoning Code and for making appeals are herein established in order to achieve, among others, the following purposes:

- (a) To provide general procedures and rules for meetings, hearings and appeals; and
- (b) To define the functions of the Zoning Board of Appeals and its relationship with other City officials and boards in administering the Zoning Code.

(Ord. 72-72. Passed 8-31-72.)

1185.02 ORGANIZATION.

(a) The Zoning Board of Appeals, which shall be appointed in accordance with the provisions of the City Charter shall elect at its first meeting in each calendar year, from among its members, a Chairman, a Vice Chairman and a Secretary.

(b) The Board shall prepare rules and regulations as may be necessary to carry into effect the duties, powers and responsibilities conferred herein, consistent with this Zoning Code and including those duties and powers as set forth in the City Charter. Such rules and regulations, before becoming effective, shall be approved by Council.

(Ord. 72-72. Passed 8-31-72.)

1185.03 DUTIES AND POWERS.

In addition to its duties and powers as set forth in the City Charter, the Zoning Board of Appeals shall have the power to act on those matters where this chapter provides for administrative review, to hear and decide all matters specifically referred to it for recommendation or decision in provisions of this and other codes of the City, and to recommend to Council a variance as defined in this chapter, the City Charter and the laws of the State.

(Ord. 72-72. Passed 8-31-72.)

1185.04 ADMINISTRATIVE REVIEW.

(a) The Zoning Board of Appeals shall hear and decide appeals de novo where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the Director of Public Safety, or any other administrative official in carrying out or enforcing any provision of this Zoning Code.

(b) To be considered, the appellant shall, within thirty days after the date of such decision, file in the office of the Director of Public Safety and of the Board a notice of appeal specifying the decision or section of this Zoning Code from which the appeal is sought, the error alleged and all necessary data in accordance with the form provided by the City.

(c) Within its powers, the Board may reverse or affirm, wholly or in part, or modify such order, requirement, permit, decision or determination appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to have been made under the circumstances and to that end, shall have all the powers of the officer from whose decision the appeal is taken.

(Ord. 72-72. Passed 8-31-72.)

1185.05 SPECIAL APPROVAL.

The Zoning Board of Appeals, in addition to the general duties and powers conferred upon it by law, may, in specific cases and subject to Council approval, interpret and determine the application of the regulations herein established in harmony with their general purpose and intent as follows:

- (a) Permit the erection of additional buildings or the enlargement of existing buildings or uses on the same parcel of land, or one contiguous thereto, each in the same single ownership of record at the time of passage of this chapter, for a legal nonconforming business or activity located in a district restricted against such use, where the enlargement or expansion of such business or activity will not be detrimental to or tend to alter the character of the neighborhood or district.
- (b) Permit the erection and use of a building or an addition to an existing building of a public service corporation or for public utility purposes, in any permitted district to a greater height or of larger area than the district requirements herein established, and permit the location in any use district of a public utility building, structure or use if the Board finds such use, height, area, building or structure reasonably necessary for the public convenience and service and provided such building, structure or use is designed, erected and landscaped to conform harmoniously with the general architecture and plan of such district.
- (c) Permit in residence districts the erection of temporary bulletins, memorial markers or other signs not used for purposes of commercial advertising, in excess of four square feet in surface area, under such temporary permit and conditions as will prevent them from becoming dilapidated or unsightly or a menace to the public health, safety or general welfare.
- (d) Permit variations in the provisions in the Zoning Code for the erection and use of buildings on farms for normal farm purposes, requiring however, that such buildings shall conform to all the provisions of this Zoning Code insofar as is practicable.
- (e) The Board, upon making various determinations, shall endeavor to protect adjoining property, to assure safety of pedestrians and convenience of traffic movements within the area under consideration, and may require the provision of curbs, guard rails, walls, fences or other landscape or protective features, and their maintenance, to further the purposes of this Zoning Code.

(Ord. 72-72. Passed 8-31-72.)

1185.06 VARIANCES.

(a) The Zoning Board of Appeals is authorized to recommend to Council, upon appeal, a variance from the strict application of the provisions of this Zoning Code which would result in practical difficulties to a property owner where:

- (1) The literal application of the provisions of this Zoning Code would result in undue hardship. Hardships which are unavoidable if the purpose and intent of this Zoning Code are to be realized, such as a theoretical loss or limiting possibilities of economic advantage, are general hardships, not undue hardships; likewise an undue hardship cannot be based on conditions created by the owner. It must be found that there are peculiar and special hardships applicable to the property involved which are separate and distinct from the general hardship prevailing in the districts;
 - (2) Where unique or exceptional circumstances or conditions apply only to the property involved or to the intended use of the property and do not apply to other property within the same zone. No variance shall constitute a grant of special privilege to an individual, when the variance would be necessarily denied to others. It must be found that there are unique or exceptional conditions justifying a variance on one lot, such as topographical or geological conditions, or type of adjoining developments and that a variance would be justified on any lot where similar, unique or exceptional circumstances prevail;
 - (3) Where granting of a variance will not be injurious to the property or improvements in the neighborhood in which the property is located or be materially detrimental to the public welfare. The existence of undue hardship or other exceptional circumstances shall not be ipso facto evidence for granting of a variance, for such hardships shall be balanced against the present conditions and extent to which such a variance would interfere with the proper future development and rights of adjacent property; and
 - (4) Where the granting of a variance will not be contrary to the purpose, intent and objectives of this Zoning Code and the Master Plan of the City.
- (b) In recommending a variance, the Board may recommend and attach thereto such conditions regarding the location, character and other features of the proposed uses as it may deem reasonable in furtherance of the purpose of this Zoning Code. In recommending a variance, the Board shall state the grounds on which it justifies its recommendation.
- (c) A variance once approved by Council shall not be withdrawn or changed unless there is a change of circumstances, or if, after the expiration of one year, no construction is done in accordance with the terms and conditions for which such variance was granted, the Building Inspector shall give a notice in writing, and thirty days thereafter, the variance shall be deemed null and void, and all regulations governing the premises in question shall revert to those in effect before the variance was granted.

(Ord. 72-72. Passed 8-31-72.)

1185.07 HEARINGS.

- (a) If an appeal or an application for other decisions accompanied by all required information, is received prior to ten days before a regularly scheduled meeting of the Zoning Board of Appeals, the Board shall act within sixty days of such meeting and failure to act within such period shall be considered Board approval of the appeal unless an extension of time is granted by Council. Before making any decisions or recommendations on a variance, the Board shall hold a public hearing or hearings, at such times as shall be determined by the Board itself.
- (b) Notice of the time, place and date of hearings on appeal or applications to the Board for property located in an R-1 or R-2 Single-Family Residential District shall be given to the abutting residents and those within five building lots on each side of the property, upon both sides of the street, to which the variance or application applies. In the event the proposed location is a corner lot, notification shall be given to all residents within five building lots of the intersection for each street forming the intersection. Such notice shall be in writing and delivered by first class mail or personal service at least fourteen days prior to the date of the hearing at which the appeal or application will be considered by the Board. The addresses of those persons to be notified shall be as they appear on the County Auditor's current tax list, the Treasurer's mailing list or such other list or lists that may be specified by the Board. Nothing in this subsection shall prevent or prohibit the Board from advertising the time, date and place of the hearing, including the subject matter thereof, in a newspaper of general circulation in the City, once prior to the hearing in those cases wherein the Board determines to publish such notice.

(Ord. 127-76. Passed 1-25-77.)

- (c) Notices of the time, place and date of hearings for appeals or applications for variances in any district other than an R-1 or R-2 Single-Family Residential District shall be mailed to the appellant and to adjacent property owners as they may appear on the County Auditor's current tax list or the Treasurer's mailing list, and be published at least once in a newspaper of general circulation in the City at least ten days prior to the date of the hearing at which the appeal or the application will be considered.

(Ord. 14-98. Passed 4-14-98.)

- (d) All hearings conducted by the Board shall be open to the public. Any person may appear and testify at a hearing, either in person or by duly authorized agent or attorney. The Board shall have the power to subpoena and require the attendance of witnesses, to administer oaths, to compel testimony, to produce reports, findings and other evidence pertinent to any issue referred to it for action.

- (e) If an appeal has been denied by Council, the Board need not reconsider the same appeal if resubmitted within six months after the date of decision unless the underlying conditions have substantially changed.

(Ord. 127-76. Passed 1-25-77.)

1185.08 RECORD AND REPORT TO COUNCIL.

- (a) The Zoning Board of Appeals is authorized to engage the services of a secretary, and shall provide a detailed report of all its proceedings, setting forth its reasons for decisions, the vote of each member participating therein and the absence of a member or his failure to vote. Upon issuance by the Board of any ruling, determination, order or recommendation, the Chairman of the Board shall transmit within ten days of the date of such ruling, determination, order or recommendation, a copy of the record thereof to the Clerk of Council, and such record, including conditions prescribed by the Board, shall be filed and posted for two weeks in the offices of the Director of Public Safety.

The report shall be open to public inspection and copies shall be mailed forthwith to each interested party noted therein.

- (b) Council shall act upon matters reported or recommended to it as follows:

- (1) Whenever the Board of Zoning Appeals of the City, pursuant to Section 1185.05, issues any ruling, determination, order or recommendation to Council requiring action thereon by Council for the approval, confirmation or disapproval of the same, the record thereof shall be reviewed by the Planning and Zoning Committee of Council and report made thereon to the Committee of the Whole.
- (2) The Planning and Zoning Committee of Council and the Committee of the Whole shall apply the provisions of Sections 1185.05, Special Approval, and 1185.06, Variances, upon the basis of the record submitted to Council by the Board of Zoning Appeals pursuant to Section 1185.08 and such other evidence which may be submitted for Council's determination.
- (3) If Council finds that the recommendation of the Board of Zoning Appeals is supported by reliable, substantial and probative evidence and conforms to the standards as set forth in Chapter 1185 of the Planning and Zoning Code of these Codified Ordinances, it shall confirm the action of the Board of Zoning Appeals.
- (4) If Council finds the recommendation of the Board of Zoning Appeals is not supported by reliable, substantial and probative evidence and does not conform to the standards set forth in Chapter 1185, it shall refuse to confirm the action of the Board of Zoning Appeals and set forth in writing the specific reasons for such refusal to confirm such action.
- (5) In the event the Board of Zoning Appeals fails to recommend a variance or takes no action, Council may, upon the basis of the record and the application of the provisions of Section 1185.05, Special Approval, Section 1185.06, Variances, and this Section, reverse the action of the Board and grant the special use or variance requested.
- (6) The Council may reverse or affirm, wholly or in part, or modify any recommendation of the Board of Zoning Appeals as, in Council's opinion, ought to have been made under the circumstances.
- (7) Council shall notify in writing each applicant or appellant of its action upon the ruling, determination, order or recommendation of the Board of Zoning Appeals.

(Ord. 55-87. Passed 7-14-87.)

1185.09 FEES.

Council may from time to time establish fees to be charged for the following proceedings:

- (a) Administrative review proceedings (the fee shall be returned to the appellant if he prevails).
- (b) Applications for special approval proceedings.
- (c) Applications for variance proceedings.

(Ord. 72-72. Passed 8-31-72.)

CHAPTER 1187

Enforcement and Penalties

1187.01 Enforcement.

1187.99 Penalty.

Violation of zoning ordinances - see Ohio R.C. 713.13
Zoning Board of Appeals - see ZON. Ch. 1185

CROSS REFERENCES

1187.01 ENFORCEMENT.

The provisions of this Zoning Code shall be enforced by the Director of Public Safety, or the Commissioner of Building, Zoning and Housing, as the Director's designee.

(Ord. 61-2019. Passed 6-11-19.)

1187.99 PENALTY.

The owner or owners of any building or premises or part thereof, where anything in violation of this Zoning Code is placed or exists, and any architect, builder or contractor who may be employed to assist in the commission of any such violation and all persons or corporations who violate any of the provisions of this Zoning Code or fail to comply therewith, or any requirements thereof, or who build in violation of a detailed statement of plans submitted and approved thereunder, is for every violation or noncompliance, guilty of a misdemeanor of the first degree for each offense. Each day that a violation or noncompliance exists shall be held and deemed to be a separate offense. Any building which is erected, altered, converted or moved or any use of land which is begun or changed subsequent to August 31, 1972, and is found to be in violation of any of the provisions of this Code is hereby declared a nuisance per se, and the City through its qualified officers, may institute proceedings in any court of competent jurisdiction for the purpose of enforcing this Code. The Director of Public Safety, the legislative body of the City, the Zoning Board of Appeals or any court having competent jurisdiction shall order such nuisance abated and the owner or agent in charge of such building or land shall be adjudged guilty of maintaining a nuisance per se. The rights and remedies provided herein are cumulative and in addition to all other remedies provided by law.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1189

Amendments

1189.01 Procedure.

Council may amend districting or zoning - see Ohio R.C. 713.10
Nonconformities due to amendments - see ZON. 1181.06

CROSS REFERENCES

1189.01 PROCEDURE.

Amendments or supplements to this Zoning Code may be made from time to time in the manner as provided by the ordinances of the City, the City Charter and the laws of the State, however, every petition for a zoning amendment shall be accompanied by a fee. The amount of the fee shall be established by Council and may be changed from time to time, always to hold a reasonable relationship with the necessary costs and expenses, direct or indirect, which may be incurred by reason of publication and the holding of hearings incident to such petitions for zoning amendment.

The fee accompanying the petition, regardless of the ultimate decision, is not refundable.

(Ord. 72-72. Passed 8-31-72.)

TITLE SEVEN – Storm Water Management

Chap. 1190. Definitions.
Chap. 1191. Administration.
Chap. 1192. Disclaimer of Liability.
Chap. 1193. Conflicts, Severability, Nuisances and Responsibility.
Chap. 1194. Illicit Connections and Discharges.
Chap. 1195. Erosion and Sediment Control.
Chap. 1196. Comprehensive Stormwater Management.
Chap. 1197. Riparian Areas and Wetlands.
Chap. 1198. Protected Hillside Zone.

CHAPTER 1190

Definitions

1190.01 Definitions.

CROSS REFERENCES

General Code definitions - see ADM. 101.02

1190.01 DEFINITIONS.

For purposes of this title and unless stated otherwise, the following terms shall have the meaning herein indicated:

- (1) "Acre": A unit of measure equaling forty-three thousand five hundred sixty (43,560) square feet.
- (2) "Approving Authority": The official responsible for administering the applicable program(s).
- (3) "Best Management Practices" ("BMPs"): Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and wetlands. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction runoff, spillage, or leaks; sludge or waste disposal; or drainage from raw material storage.

- (4) "Certified Professional in Erosion and Sediment Control" ("CPESC"): A person that has subscribed to the Code of Ethics and have met the requirements established by the CPESC Council of Certified Professional In Erosion and Sediment Control, Inc. to be a Certified Professional In Erosion and Sediment Control.
- (5) "Channel": A natural bed that conveys water or a ditch excavated for the flow of water.
- (6) "City": Throughout this regulation, this shall refer to the City of Richmond Heights, its designated representatives, including the office of the City Engineer, its duly constituted boards and commission and third party organizations under contract to the City such as Cuyahoga Soil and Water Conservation District.
- (7) "Clean Water Act": Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4, 33 U.S.C. 1251 et seq. Formally referred to as the Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972.
- (8) "Concentrated Storm Water Runoff": Surface water runoff which converges and flows primarily through water conveyance features such as swales, gullies, waterways, channels or storm sewers, and which exceeds the maximum specified flow rates of filters or perimeter controls intended to control sheet flow.
- (9) "Conservation": The wise use and management of natural resources.
- (10) "Construction Activity": Activities subject to NPDES Construction Permits. Currently these include construction projects resulting in land disturbance of five (5) acres or more. Beginning in March 2003, NPDES Storm Water Phase II permits will be required for construction projects resulting in land disturbance of 1 acre or more. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition.
- (11) "Critical Storm": A storm that is calculated by means of the percentage increase in volume of runoff by a proposed development area. The critical storm is used to calculate the maximum allowable storm water discharge rate from a developed site.
- (12) "Cut": An excavation that reduces an existing elevation, as in road or foundation construction.
- (13) "Damaged or Diseased Trees": Trees that have split trunks; broken tops; heart rot; insect or fungus problems that will lead to imminent death; undercut root systems that put the tree in imminent danger of falling; leaning as a result of root failure that puts the tree in imminent danger of falling, or any other condition that puts the tree in imminent danger of being uprooted or falling.
- (14) "Designated Watercourse": A watercourse that is contained within, flows through, or borders the City and meets the criteria set forth in these regulations.
- (15) "Deteriorated Structure": A structure which has sustained substantial damage from any origin whereby the cost of restoring the structure to its before damaged condition would be equal to, or greater than, fifty percent (50%) of the market value of the structure before the damage occurred.
- (16) "Development Area": A parcel or contiguous area owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional or other construction or alteration that changes runoff characteristics.
- (17) "Disturbed Area": An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- (18) "Ditch": An open channel, either human made or natural, for the purpose of drainage or irrigation with intermittent flow.
- (19) "Drainage":
 - (a) The area of land contributing surface water to a specific point.
 - (b) The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (20) "Dumping": The grading, pushing, piling, throwing, unloading or placing of soil or other material.
- (21) "Earth Disturbing Activity": Any grading, excavating, filling, drilling or other alteration of the earth's surface where natural or man-made ground cover is destroyed and which may result in or contribute to erosion and sediment pollution.
- (22) "Earth material": Any soil, sediment, rock, sand, gravel and organic material or residue associated with or attached to the soil.
- (23) "Earth moving": Any excavating, cutting or filling, or any stockpiling thereof.
- (24) "Erosion": The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of these forces.
- (25) "Erosion and Sediment Control": The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.
- (26) "Existing": The present condition of the land at the time of adoption of this Title.
- (27) "Federal Emergency Management Agency" ("FEMA"): The agency with overall responsibility for administering the National Flood Insurance Program.
- (28) "Fill": Depositing of soil, rock or other materials by other than natural means.
- (29) "Finish grade": The final grade or elevation of the ground surface after grading is completed.
- (30) "Grade": The rise or descent of a sloping surface.
- (31) "Grading": Earth disturbing activity such as excavation, stripping, cutting, filling, stockpiling, or other combination thereof.
- (32) "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.
- (33) "Hillside control measures": All of the planning work and control that is required and specified by this title.
- (34) "Illegal Discharge": Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 1194.03.
- (35) "Illicit Connection": 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 connection 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 authorized enforcement agency 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 the City or any other approving authority.
- (36) "Impervious Cover" or "Impervious Surface": Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.
- (37) "Industrial Activity": Activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26(b)(14).
- (38) "Intermittent Stream": A natural channel that may have some water in pools but where surface flows are non-existent or interstitial (flowing through sand and gravel in stream beds) for periods of one week or more during typical summer months.
- (39) "Landscape Architect": A Professional Landscape Architect registered in the State of Ohio.
- (40) "Landslide": The rapid mass movement of soil and rock material downhill under the influence of gravity in which the movement of the soil mass occurs along an interior surface of sliding.
- (41) "Larger Common Plan of Development or Sale": A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (42) "Maximum Extent Practicable": The level of pollutant reduction that site owners/operators of small municipal separate storm sewer systems regulated by 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Storm Water Phase II, must meet.
- (43) "National Wetlands Inventory Map": Wetland maps that were created by the Fish and Wildlife Service, United States Department of Interior.
- (44) "Natural gradient": The rate of ascent or descent of natural ground surfaces or natural terrains.
- (45) "Natural ground surface" or "natural terrain": The ground surface in its original state before any grading, excavation or filling.
- (46) "Natural Resources Conservation Service" ("NRCS"): An agency of the United States Department of Agriculture, formerly known as the Soil Conservation Service (SCS).
- (47) "Natural vegetation": Plant materials and trees which are indigenous to the area and exist on a site prior to any vegetation destruction, construction, earth moving or earth disturbing activity.
- (48) "Non-Storm Water Discharge": Any discharge to the storm drain system that is not composed entirely of storm water.
- (49) "Nonstructural Storm Water Management Practice": Storm water runoff control and treatment techniques that use natural measures to control runoff and/or reduce pollution levels, and do not require extensive construction efforts and/or do promote runoff control and/or pollutant reduction by eliminating the runoff and/or pollutant source.
- (50) "Noxious Weed": Any plant species defined by the Ohio Department of Agriculture as a "noxious weed" and listed as such by the Department. For the purposes of this regulation, the most recent version of this list at the time of application of these regulations shall prevail.
- (51) "National Pollutant Discharge Elimination System" ("NPDES"): a regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- (52) "National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" or "NPDES Permit": 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 and derived from the Federal Clean Water Act.
- (53) "Ohio EPA": The Ohio Environmental Protection Agency.
- (54) "Ohio Wetlands Inventory Map": Wetland maps that were created by the Natural Resources Conservation Service, USDA and the Ohio Department of Natural Resources.
- (55) "One Hundred (100) Year Floodplain": Any land susceptible to being inundated by water from a base flood. The base flood is the flood that has a one percent (1%) or greater chance of being equaled or exceeded in any given year. For the purposes of this regulation, the one hundred (100) year floodplain shall be defined by FEMA or a site-specific Floodplain Delineation in conformance with standard engineering practices and approved by the City.
- (56) "Ordinary High Water Mark": The point of the bank or shore to which the presence and action of surface water is so continuous as to leave a district marked by erosion, destruction or prevention of woody terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.
- (57) "Outfall": An area where water flows from a structure such as a conduit, storm sewer, improved channel or drain, and the area immediately beyond the structure which is impacted by the velocity of flow in the structure.
- (58) "Owner": Any person, as defined herein, holding fee simple title to the property or option to purchase the property proposed for development.
- (59) "Perennial Stream": A natural channel that contains water throughout the year, except possibly during period of extreme drought.
- (60) "Person": Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.
- (61) "Phasing": Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- (62) "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 objections, 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.
- (64) "Post-Development": The conditions which exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, or direction of storm water runoff.
- (65) "Pre-Development": The conditions which exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, or direction of storm water runoff.
- (66) "Premises": Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (67) "Professional Engineer": A Professional Engineer registered in the State of Ohio.
- (68) "Professional Soil Scientist": An individual certified by American Registry of Certified Professionals in Agronomy, Crops and Soils or affiliated registries such as the Association of Ohio Pedologists, that meet the educational and practical experience standards, subscribe to the code of ethics, and qualify for identification as professionals.
- (69) "Professional Wetland Consultant" or "Qualified Wetland Professional": Individuals competent in the areas of botany, hydric soils and wetland hydrology that provide professional services or advice, and meet the education and professional experience requirements as required by the Society of Professional Wetland Scientists.
- (69) "Protected Hillside Zone": Those areas within the City meeting the criteria set forth in Section 1198.04.
- (70) "Protective Setback": A designated transition area around a water resource or wetland left in a natural, usually vegetated, state so as to protect the water resource or wetland from runoff pollution. Construction activities in this area are restricted or prohibited as required in these regulations.
- (71) "Qualified Forester": Any forester employed by the Ohio Department of Natural Resources, Division of Forestry, or any person attaining the credential of Certified Forester as conferred by the Society of American Foresters.
- (72) "Rainwater and Land Development": Ohio's standards for storm water management, land development and urban stream protection. The most current edition of these standards shall be used with this regulation.
- (73) "Redevelopment": The demolition or removal of existing structures or land uses and construction of new ones.
- (74) "Retention Basin": A storm water management pond that maintains a permanent pool of water. These storm water management ponds include a properly engineered/designed volume dedicated to the temporary

- storage and slow release of runoff waters.
- (75) "Riparian Area": Naturally vegetated land adjacent to watercourses which, if appropriately sized, helps to limit erosion, reduce flood flows, and/or filter and settle out runoff pollutants, or which performs other functions consistent with the purposes of this title.
- (76) "Riparian Setback": Those lands within the City which are alongside streams, and which fall within the area defined by the criteria set forth in this title.
- (77) "Runoff": The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.
- (78) "Sediment": The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.
- (79) "Sediment Control": The limiting of sediment being transported, by controlling erosion or detaining sediment-laden water, and allowing the sediment to settle out.
- (80) "Sediment Pollution": A failure to use management or conservation practices to control wind or water erosion of the soil and to minimize the degradation of water resources by soil sediment in conjunction with land grading, excavating, filling, or other soil disturbing activities on land used or being developed for commercial, industrial, residential, or other purposes.
- (81) "Sedimentation": The deposition or settling of sediment.
- (82) "Sensitive Area": An area or water resource that requires special management because of its susceptibility to sediment pollution, or because of its importance to the wellbeing of the surrounding communities, region, or the state and includes, but is not limited to, the following:
- (1) Ponds, wetlands or small lakes with less than five (5) acres of surface area.
 - (2) Small streams with gradients less than ten (10) feet per mile with average annual flows of less than three and one-half (3.5) feet per second containing sand or gravel bottoms.
 - (3) Drainage areas of a locally designated or an Ohio designated Scenic River.
 - (4) Riparian and wetland areas.
- (83) "Sheet Flow": Water runoff in a thin uniform layer or rills and which is of small enough quantity to be treated by sediment barriers.
- (84) "Siviculture": The theory and practice of controlling forest establishment, composition and growth.
- (85) "Slip": Landslide as defined herein.
- (86) "Slope": An inclined ground surface; the inclination is expressed as a ratio of the horizontal distance to the vertical distance.
- (87) "Sloughing": 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.
- (88) "Soil": Unconsolidated erodible earth material consisting of minerals and/or organics.
- (89) "Soil Conservation Service, USDA": The federal agency now titled the "Natural Resources Conservation Service," which is an agency of the United States Department of Agriculture.
- (90) "Soil Disturbing Activity": Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, increased storm water quantity and/or decreased storm water quality.
- (91) "Soil Erosion and Sediment Control Plan": A written and/or drawn soil erosion and sediment pollution control plan to minimize erosion and prevent off-site sedimentation throughout all earth disturbing activities on a development area.
- (92) "Soil Erosion and Sediment Control Practices": Conservation measures used to control sediment pollution and including structural practices, vegetative practices and management techniques.
- (93) "Soil Survey": The official soil survey produced by the Natural Resources Conservation Service, USDA in cooperation with the Division of Soil and Water Conservation, ODNR and the local Board of County Commissioners.
- (94) "Soil & Water Conservation District": An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s), hereinafter referred to as Cuyahoga SWCD.
- (95) "Stabilization": The use of Best Management Practices, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.
- (96) "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.
- (97) "Storm Water": Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (98) "Storm Water Conveyance System": All storm sewers, channels, streams, ponds, lakes, etc., used for conveying concentrated storm water runoff, or for storing storm water runoff.
- (99) "Storm Water Management Plan" ("SWM Plan"): The written document meeting the requirements of Chapter 1196 that sets forth the plans and practices to be used to minimize storm water runoff from a development area and to safely convey or temporarily store and release post-development storm water runoff at an allowable rate to minimize flooding and erosion.
- (100) "Storm Water Pollution Prevention Plan" ("SWP3"): The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.
- (101) "Stream": A body of water running or flowing on the earth's surface, or a channel in which such flow occurs. Flow may be seasonally intermittent.
- (102) "Structural Storm Water Management Practice": Any human made facility, structure, or device that is constructed to provide permanent or temporary conveyance, storage or treatment of storm water runoff.
- (103) "Substantial Damage": Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would be equal to, or greater than, fifty percent (50%) of the market value of the structure before the damage occurred.
- (104) "U.S. EPA": The United States Environmental Protection Agency.
- (105) "Unstable Soils": A portion of land that is identified by the City as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resources Conservation Service methodology as having low soil strength.
- (106) "Wastewater": Any water or other liquid, other than uncontaminated storm water, discharged from a facility.
- (107) "Water Resource": Any public or private body of water including lakes or ponds, as well as any brook, creek, river, or stream having banks, a defined bed, and a definite direction of flow, either continuously or intermittently flowing.
- (108) "Watercourse": Any natural, perennial, or intermittent channel, stream, river or brook.
- (109) "Watershed": The total drainage area contributing storm water runoff to a single point.
- (110) "Wetland": Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation, typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).
- (111) "Wetland, Ohio EPA Category 2 Wetlands": Those wetlands classified by the Ohio EPA as Category 2 wetlands under OAC 3745-1-54(C)(2), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this title.
- (112) "Wetland, Ohio EPA Category 3 Wetlands": Those wetlands classified by the Ohio EPA as Category 3 wetlands under OAC 3745-1-54(C)(3), or current equivalent Ohio EPA classification, in accordance with generally accepted wetland functional assessment methods acceptable to the U.S. Army Corps of Engineers and Ohio EPA at the time of application of this title.
- (113) "Wetland Setback": Those lands within the City that fall within the area defined by the criteria set forth in this title.
- (114) "Winter": October 1st to April 1st of each year.
(Ord. 75-2011. Passed 1-10-12.)

CHAPTER 1191

Administration

1191.01 Responsibilities of the City.

1191.02 Delegation of powers or duties.

CROSS REFERENCES

Conflicts, severability, nuisances and responsibility - see P. & Z. Ch. 1193

1191.01 RESPONSIBILITIES OF THE CITY.

The City shall administer the provisions of this Title Seven, shall be responsible for determination of compliance with its provisions, and shall issue such notices and orders as may be necessary. The City may consult with the Cuyahoga SWCD, state and federal agencies and other technical experts as necessary. Any costs associated with such consultations may be assessed to the applicant or his or her designated representative.
(Ord. 19-2007. Passed 5-8-07.)

1191.02 DELEGATION OF POWERS OR DUTIES.

Any powers granted or duties imposed upon the authorized enforcement agency by the provisions of this Title Seven may be delegated in writing by the Mayor to persons or entities acting in the beneficial interest of or in the employ of the City.
(Ord. 19-2007. Passed 5-8-07.)

CHAPTER 1192

Disclaimer of Liability

1192.01 General disclaimer.

1192.01 GENERAL DISCLAIMER.

(a) Compliance with the provisions of this Title Seven shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this Title Seven are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

(b) By approving any plan under this Title Seven, the City of Richmond Heights does not accept responsibility for the design, installation, and operation and maintenance of erosion and sediment control practices.
(Ord. 75-2011. Passed 1-10-12.)

CHAPTER 1193

Conflicts, Severability, Nuisance and Responsibility

1193.01 Conflicts, severability, nuisance and responsibility.

CROSS REFERENCES

Administration - see P. & Z. Ch. 1191

1193.01 CONFLICTS, SEVERABILITY, NUISANCE AND RESPONSIBILITY.

(a) Where a provision of this Title Seven is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.

(b) If any clause, section, or provision of this title is declared invalid or unconstitutional by a court of competent jurisdiction, validity of the remainder shall not be affected thereby.

(c) The provisions of this title shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this title shall not be a defense in any action to abate such a nuisance.

(d) Failure of the City to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from responsibility for the condition or damage resulting therefrom, and shall not result in the City, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. 75-2011. Passed 1-10-12.)

CHAPTER 1194

Illicit Connections and Discharges

1194.01 Purpose.

- 1194.02 Definitions.
- 1194.03 Applicability.
- 1194.04 Ultimate responsibility.
- 1194.05 Discharge prohibitions.
- 1194.06 Suspension of MS4 access.
- 1194.07 Industrial or construction activity discharges.
- 1194.08 Monitoring of discharges.
- 1194.09 Requirement to prevent, control and reduce storm water pollutants by the use of Best Management Practices.
- 1194.10 Watercourse protection.
- 1194.11 Notification of spills.
- 1194.12 Enforcement.
- 1194.13 Appeal of notice of violation.
- 1194.14 Enforcement measures after appeal.
- 1194.15 Cost of abatement of the violation.
- 1194.16 Injunctive relief.
- 1194.17 Compensatory action.
- 1194.18 Violations deemed a public nuisance.
- 1194.19 Recovery of costs and expenses of enforcement.
- 1194.20 Remedies not exclusive.
- 1194.99 Penalty.

CROSS REFERENCES

Prohibited discharges into sewers - see S.U. & P.S. 931.03

1194.01 PURPOSE.

The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of the City of Richmond Heights, 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 chapter 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 chapter are:

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water 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 chapter.

(Ord. 19-2007. Passed 5-8-07.)

1194.02 DEFINITIONS.

For the purposes of this chapter, the following shall mean:

- (a) "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 storm water, receiving waters, or storm water 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.
- (b) "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.
- (c) "Storm Water 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 Storm Water, Storm Water Conveyance Systems, and/or Receiving Waters to the Maximum Extent Practicable. (See Chapter 1195, Erosion and Sediment Control.)

(Ord. 19-2007. Passed 5-8-07.)

1194.03 APPLICABILITY.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the City of Richmond Heights.

(Ord. 19-2007. Passed 5-8-07.)

1194.04 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. 19-2007. Passed 5-8-07.)

1194.05 DISCHARGE PROHIBITIONS.

(a) Prohibition of Illegal Discharges: 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 chapter: 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 authorized enforcement agency as being necessary to protect public health and safety.
- (3) Dye testing is an allowable discharge, but requires a verbal notification to the City 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.

(b) Prohibition of Illicit Connections:

- (1) The construction, use, maintenance or continued existence of illicit connections to the storm drain system is prohibited.
- (2) 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.
- (3) 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. 19-2007. Passed 5-8-07.)

1194.06 SUSPENSION OF MS4 ACCESS.

(a) Suspension due to Illicit Discharges in Emergency Situations: The City 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 City 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 City will notify a violator of the proposed termination of its MS4 access. The violator may petition the City for a reconsideration and hearing.

(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 authorized enforcement agency. (Ord. 19-2007. Passed 5-8-07.)

1194.07 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 prior to the allowing of discharges to the MS4.

(Ord. 19-2007. Passed 5-8-07.)

1194.08 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:

- (1) The City shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. 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 City.
- (2) Facility operators shall allow the City 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.
- (3) The City shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the City to conduct monitoring and/or sampling of the facility's storm water discharge.
- (4) The City 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 storm water flow and quality shall be calibrated to ensure their accuracy.
- (5) 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 City and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (6) Unreasonable delays in allowing the City 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 City reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this chapter.
- (7) If the City has been refused access to any part of the premises from which storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 19-2007. Passed 5-8-07.)

1194.09 REQUIREMENT TO PREVENT, CONTROL AND REDUCE STORM WATER POLLUTANTS BY THE USE OF BEST MANAGEMENT PRACTICES.

The City 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 storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 19-2007. Passed 5-8-07.)

1194.10 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. 19-2007. Passed 5-8-07.)

1194.11 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 City 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 City within three (3) 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 (3) years.

(Ord. 19-2007. Passed 5-8-07.)

1194.12 ENFORCEMENT.

(a) Notice of Violation. Whenever the City finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the City may order compliance by written notice of violation to the responsible person. Such notice may require without limitation:

- (1) The performance of monitoring, analyses, and reporting;
- (2) The elimination of illicit connections or discharges;
- (3) That violating discharges, practices, or operations shall cease and desist;
- (4) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property; and
- (5) Payment of a fine to cover administrative and remediation costs; and
- (6) The implementation of source control or treatment BMPs.

(b) 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 charged to the violator.

(Ord. 19-2007. Passed 5-8-07.)

1194.13 APPEAL OF NOTICE OF VIOLATION.

Any person receiving a Notice of Violation may appeal the determination of the City to the Zoning Board of Appeals. The notice of appeal must be received by the Zoning Board of Appeals within fifteen (15) days from the date the Notice of Violation is served upon the responsible party by certified mail, hand-delivery, or other method of service specified by law for a civil court summons in Ohio. The Zoning Board of Appeals shall hold a hearing on the appeal as provided in Chapter 1185. The decision of the Zoning Board of Appeals shall be final.

(Ord. 19-2007. Passed 5-8-07.)

1194.14 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 thirty (30) days of the decision of the Zoning Board of Appeals upholding the decision of the City, the representatives of the City may 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 City or designated representative to enter upon the premises for the purposes set forth above.

(Ord. 19-2007. Passed 5-8-07.)

1194.15 COST OF ABATEMENT OF THE VIOLATION.

After abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative and legal costs, by certified mail or other method of service specified by law for service of a civil summons in Ohio. The property owner may file a written protest objecting to the amount of the assessment within ten (10) days of the service of the notice of costs on the responsible party. If the amount due is not paid within thirty (30) days, the charges may be certified by the City to the County Auditor to become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

(Ord. 19-2007. Passed 5-8-07.)

1194.16 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 chapter, the City 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. 19-2007. Passed 5-8-07.)

1194.17 COMPENSATORY ACTION.

In lieu of enforcement proceedings, penalties, and remedies authorized by this chapter, the City may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

(Ord. 19-2007. Passed 5-8-07.)

1194.18 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 chapter 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. 19-2007. Passed 5-8-07.)

1194.19 RECOVERY OF COSTS AND EXPENSES OF ENFORCEMENT.

The City may recover all attorney's fees, court costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Ord. 19-2007. Passed 5-8-07.)

1194.20 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 City to seek cumulative remedies.

(Ord. 19-2007. Passed 5-8-07.)

1194.99 PENALTY.

Whoever violates or fails to comply with any provision of this chapter is guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (\$1,000.00) or imprisoned for no more than one hundred eighty (180) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 19-2007. Passed 5-8-07.)

CHAPTER 1195

Erosion and Sediment Control

1195.01 Purpose and scope.

1195.02 Definitions.

1195.03 Disclaimer of liability.

1195.04 Conflicts, severability, nuisances and responsibility.

1195.05 Development of stormwater Pollution Prevention Plans.

1195.06 Application procedures.

1195.07 Compliance with state and federal regulations.

1195.08 Stormwater Pollution Prevention Plan (SWP3).

1195.09 Performance standards.

1195.10 Abbreviated Stormwater Pollution Prevention Plan. (SWP3)

1195.11 Fees.

1195.12 Bond.

1195.13 Enforcement.

1195.14 Violations.

1195.15 Appeals.

1195.99 Penalty.

CROSS REFERENCES

Riparian areas and wetlands - see P. & Z. Ch. 1197

Protected Hillside Zone - see P. & Z. Ch. 1198

1195.01 PURPOSE AND SCOPE.

(a) The purpose of this regulation is to establish technically feasible and economically reasonable standards to achieve a level of erosion and sediment control that will minimize damage to property and degradation of water resources, and will promote and maintain the health and safety of the citizens of City of Richmond Heights:

(b) This regulation will:

- (1) Allow development while minimizing increases in erosion and sedimentation.
- (2) Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.

(c) This regulation applies to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways, underground cables, or pipelines; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; general clearing; and all other uses that are not specifically exempted in Section 1195.01 (d).

(d) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

(Ord. 121-2016. Passed 1-17-17.)

1195.02 DEFINITIONS.

For purpose of this regulation, the following terms shall have the meaning herein indicated:

(a) **ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (ABBREVIATED SWP3):** The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.

(b) **ACRE:** A measurement of area equaling 43,560 square feet.

(c) **ADMINISTRATOR:** The person or entity having the responsibility and duty of administering and ensuring compliance with this regulation.

(d) **BEST MANAGEMENT PRACTICES (BMPs):** Also **STORMWATER CONTROL MEASURE (SCM).** Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices

- (both structural and non-structural) to prevent or reduce the pollution of water resources. BMPs also include treatment requirements, operating procedures, and practices to control facility and/or construction site runoff, spillage or leaks, sludge or waste disposal; or drainage from raw material storage.
- (e) COMMENCEMENT OF CONSTRUCTION: The initial disturbance of soils associated with clearing, grubbing, grading, placement of fill, or excavating activities or other construction activities.
- (f) COMMUNITY: Throughout this regulation, this shall refer to the City of Richmond Heights, its designated representatives, boards, or commissions.
- (g) CONCENTRATED STORMWATER RUNOFF: Any stormwater runoff that flows through a drainage pipe, ditch, diversion, or other discrete conveyance channel.
- (h) CONSTRUCTION ENTRANCE: The permitted points of ingress and egress to development areas regulated under this regulation.
- (i) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (j) DEWATERING VOLUME: See current Ohio Rainwater and Land Development Manual.
- (k) DISCHARGE: The addition of any pollutant to surface waters of the state from a point source.
- (l) DISTURBANCE: Any clearing, grading, excavating, filling, or other alteration of land surface where natural or man-made cover is destroyed in a manner that exposes the underlying soils.
- (m) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities such as grading, excavating, or filling.
- (n) DRAINAGE: (1) The area of land contributing surface water to a specific point. (2) The removal of excess surface water or groundwater from land by surface of subsurface drains.
- (o) DRAINAGE WATERSHED: For the purpose of this regulation the total contributing drainage area to a BMP, i.e., the "watershed" directed to the practice. This includes offsite contributing drainage.
- (p) DRAINAGE WAY: A natural or manmade channel, ditch, or waterway that conveys surface water in a concentrated manner by gravity.
- (q) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
- (r) EROSION AND SEDIMENT CONTROL: The control of soil, both mineral and organic, to minimize the removal of soil from the land surface and to prevent its transport from a disturbed area by means of wind, water, ice, gravity, or any combination of those forces.
- (s) FINAL STABILIZATION: All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization measures, such as the use of mulches or geotextiles, have been employed. In addition, all temporary erosion and sediment control practices are removed and disposed of and all trapped sediment is permanently stabilized to prevent further erosion. Final stabilization also requires the installation of permanent (post-construction) stormwater control measures (SCMs).
- (t) GRADING: The excavating, filling, or stockpiling of earth material, or any combination thereof, including the land in its excavated or filled condition.
- (u) GRUBBING: removing or grinding of roots, stumps and other unwanted material below existing grade.
- (v) IMPERVIOUS: That which does not allow infiltration.
- (w) LANDSCAPE ARCHITECT: A Professional Landscape Architect registered in the State of Ohio.
- (x) LARGER COMMON PLAN OF DEVELOPMENT OR SALE: A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (y) MAXIMUM EXTENT PRACTICABLE (MEP): The technology-based discharge standard for Municipal Separate Storm Sewer Systems to reduce pollutants in stormwater discharges that was established by the Clean Water Act §402(p). A discussion of MEP as it applies to small MS4s is found in 40 CFR 122.34.
- (z) MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4): A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:
- (1) Owned or operated by the federal government, state, municipality, township, county, district, or other public body (created by or pursuant to state or federal law) including a special district under state law such as a sewer district, flood control district or drainage districts, or similar entity, or a designated and approved management agency under Section 208 of the Federal Water Pollution Control Act that discharges into surface waters of the state; and
 - (2) Designed or used for collecting or conveying solely stormwater,
 - (3) Which is not a combined sewer, and
 - (4) Which is not a part of a publicly owned treatment works.
- (aa) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES): The national program for issuing, modifying, revoking and reissuing, termination, monitoring and enforcing permits and enforcing pretreatment requirements, under sections 307, 402, 318, 405 under the Clean Water Act.
- (bb) OPERATOR: Any party associated with a construction project that meets either of the following two criteria:
- (1) The party has operational control over construction plans and specifications, including the ability to make modifications to those plans and specifications; or
 - (2) The party has day-to-day operational control of those activities at a project which are necessary to ensure compliance with A Stormwater Pollution Prevention Plan (SWP3) for the site or other permit conditions (e.g. they are authorized to direct workers at a site to carry out activities required by the SWP3 or comply with other permit conditions).
- (cc) OWNER OR OPERATOR: The owner or operator of any "facility or activity" subject to regulation under the NPDES program.
- (dd) SUBDIVISIONS, MAJOR AND MINOR: See Ohio Administrative Code 711.001 for definition.
- (ee) PARCEL: Means a tract of land occupied or intended to be occupied by a use, building or group of buildings and their accessory uses and buildings as a unit, together with such open spaces and driveways as are provided and required. A parcel may contain more than one contiguous lot individually identified by a 'Permanent Parcel Number' assigned by the Cuyahoga County Auditor's Office.
- (ff) PERCENT IMPERVIOUSNESS: The impervious area created divided by the total area of the project site.
- (gg) PERMANENT STABILIZATION: Establishment of permanent vegetation, decorative landscape mulching, matting, sod, rip rap, and landscaping techniques to provide permanent erosion control on areas where construction operations are complete or where no further disturbance is expected for at least one year.
- (hh) PERSON: Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof.
- (ii) PHASING: Clearing a parcel of land in distinct sections, with the stabilization of each section before the clearing of the next.
- (jj) POINT SOURCE: Any discernible, confined and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or the floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural stormwater runoff.
- (kk) PRE-CONSTRUCTION MEETING: A meeting between the City of Richmond Heights and all principle parties, prior to the start of any construction, at a site that requires a Stormwater Pollution Prevention Plan.
- (ll) PRE-WINTER STABILIZATION MEETING: A meeting between the City of Richmond Heights and all principal parties, prior to October 1, in order to plan winter erosion and sediment controls for a site that requires a Stormwater Pollution Prevention Plan.
- (mm) PROFESSIONAL ENGINEER: A Professional Engineer registered in the State of Ohio.
- (nn) QUALIFIED INSPECTION PERSONNEL: A person knowledgeable in the principles and practice of erosion and sediment controls, who possess the skills to assess all conditions at the construction site that could impact stormwater quality and to assess the effectiveness of any sediment and erosion control measure selected to control the quality of stormwater discharges from the construction activity. The designated inspection personnel shall be subject to approval of the City of Richmond Heights.
- (oo) RAINWATER AND LAND DEVELOPMENT: Ohio's standards for stormwater management, land development, and stream protection. The most current edition of these standards shall be used with this regulation.
- (pp) RIPARIAN AREA: The transition area between flowing water and terrestrial (land) ecosystems composed of trees, shrubs and surrounding vegetation which serve to stabilize erodible soil, improve both surface and ground water quality, increase stream shading and enhance wildlife habitat.
- (qq) RUNOFF: The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually conveyed to water resources or wetlands.
- (rr) RUNOFF COEFFICIENT: The fraction of rainfall that will appear at the conveyance as runoff.
- (ss) SEDIMENT: The soils or other surface materials that are transported or deposited by the action of wind, water, ice, gravity, or any combination of those forces, as a product of erosion.
- (tt) SEDIMENTATION: The deposition or settling of sediment.
- (uu) SEDIMENT SETTLING POND: A sediment trap, sediment basin or permanent basin that has been temporarily modified for sediment control, as described in the latest edition of Rainwater and Land Development.
- (vv) SEDIMENT STORAGE VOLUME: See current edition of Rainwater and Land Development.
- (ww) SETBACK: A designated transition area around water resources that is left in a natural, usually vegetated, state to protect the water resources from runoff pollution. Soil disturbing activities in this area are restricted by this regulation.
- (xx) SOIL DISTURBING ACTIVITY: Clearing, grading, excavating, filling, grubbing or stump removal that occurs during clearing or timber activities, or other alteration of the earth's surface where natural or human made ground cover is destroyed and that may result in, or contribute to, erosion and sediment pollution.
- (yy) SOIL & WATER CONSERVATION DISTRICT: An entity organized under Chapter 1515 of the Ohio Revised Code referring to either the Soil and Water Conservation District Board or its designated employee(s). Hereafter referred to as Cuyahoga SWCD.
- (zz) STABILIZATION: The use of BMPs, such as seeding and mulching, that reduce or prevent soil erosion by water, wind, ice, gravity, or a combination of those forces.
- (aaa) STEEP SLOPES: Slopes that are 15 percent or greater in grade.
- (bbb) STORMWATER POLLUTION PREVENTION PLAN (SWP3): The written document that sets forth the plans and practices to be used to meet the requirements of this regulation.
- (ccc) STORMWATER: Stormwater runoff, snow melt and surface runoff and drainage.
- (ddd) SURFACE OUTLET: A dewatering device that only draws water from the surface of the water.
- (eee) SURFACE WATER OF THE STATE: Also Water Resource or Water Body. Any stream, lake, reservoir, pond, marsh, wetland, or other waterway situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.
- (fff) TEMPORARY STABILIZATION: The establishment of temporary vegetation, mulching, geotextiles, sod, preservation of existing vegetation, and other techniques capable of quickly establishing cover over disturbed areas to provide erosion control between construction operations.
- (ggg) TOPSOIL: The upper layer of the soil that is usually darker in color and richer in organic matter and nutrients than subsoil.
- (hhh) TOTAL MAXIMUM DAILY LOAD: The sum of the existing and/or projected point source, nonpoint source, and background loads for a pollutant to a specified watershed, water resource or wetland, or water resource or wetland segment. A TMDL sets and allocates the maximum amount of a pollutant that may be introduced into the water and still ensure attainment and maintenance of water quality standard.
- (iii) UNSTABLE SOILS: A portion of land that is identified by the City Engineer as prone to slipping, sloughing, or landslides, or is identified by the U.S. Department of Agriculture Natural Resource Conservation Service methodology as having a low soil strength.
- (jii) WATER QUALITY VOLUME (WQv): The volume of stormwater runoff which must be captured and treated prior to discharge from the developed site after construction is complete. WQv is based on the expected runoff generated by the mean storm precipitation volume from post-construction site conditions at which rapidly diminishing returns in the number of runoff events captured begins to occur.
- (kkk) WATER RESOURCE Also SURFACE WATER OF THE STATE: Any stream, lake, reservoir, pond, marsh, wetland, or waterway situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.
- (lll) WATERSHED: The total drainage area contributing runoff to a single point.
- (mmm) WETLAND: Those areas, that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).
- (Ord. 121-2016, Passed 1-17-17.)

1195.03 DISCLAIMER OF LIABILITY.

Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or for the benefit of any particular parcel of property.

(Ord. 121-2016, Passed 1-17-17.)

1195.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

- (a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions shall prevail.

- (b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
 - (c) This regulation shall not be construed as authorizing any person to maintain a private or public nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
 - (d) Failure of the City of Richmond Heights to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Richmond Heights, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.
- (Ord. 121-2016. Passed 1-17-17.)

1195.05 DEVELOPMENT OF STORMWATER POLLUTION PREVENTION PLANS.

(a) This regulation requires that a Stormwater Pollution Prevention Plan be developed and implemented for all soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land. A Stormwater Pollution Prevention Plan must be developed and implemented for all commercial and industrial site development. The City Engineer may require a comprehensive stormwater management plan on sites disturbing less than 1 acre.

- (b) The following activities shall submit an Abbreviated SWP3:
 - (1) New single-family residential construction. If such activities disturb one (1) acre or more, or are part of a larger common plan of development or sale disturbing one (1) acre or more, a full SWP3 and compliance with the Ohio EPA Construction General Permit are required.
 - (2) Additions or accessory buildings for single-family residential construction. If such activities disturb one (1) acre or more, or are part of a larger common plan of development or sale disturbing one (1) acre or more, a full SWP3 and compliance with the Ohio EPA Construction Site General Permit are required.
 - (3) General clearing activities not related to construction. If such activities disturb one (1) acre or more, or are part of a larger common plan of development or sale disturbing one (1) acre or more, compliance with the Ohio EPA Construction Site General Permit and a full SWP3 are required.
 - (c) Activities disturbing 1/10th (one tenth) or less of an acre are not required to submit a SWP3 or an Abbreviated SWP3, unless required by the City Engineer. These activities must comply with all other provisions of this regulation.
- (Ord. 121-2016. Passed 1-17-17.)

1195.06 APPLICATION PROCEDURES.

- (a) SOIL DISTURBING ACTIVITIES SUBMITTING A STORMWATER POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit two (2) sets of the SWP3 and the applicable fees to the City, and two (2) sets of the SWP3 and the applicable fees to the Cuyahoga SWCD when so directed by the City, as follows:
 - (1) For subdivisions: After the approval of the preliminary plans and with submittal of the improvement plans.
 - (2) For other construction projects: Before issuance of a building permit by the Building Commissioner.
 - (3) For general clearing projects: Prior to issuance of a building permit by the Building Commissioner.
 - (b) SOIL DISTURBING ACTIVITIES SUBMITTING AN ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (SWP3): The applicant shall submit two (2) sets of the Abbreviated SWP3 and the applicable fees to the City as follows:
 - (1) For single-family home construction: Before issuance of a building permit by the Building Commissioner.
 - (2) For other construction projects: Before issuance of a building permit by the Building Commissioner.
 - (3) For general clearing projects: Prior to issuance of a building permit by the Building Commissioner.
 - (c) The City Engineer and the Cuyahoga SWCD, when so directed by the City, shall review the plans submitted under 1195.06 (a) or (b) for conformance with this regulation and approve, or return for revisions with comments and recommendations for revisions. A plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised plan.
 - (d) Soil disturbing activities shall not begin and building permits shall not be issued without
 - (1) Approved SWP3 or Abbreviated SWP3
 - (2) Installation of erosion and sediment controls
 - (3) Physical marking in the field of protected areas or critical areas, including wetlands and riparian areas
 - (e) SWP3 for individual sublots in a subdivision will not be approved unless the larger common plan of development or sale containing the sublot is in compliance with this regulation.
 - (f) The developer, engineer and contractor, and other principal parties, shall meet with the City Engineer for a Pre-Construction Meeting no less than seven (7) days prior to soil-disturbing activity at the site to ensure that erosion and sediment control devices are properly installed, limits of disturbance and buffer areas are properly delineated and construction personnel are aware of such devices and areas. Pre-Construction Meetings for Abbreviated SWP3s may be waived at the discretion of the City Engineer.
 - (g) Approvals issued in accordance with this regulation shall remain valid for one (1) year from the date of approval.
- (Ord. 121-2016. Passed 1-17-17.)

1195.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from the Ohio EPA, the US Army Corps of Engineers, and other federal, state, and/or county agencies. If requirements vary, the most restrictive requirement shall prevail. These permits may include, but are not limited to, those listed below. All submittals required to show proof of compliance with these state and federal regulations shall be submitted with SWP3s or Abbreviated SWP3s.

- (a) Ohio EPA NPDES Permits authorizing stormwater discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
 - (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
 - (c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
 - (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - (1) A letter from the site owner certifying that a qualified professional has evaluated the site and determined that Section 404 of the Clean Water Act is not applicable, and provide documentation.
 - (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time an application is made under this regulation.
 - (e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNr Division of Water permit application tracking number, a copy of the project approval letter from the ODNr Division of Water, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.
- (Ord. 121-2016. Passed 1-17-17.)

1195.08 STORMWATER POLLUTION PREVENTION PLAN (SWP3).

- (a) In order to control sediment pollution of water resources, the applicant shall submit a SWP3 in accordance with the requirements of this regulation.
- (b) The SWP3 shall include Best Management Practices (BMPs) and Stormwater Control Measures (SCMs) adequate to prevent pollution of public waters by soil sediment from accelerated stormwater runoff from development areas.
- (c) The SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.
- (d) The SWP3 shall be amended whenever there is a change in design, construction, operation or maintenance, which has a significant effect on the potential for the discharge of pollutants to surface waters of the state or if the SWP3 proves to be ineffective in achieving the general objectives of controlling pollutants in stormwater discharges associated with construction activity.
- (e) The SWP3 shall incorporate measures as recommended by the most current online edition of Rainwater and Land Development as published by the Ohio Environmental Protection Agency and shall include the following information:
 - (1) A cover page or title identifying the name and location of the site, the name and contact information of all construction site operators, the name and contact information for the person responsible for authorizing and amending the SWP3, preparation date, and the estimated start and completion dates for construction.
 - (2) A copy of the permit requirements (attaching a copy of the current Ohio EPA NPDES Construction General Permit is acceptable).
 - (3) Site description: The SWP3 shall provide:
 - a. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
 - b. Total area of the site and the area of the site that is expected to be disturbed (i.e., grubbing, clearing, excavation, filling or grading, including off-site borrow areas).
 - c. An estimate of the impervious area and percent of imperviousness created by the land disturbance.
 - d. A calculation of the run-off coefficients for both the pre-construction and post-construction site conditions.
 - e. Existing data describing the soil and, if available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.
 - f. A description of prior land uses at the site.
 - g. An implementation schedule which describes the sequence of major soil-disturbing operations (i.e., grubbing, excavating, grading, utilities and infrastructure installation) and the implementation of erosion and sediment controls to be employed during each operation of the sequence.
 - h. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s) and the aerial extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from disturbed areas of the project. For discharges to a municipal separate storm sewer system (MS4), the point of discharge to the MS4 and the location where the MS4 ultimately discharges to a water resource shall be indicated.
 - i. List TMDLs applicable for the site and demonstrate that appropriate BMPs or stormwater control measures (SCMs) have been selected to address these TMDLs. [A TMDL identifier table for Northeast Ohio communities is available at <http://www.neohiostormwater.com/>]
 - j. For subdivided developments, a detail drawing of a typical individual lot showing standard individual lot erosion and sediment control practices. This does not remove the responsibility to designate specific erosion and sediment control practices in the SWP3 for areas such as steep slopes, stream banks, drainage ways, and riparian zones.
 - k. Location and description of any stormwater discharges associated with dedicated asphalt and dedicated concrete plants associated with the development area and the best management practices to address pollutants in these stormwater discharges.
 - l. A log documenting grading and stabilization activities as well as amendments to the SWP3, which occur after construction activities commence.
 - m. Each temporary and permanent stormwater practice shall be designated with an individual identification number.
 - n. Site map showing:
 - (i) Limits of soil-disturbing activity of the site, including off site spoil and borrow areas.
 - (ii) Soils types should be depicted for all areas of the site, including locations of unstable or highly erodible soils.
 - (iii) Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected during and after major grading activities as well as the size of each drainage watershed in acres.
 - (iv) Surface water locations including springs, wetlands, streams, lakes, water wells, etc., on or within 200 feet of the site, including the boundaries of wetlands or stream channels and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
 - (v) Existing and planned locations of buildings, roads, parking facilities, and utilities.
 - (vi) The location of all erosion and sediment control practices, including the location of areas likely to require temporary stabilization during the course of site development.
 - (vii) Sediment and stormwater management basins including their sediment settling volume and the maximum expected disturbed area that will be directed to the sediment pond during construction. The plan should include a summary of the following:
 - A. The required sediment storage and dewatering volumes

- B. The provided sediment storage and dewatering volumes
- C. The weir length or skimmer size, as applicable
- D. The weir length or skimmer size provided
- (viii) Data sheets for all sediment traps, sediment basins, and SCMs that identify contributing drainage area, disturbed area, water quality volume, sedimentation volume, dewatering volume, practice surface area, facility discharge and dewatering time, outlet type and dimensions, and any other relevant parameters for each practice.
- (ix) A separate plan and profile view of each individual sediment settling pond and its outlet structure. Detail drawings of the outlet structure shall indicate the following elevations:
 - A. Pond bottom
 - B. Elevation required to store the required sediment storage volume
 - C. For sediment basins, the elevation at which the skimmer is attached
 - D. For sediment traps, the top and bottom of the stone outlet section
 - E. Elevation required to store the dewatering volume, exclusive of the sediment storage volume
 - F. Elevation of the top of embankment
 - G. Crest of the emergency spillway
- (x) Where used as a sediment-settling pond during construction, the plan shall include a detail drawing of the temporary outlet configuration of the permanent stormwater basin with the following information specified:
 - A. Storage volume provided below the elevation at which the skimmer or other surface dewatering device is attached
 - B. Elevation at which the skimmer or other surface dewatering device is attached
 - C. Elevation at which the full dewatering zone is stored above the skimmer invert
 - D. Any temporary modification to permanent outlet orifices or weirs required to ensure no discharge below the skimmer invert and only the skimmer controls the discharge up to the top of the dewatering volume.
 - E. Calculations of the sediment storage volume, dewatering volume and skimmer drawdown time shall also be provided
- (xi) The location of permanent SCMs to be used to control pollutants in stormwater after construction operations have been completed.
- (xii) Areas designated for the storage or disposal of solid, sanitary and toxic wastes, including dumpster areas, areas designated for cement truck washout, and vehicle fueling.
- (xiii) Methods to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, and sanitary waste to precipitation, stormwater runoff, and snow melt.
- (xiv) Measures to prevent and respond to chemical spills and leaks. Applicants may also reference the existence of other plans (i.e., Spill Prevention Control and Countermeasure (SPCC) plans, spill control programs, Safety Response Plans, etc.) provided that such plan addresses this requirement and a copy of such plan is maintained on site.
- (xv) Methods to minimize the discharge of pollutants from equipment and vehicle washing, wheel wash water, and other wash waters. No detergents may be used to wash vehicles. Wash waters shall be treated in a sediment basin or alternative control that provides equivalent treatment prior to discharge.
- (xvi) The location of designated stoned construction entrances where the vehicles will ingress and egress the construction site.
- (xvii) The location of any in-stream activities including stream crossings.
- (4) A soils engineering report. The City Engineer may require the SWP3 to include a Soils Engineering Report based upon his/her determination that the conditions of the soils are unknown or unclear to the extent that additional information is required to protect against erosion or other hazards. This report shall be based on adequate and necessary test borings, and shall contain all the information listed below. Recommendations included in the report and approved by the City Engineer shall be incorporated in the grading plans and/or other specifications for site development.
 - a. Data regarding the nature, distribution, strength, and erodibility of existing soils.
 - b. If applicable, data regarding the nature, distribution, strength, and erodibility of the soil to be placed on the site.
 - c. Conclusions and recommendations for grading procedures.
 - d. Conclusions and recommended designs for interim soil stabilization devices and measures, and for permanent soil stabilization after construction is completed.
 - e. Design criteria for corrective measures when necessary.
 - f. Opinions and recommendations covering the stability of the site.

1195.09 PERFORMANCE STANDARDS.

The SWP3 must contain a description of the controls appropriate for each construction operation and the applicant must implement such controls. The SWP3 must clearly describe for each major construction activity the appropriate control measures; the general sequence during the construction process under which the measures will be implemented; and the contractor responsible for implementation (e.g., contractor A will clear land and install perimeter controls and contractor B will maintain perimeter controls until final stabilization).

The approved SWP3, and the sediment and erosion controls, and non-sediment pollution controls contained therein, shall be implemented upon the commencement of construction. Perimeter controls must be installed two working days prior to commencement of construction. The approved plan must be implemented until the site reaches final stabilization. All properties adjacent to the site of soil-disturbing activity shall be protected from soil erosion and sediment run-off and damage, including, but not limited to, private properties, natural and artificial waterways, wetlands, storm sewers and public lands.

It is the owner's responsibility to maintain current records of contractor(s) responsible for implementation of the SWP3 and providing that information to the City Engineer. The SWP3 shall identify all subcontractors engaged in activities that could impact stormwater runoff. The SWP3 shall contain signatures from all of the identified subcontractors indicating that they have been informed and understand their roles and responsibilities in complying with the SWP3. The applicant shall review the SWP3 with the primary contractor prior to commencement of construction activities and keep a SWP3 training log to demonstrate that this review had occurred.

Erosion and sediment controls shall be designed, installed and maintained effectively to minimize the discharge of pollutants during the course of earth disturbing activities. The controls shall include the following minimum components:

- (a) **NON-STRUCTURAL PRESERVATION MEASURES:** The SWP3 must make use of practices that preserve the existing natural condition to the maximum extent practicable. Such practices may include preserving riparian areas, preserving existing vegetation and vegetative buffer strips, phasing of construction operations in order to minimize the amount of disturbed land at any one time, minimizing disturbance of steep slopes, and designation of tree preservation areas or other protective clearing or grubbing practices. Soil compaction shall be minimized and, unless infeasible, topsoil shall be preserved. Provide and maintain a 50-foot buffer of undisturbed natural vegetation around surface waters of the state, or riparian or wetland setbacks, if applicable, whichever is greater, unless maintaining this buffer is infeasible (e.g., stream crossings for roads or utilities, or for channel and floodplain rehabilitation and restoration). Direct stormwater to vegetated areas to increase sediment removal and maximize stormwater infiltration.
- (b) **EROSION CONTROL PRACTICES:** The SWP3 must make use of erosion controls that are capable of providing cover over disturbed soils. The amount of soil exposed during construction activity shall be minimized. A description of control practices designed to restabilize disturbed areas after grading or construction shall be included in the SWP3. The SWP3 must provide specifications for stabilization of all disturbed areas of the site and provide guidance as to which method of stabilization will be employed for any time of the year. Such practices may include: temporary seeding, permanent seeding, mulching, matting, sod stabilization, vegetative buffer strips, phasing of construction operations, the use of construction entrances, and the use of alternative ground cover.

Erosion control practices must meet the following requirements:

- (1) Stabilization. Disturbed areas must be stabilized as specified in Tables 1 and 2 below.

Table 1: Permanent Stabilization

Area requiring permanent stabilization	Time frame to apply erosion controls
Any area that will lie dormant for one year or more.	Within 7 days of the most recent disturbance.
Any area within 50 feet of a stream surface water of the state and at final grade.	Within 2 days of reaching final grade.
Any other areas at final grade.	Within 7 days of reaching final grade within that area.

Table 2: Temporary Stabilization

Area requiring temporary stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a stream surface water of the state and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 14 days.
For all construction activities, any disturbed area, including soil stockpiles that will be dormant for more than 14 days but less than one year, and not within 50 feet of a surface water of the state stream.	Within 7 days of the most recent disturbance within the area. For residential subdivisions, disturbed areas must be stabilized at least 7 days prior to transfer of ownership or operational responsibility.
Disturbed areas that will be idle over winter.	Prior to November 1 or the onset of winter weather, whichever occurs first.
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

- (2) Permanent stabilization of conveyance channels. Applicants shall undertake special measures to stabilize channels and outfalls and prevent erosive flows. Measures may include seeding, dormant seeding, mulching, erosion control matting, sodding, riprap, natural channel design with bioengineering techniques, or rock check dams, all as defined in the most recent edition of Rainwater and Land Development or the Field Office Technical Guide available at www.nrcs.usda.gov/technical/efotg/.
- (c) **RUNOFF CONTROL PRACTICES.** The SWP3 shall incorporate measures that control the volume and velocity of stormwater runoff within the site to prevent erosion. Peak flow rates and total stormwater volume shall be controlled to minimize erosion and outlets, downstream channel and streambank erosion. Such practices may include rock check dams, pipe slope drains, diversions to direct flow away from exposed soils and protective grading practices. These practices shall divert runoff away from disturbed areas and steep slopes where practicable. Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall channel to provide non-erosive flow velocity from the structure to a water course so that the natural physical and biological characteristics and functions are maintained and protected.
- (d) **SEDIMENT CONTROL PRACTICES.** The SWP3 shall include a description of, and detailed drawings for, all structural practices that shall store runoff, allowing sediments to settle and/or divert flows away from exposed soils or otherwise limit runoff from exposed areas to minimize sediment discharges from the site. Structural practices shall be used to control erosion and trap sediment from a site remaining disturbed for more than 14 days. Such practices may include, among others: sediment settling ponds, silt fences, storm drain inlet protection, and earth diversion dikes or channels which direct runoff to a sediment settling pond. The design, installation and maintenance of erosion and sediment controls shall address factors such as the amount, frequency, intensity and duration of precipitation, the nature of resulting stormwater runoff, and soil characteristics, including the range of soil particle sizes expected to be present on the site.
- (e) All sediment control practices must be capable of ponding runoff in order to be considered functional. Earth diversion dikes or channels alone are not considered a sediment control practice unless used in conjunction with a sediment settling pond.

Sediment control practices must meet the following requirements:

- (1) **Timing.** Sediment control structures shall be functional throughout the course of earth disturbing activity. Sediment basins and perimeter sediment barriers shall be implemented prior to grading and within seven (7) days from the start of grubbing. They shall continue to function until the up slope development area is restabilized. As construction progresses and the topography is altered, appropriate controls must be constructed or existing controls altered to address the changing drainage patterns.
- (2) **Sediment settling ponds.** A sediment settling pond, or equivalent best management practice upon approval from the City Engineer is required for any one of the following conditions:
 - a. Concentrated stormwater runoff.
 - b. Runoff from drainage areas which exceeds the design capacity of silt fence (see Table 3) inlet protection, or other sediment barriers;
 - c. Runoff from common drainage locations with 10 or more acres of disturbed land.Sediment settling ponds shall be provided in the form of a sediment trap or sediment basin as defined in the latest edition of Rainwater and Land Development. The maximum allowable contributing drainage area to a sediment trap shall be limited to less than 5 acres. Contributing drainage areas of 5 acres or more shall be treated with a sediment basin. An equivalent best management practice may be utilized upon approval from the City.

The sediment-settling pond shall provide both a sediment storage zone and a dewatering zone. The volume of the dewatering zone shall be at least 1,800 cubic feet of storage per acre of total contributing drainage area. The dewatering structure of sediment basins shall be designed to have a minimum 48-hour drain time, and, unless infeasible, be designed to always withdraw runoff from the surface of the pond throughout the storm cycle. As such, a skimmer discharge device consistent with Rainwater and Land Development shall be provided to dewater sediment basins. Sediment traps shall also provide both a sediment storage zone and dewatering zone, but the outlet structure shall be constructed consistent with the specifications contained in the latest edition of Rainwater and Land Development.

When post-construction detention/water quality ponds are to be used as temporary sediment trapping BMPs, a skimmer discharge device consistent with Rainwater and Land Development shall be utilized during construction phase and until the site is deemed permanently stabilized by the City.

The skimmer shall be designed per the equivalent requirements of sediment basins and the operator must ensure that the outlet structure of the pond provides an equivalent or better sediment storage zone and dewatering zone. As such, temporarily while the site is under construction, there shall be no discharge of runoff below the elevation required for the sediment storage zone and the discharge of stormwater within the dewatering zone shall only occur through the skimmer.

The volume of the sediment storage zone shall be calculated by one of the following methods:

Method 1: The volume of the sediment storage zone shall be 1000R3 per disturbed acre within the watershed of the basin.

Method 2: The volume of the sediment storage zone shall be the volume necessary to store the sediment as calculated with RUSLE or other generally accepted erosion prediction model.

When determining the total contributing drainage area, off-site areas and areas which remain undisturbed by construction activity must be included unless runoff from these areas is diverted away from the sediment settling pond and is not co-mingled with sediment-laden runoff. The depth of the dewatering zone must be less than or equal to five (5) feet. The configuration between the inlets and the outlet of the sediment-settling pond basin must provide at least four units of length for each one unit of width ? 4:1 length-to-width ratio. Sediment must be removed from the sediment-settling pond when the design capacity of the sediment storage zone has been completely filled by sediment accumulations. This limit is typically reached when sediment occupies one-half of the basin depth. When designing sediment settling ponds, the applicant must consider public safety, especially as it relates to children, as a design factor for the sediment basin and alternative sediment controls must be used where site limitations would preclude a safe design. The use of a combination of sediment and erosion control measures in order to achieve maximum pollutant removal is encouraged.
- (3) **Silt fence and diversions.** Sheet flow runoff from denuded areas shall be intercepted by silt fence or diversions to protect adjacent properties and water resources from sediment transported via sheet flow. Where intended to provide sediment control, silt fence shall be placed on a level contour and shall be capable of temporarily ponding runoff. The relationship between the maximum drainage area to silt fence for a particular slope range is shown in Table 3 below. Placing silt fence in a parallel series does not extend the size of the permissible drainage area.

Table 3: Maximum Drainage Area to Silt Fence Based on Slope

Maximum Drainage Area (acres) to 100 linear feet of silt fence	Range of slope for a drainage area (%)
0.5	<2%
0.25	> 2% but < 20%
0.125	> 20% but < 50%

- (4) Alternative perimeter controls for sheet flow discharges may be considered by the City, but their use shall not exceed the limitations indicated in Table 3 above. Detail drawings and plan notes shall specify the diameter of filter socks, compost berms and other such alternative perimeter controls if used instead of silt fence.
- (5) Stormwater diversion practices shall be used to keep runoff away from disturbed areas and steep slopes. Such devices, which include swales, dikes or berms, may receive stormwater runoff from areas up to 10 acres.
- (6) **Inlet protection.** Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems. All inlets receiving runoff from drainage areas of one or more acres will require a sediment settling pond. Straw or hay bales and filter socks around catch basins are not acceptable forms of inlet protection.
- (7) **Off-site tracking of sediment and dust control.** Best management practices must be implemented to ensure sediment is not tracked off-site and that dust is controlled. These best management practices must include, but are not limited to, the following:
 - a. Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of Rainwater and Land Development.
 - b. Streets and catch basins adjacent to construction entrances shall be kept free of sediment tracked off site. Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall also be cleaned weekly and protected from sediment-laden runoff, if feasible without posing a public safety hazard.

Based on site conditions, the City Engineer may require additional best management practices to control off site tracking and dust.
 - c. Fencing shall be installed around the perimeter of the development area to ensure that all vehicle traffic adheres to designated construction entrances.
 - d. Designated vehicle and wheel-washing areas. Wash water from these areas must be directed to a designated sediment trap, the sediment-settling pond, or to a sump pump for dewatering in conformance with Section 1195.09 (g) of this regulation. No surfactants or detergents may be used to wash vehicles.
 - e. Applicants shall take all necessary measures to comply with applicable regulations regarding fugitive dust emissions, including obtaining necessary permits for such emissions. The City Engineer may require dust controls including the use of water trucks to wet disturbed areas, tarping stockpiles, temporary stabilization of disturbed areas, and regulation of the speed of vehicles on the site.
- (8) **Surface Waters of the State protection.** Construction vehicles shall avoid water resources. A 50 foot undisturbed natural buffer shall be provided around surface waters of the state unless infeasible. If it is infeasible to provide and maintain an undisturbed 50-foot natural buffer, the SWP3 shall comply with the stabilization requirements in 1195.09.B.1 for areas within 50 feet of a surface water or riparian or wetland setbacks if applicable, whichever is greater; and minimize soil compaction and, unless infeasible, preserve topsoil. If a riparian or wetland setback is greater than 50 feet, no disturbance of natural vegetation shall occur within the riparian or wetland setback unless a variance to the riparian or wetland setback regulation has been granted. If the applicant is permitted to disturb areas within 50 feet of a water resource, the following conditions shall be addressed in the SWP3:
 - a. All BMPs and stream crossings shall be designed as specified in the most recent edition of the Rainwater and Land Development.
 - b. Structural practices shall be designated and implemented on site to protect water resources from the impacts of sediment runoff.
 - c. No structural sediment controls (e.g., the installation of silt fence or a sediment settling pond in-stream) shall be used in a water resources or wetlands.
 - d. Where stream crossings for roads or utilities are necessary and permitted, the project shall be designed such that the number of stream crossings and the width of the disturbance are minimized.
 - e. Temporary stream crossings shall be constructed if water resources or wetlands will be crossed by construction vehicles during construction.
 - f. Construction of bridges, culverts, or sediment control structures shall not place soil, debris, or other particulate material into or close to the water resources or wetlands in such a manner that it may slough, slip, or erode.
 - g. Concentrated stormwater runoff from BMPs to natural wetlands shall be converted to diffuse flow through the use of level spreaders or other such appropriate measure before the runoff enters the wetlands. The flow should be released such that no erosion occurs downslope. Level spreaders may need to be placed in series to ensure non-erosive velocities.
 - h. Protected areas or critical areas, including wetlands and riparian areas shall be physically marked in the field prior to earth disturbing activities.
- (9) **Modifying controls.** If periodic inspections or other information indicates a control has been used inappropriately or incorrectly, the applicant shall replace or modify the control for site conditions.
- (f) **NON-SEDIMENT POLLUTANT CONTROLS:** No solid or liquid waste, including building materials, shall be discharged in stormwater runoff. The applicant must implement site best management practices to prevent toxic materials, hazardous materials, or other debris from entering water resources, wetlands or the MS4. These practices shall include but are not limited to the following:
 - (1) **Waste Materials:** A covered dumpster shall be made available for the proper disposal of garbage, plaster, drywall, grout, gypsum, and other waste materials.
 - (2) **Concrete Truck Wash Out:** The washing of concrete material into a street, catch basin, other public facility, natural resource or water of the state is prohibited. A designated area for concrete washout shall be made available.
 - (3) **Disposal of Other Wastewaters:** The discharge of washout and cleanup of stucco, paint, form release oils, curing compounds, and other construction materials to a street, catch basin, other public facility, natural resource or waters of the state is prohibited. The discharge of soaps or solvents used in vehicle and equipment washing is also prohibited. If generated, these wastewaters must be collected and disposed of properly.
 - (4) **Fuel/Liquid Tank Storage:** All fuel/liquid tanks and drums shall be stored in a marked storage area. A dike shall be constructed around this storage area with a minimum capacity equal to 110% of the volume of all the largest containers in the storage area and/or a spill kit shall be provided to clean up spills. The SWP3 shall contain spill prevention and response procedures and these procedures shall be discussed at the pre-construction meeting.
 - (5) **Toxic or Hazardous Waste Disposal:** Any toxic or hazardous waste shall be disposed of properly. The discharge of fuels, oils, and other pollutants used in vehicle and equipment operation and maintenance is prohibited.
 - (6) **Contaminated Soils Disposal and Runoff:** Discovery of previously unknown contaminated soils onsite shall be self-reported to Ohio EPA and local authorities. Contaminated soils from redevelopment sites shall be disposed of properly. Runoff from contaminated soils shall not be discharged from the site. Proper permits shall be obtained for development projects on solid waste landfill sites or redevelopment sites. Where construction activities are to occur on sites with contamination from previous activities, operators shall be aware that concentrations of materials that meet other criteria (i.e. not considered a Hazardous Waste, meeting Voluntary Action Program (VAP standards)) may still result in stormwater discharges in excess of Ohio Water Quality Standards. Such discharges are not authorized by this code. Control measures which may be utilized to meet this requirement include, but are not limited to:
 - a. Use berms, trenches, pits or tanks to collect contaminated runoff and prevent discharge.
 - b. Pump runoff from contaminated soils to the sanitary sewer with the prior approval of the sanitary sewer system operator, or pump into a container for transport to an appropriate treatment or disposal facility; and
 - c. Cover areas of contamination with tarps, daily cover or other such methods to prevent stormwater from coming into contact with contaminated materials.The SWP3 must include methods to minimize the exposure of building materials, building products, construction wastes, trash, landscape materials, fertilizers, pesticides, herbicides, detergents, and sanitary waste to precipitation, stormwater runoff, and snow melt. The SWP3 shall include measures to prevent and respond to chemical spills and leaks. Applicants may also reference the existence of other plans (i.e., Spill Prevention Control and Countermeasure (SPCC) plans, spill control programs, Safety Response Plans, etc.) provided that such plan addresses this requirement and a copy of such plan is maintained on site.
- (g) **COMPLIANCE WITH OTHER REQUIREMENTS.** The SWP3 shall be consistent with applicable State and/or local waste disposal, sanitary sewer, or septic system regulations, including provisions prohibiting waste disposal by open burning, and shall provide for the proper disposal of contaminated soils located within the development area.
- (h) **TRENCH AND GROUND WATER CONTROL.** There shall be no sediment-laden or turbid discharges to water resources or wetlands resulting from dewatering activities. If trench or ground water contains sediment, it must pass through a sediment-settling pond or other equally effective sediment control device, prior to being discharged from the construction site. Alternatively, sediment may be removed by

settling in place or by dewatering into a sump pit, filter bag or comparable practice. Ground water dewatering which does not contain sediment or other pollutants is not required to be treated prior to discharge. However, care must be taken when discharging ground water to ensure that it does not become pollutant-laden by traversing over disturbed soils or other pollutant sources.

- (i) **INTERNAL INSPECTIONS.** All controls on the site shall be inspected a at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. The inspection frequency may be reduced to at least once every month if the entire site is temporarily stabilized or runoff is unlikely due to weather conditions (e.g., site is covered with snow, ice, or the ground is frozen). A waiver of inspection requirements is available until one month before thawing conditions are expected to result in a discharge if prior written approval has been attained from the City Engineer and all of the following conditions are met:
- (1) The project is located in an area where frozen conditions are anticipated to continue for extended periods of time (i.e. more than one (1) month).
 - (2) Land disturbance activities have been suspended, and temporary stabilization is achieved.
 - (3) The beginning date and ending dates of the waiver period are documented in the SWP3.
 - (4) For sites that will not be completed by October 1, a Pre-Winter Stabilization Meeting shall be held by the landowner and the developer, engineer and contractor of the project and the City prior to October 1, in order to plan and approve winter erosion and sediment controls as defined in the most current online edition of Rainwater and Land Development.

The applicant shall assign qualified inspection personnel to conduct these inspections to ensure that the control practices are functional and to evaluate whether the SWP3 is adequate, or whether additional control measures are required. Qualified inspection personnel are individuals with knowledge and experience in the installation and maintenance of sediment and erosion controls. Certified inspection reports shall be submitted to the City Engineer within seven (7) working days from the inspection and retained at the development site.

These inspections shall meet the following requirements:

- (1) Disturbed areas and areas used for storage of materials that are exposed to precipitation shall be inspected for evidence of or the potential for, pollutants entering the drainage system.
- (2) Erosion and sediment control measures identified in the SWP3 shall be observed to ensure that they are operating correctly. The applicant shall utilize an inspection form provided by the City or an alternate form acceptable to the City Engineer. The inspection form shall include:
 - a. The inspection date.
 - b. Names, titles and qualifications of personnel making the inspection.
 - c. Weather information for the period since the last inspection, including a best estimate of the beginning of each storm event, duration of each storm event and approximate amount of rainfall for each storm event in inches, and whether any discharges occurred.
 - d. Weather information and a description of any discharges occurring at the time of inspection.
 - e. Locations of:
 - (i) Discharges of sediment or other pollutants from site.
 - (ii) BMPs that need to be maintained.
 - (iii) BMPs that failed to operate as designed or proved inadequate for a particular location.
 - (iv) Where additional BMPs are needed that did not exist at the time of inspection.
 - f. Corrective action required including any necessary changes to the SWP3 and implementation dates.
 - (3) Discharge locations shall be inspected to determine whether erosion and sediment control measures are effective in preventing significant impacts to the receiving water resource or wetlands.
 - (4) Locations where vehicles enter or exit the site shall be inspected for evidence of off-site vehicle tracking.
 - (5) The applicant shall maintain for three (3) years following final stabilization the results of these inspections, the names and qualifications of personnel making the inspections, the dates of inspections, major observations relating to the implementation of the SWP3, a certification as to whether the facility is in compliance with the SWP3, and information on any incidents of non-compliance determined by these inspections.

(i) **MAINTENANCE.** The SWP3 shall be designed to minimize maintenance requirements. All BMPs shall be maintained and repaired as needed to ensure continued performance of their intended function until final stabilization. All sediment control practices must be maintained in a functional condition until all up slope areas they control reach final stabilization. The applicant shall provide a description of maintenance procedures needed to ensure the continued performance of control practices and shall ensure a responsible party and adequate funding to conduct this maintenance, all as determined by the City Engineer.

When inspections reveal the need for repair, replacement, or installation of erosion and sediment control BMPs, the following procedures shall be followed:

 - (1) When BMPs require repair or maintenance. If an internal inspection reveals that a BMP is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.
 - (2) When BMPs fail to provide their intended function. If an internal inspection reveals that a BMP fails to perform its intended function as detailed in the SWP3 and that another, more appropriate control practice is required, the SWP3 must be amended and the new control practice must be installed within three (3) to ten (10) days of the inspection as determined by the community engineer or site inspector.
 - (3) When BMPs depicted on the SWP3 are not installed. If an internal inspection reveals that a BMP has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the internal inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.

(j) **FINAL STABILIZATION.** Final stabilization shall be determined by the City Engineer. Once a definable area has achieved final stabilization, the applicant may note this on the SWP3 and no further inspection requirement applies to that portion of the site. Final stabilization also requires the installation of permanent (post-construction) stormwater control measures (SCMs). Obligations under this ordinance shall not be completed until installation of post-construction BMPs is verified. (Ord. 121-2016. Passed 1-17-17.)

1195.10 ABBREVIATED STORMWATER POLLUTION PREVENTION PLAN (SWP3).

- (a) In order to control sediment pollution of water resources, the applicant shall submit an Abbreviated SWP3 in accordance with the requirements of this regulation.
- (b) The Abbreviated SWP3 shall be certified by a professional engineer, a registered surveyor, certified professional erosion and sediment control specialist, or a registered landscape architect.
- (c) The Abbreviated SWP3 shall include a minimum of the following BMPs. The City may require other BMPs as site conditions warrant.
 - (1) Construction Entrances: Construction entrances shall be built and shall serve as the only permitted points of ingress and egress to the development area. These entrances shall be built of a stabilized pad of aggregate stone or recycled concrete or cement sized greater than 2" in diameter, placed over a geotextile fabric, and constructed in conformance with specifications in the most recent edition of Rainwater and Land Development.
 - (2) Concrete Truck Wash Out. The washing of concrete material into a street, catch basin, or other public facility or natural resource is prohibited. A designated area for concrete washout shall be indicated on the plan. Use for other waste and wastewater is prohibited.
 - (3) Street Sweeping: Streets directly adjacent to construction entrances and receiving traffic from the development area, shall be cleaned daily to remove sediment tracked off-site. If applicable, the catch basins on these streets nearest to the construction entrances shall be cleaned weekly.
 - (4) Stabilization. The development area shall be stabilized as detailed in Table 4.

Table 4: Stabilization

Area requiring stabilization	Time frame to apply erosion controls
Any disturbed area within 50 feet of a surface water of the state stream and not at final grade.	Within 2 days of the most recent disturbance if that area will remain idle for more than 21 14 days
For all construction activities, any disturbed area, including soil stockpiles, that will be dormant for more than 2114 days but less than one year, and not within 50 feet of a stream.	Within 7 days of the most recent disturbance within the area
Disturbed areas that will be idle over winter	Prior to November 1
Note: Where vegetative stabilization techniques may cause structural instability or are otherwise unobtainable, alternative stabilization techniques must be employed. These techniques may include mulching or erosion matting.	

- (5) Inlet Protection. Erosion and sediment control practices, such as boxed inlet protection, shall be installed to minimize sediment-laden water entering active storm drain systems, including rear yard inlets. Straw, hay bales, and filter socks are not acceptable forms of inlet protection.
- (6) Silt Fence and Other Perimeter Controls. Silt fence and other perimeter controls approved by the City shall be used to protect adjacent properties and water resources from sediment discharged via sheet (diffused) flow. Silt fence shall be placed along level contours and the permissible drainage area is limited to those indicated in Table 3 in 1195.09 of these regulations.
- (7) Internal Inspection and Maintenance. All controls on the development area shall be inspected at least once every seven calendar days and within 24 hours after any storm event greater than one-half inch of rain per 24 hour period. Maintenance shall occur as detailed below:
 - a. When BMPs require repair or maintenance. If the internal inspection reveals that a BMP is in need of repair or maintenance, with the exception of a sediment-settling pond, it must be repaired or maintained within three (3) days of the inspection. Sediment settling ponds must be repaired or maintained within ten (10) days of the inspection.
 - b. When BMPs fail to provide their intended function. If the internal inspection reveals that a BMP fails to perform its intended function and that another, more appropriate control practice is required, the Abbreviated SWP3 must be amended and the new control practice must be installed within ten (10) days of the inspection.
 - c. When BMPs depicted on the Abbreviated SWP3 are not installed. If the internal inspection reveals that a BMP has not been implemented in accordance with the schedule, the control practice must be implemented within ten (10) days from the date of the inspection. If the inspection reveals that the planned control practice is not needed, the record must contain a statement of explanation as to why the control practice is not needed.
- (8) Final Stabilization: Final stabilization shall be determined by the City Engineer. (Ord. 121-2016. Passed 1-17-17.)

1195.11 FEES.

The SWP3 Abbreviated SWP3 review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City and the Cuyahoga SWCD, when so directed by the City, before the review process begins. Please consult with the City Engineer for current fee schedule. (Ord. 121-2016. Passed 1-17-17.)

1195.12 BOND.

(a) If a SWP3 or abbreviated SWP3 is required by this regulation, soil disturbing activities shall not be permitted until a cash bond or deposit has been deposited with the City Finance Department. The bond amount shall be a \$1,000 minimum, and an additional \$500 paid for each subsequent acre or fraction thereof or the cost of stabilizing disturbed areas based on a fee schedule established by the City. The bond will be used for the City to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The cash bond shall be returned, less the City administrative fees, after all work required by this regulation has been completed and final stabilization has been reached, all as determined by the City Engineer.

(b) No project subject to this regulation shall commence without a SWP3 or Abbreviated SWP3 approved by the City Engineer.
(Ord. 121-2016. Passed 1-17-17.)

1195.13 ENFORCEMENT.

- (a) If the City or its duly authorized representative determines that a violation of the rules adopted under this code exist, the City or representative may issue an immediate stop work order if the violator failed to obtain any federal, state, or local permit necessary for sediment and erosion control, earth movement, clearing, or cut and fill activity.
- (b) All development areas may be subject to external inspections by the City Engineer to ensure compliance with the approved SWP3 or Abbreviated SWP3.
- (c) After each external inspection, the City Engineer shall prepare and distribute a status report to the applicant.
- (d) If an external inspection determines that operations are being conducted in violation of the approved SWP3 or Abbreviated SWP3, the City Engineer may take action as detailed in Section 1195.14 of this regulation.

- (e) Failure to maintain and repair erosion and sediment controls per the approved SWP3 plan may result in the following escalation:
- (1) **First Violation:** The City Engineer will issue a Notice of Deficiency to the owner or operator. All controls are to be repaired or maintained per the SWP3 plan within three (3) days of the notification. If controls have not been corrected after this time, the City Engineer may issue a Stop Work Order for all activities until corrections have been made.
 - (2) **Second Violation:** The City Engineer may issue a formal Notice of Violation which includes a \$250 administrative fee against the SWP3 Bond or site plan deposit. All controls are to be repaired or maintained per the approved SWP3 plan within three (3) days of the Notice of Violation. If controls have not been corrected after this time, the City Engineer may issue a Stop Work Order for all activities until corrections have been made.
 - (3) **Third and subsequent violations:** The City Engineer may issue a Stop Work Order for all construction activities and charge a \$250 administrative fee against the SWP3 bond or site plan deposit. The Stop Work Order will be lifted once all controls are in compliance with the approved SWP3 plan.
- (f) The City Engineer shall have the authority to make immediate on-site adjustments to the SWP3 in order to achieve compliance with this ordinance.
- (g) A final inspection will be made to determine if the criteria of this code has been satisfied and a report will be presented to the City on the site's compliance status.
- (h) The City Engineer will monitor soil-disturbing activities for non-farm residential, commercial, industrial, or other non-farm purposes on land of less than one contiguous acre to ensure compliance required by these Rules.
- (i) The City Engineer shall notify the U.S. Army Corps of Engineers when a violation on a development project covered by an Individual or Nationwide Permit is identified. The City Engineer shall notify the Ohio Environmental Protection Agency when a violation on a development project covered by a Section 401 Water Quality Certification and/or Isolated Wetland Permit is identified.
- (j) The City shall not issue building permits for projects regulated under this code that have not received approval for an SWP3 for said project(s).
- (Ord. 121-2016. Passed 1-17-17.)

1195.14 VIOLATIONS.

- (a) No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation.
- (b) Upon notice, the City Engineer and/or the Building Commissioner may suspend any active soil disturbing activity for a period not to exceed ninety (90) days, and may require immediate erosion and sediment control measures whenever he or she determines that such activity is not meeting the intent of this regulation. Such notice shall be in writing, shall be given to the applicant, and shall state the conditions under which work may be resumed. In instances, however, where the City Engineer and/or the Building Commissioner finds that immediate action is necessary for public safety or the public interest, he or she may require that work be stopped upon verbal order pending issuance of the written notice.
- (Ord. 121-2016. Passed 1-17-17.)

1195.15 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with Chapter 2506 of the Ohio Revised Code. Written notice of appeal shall be served on the City and a copy shall be provided to the Cuyahoga SWCD.

(Ord. 121-2016. Passed 1-17-17.)

1195.99 PENALTY.

- (a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.
- (Ord. 31-2018. Passed 4-10-18.)
- (b) The imposition of any other penalties provided herein shall not preclude the City instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City. (Ord. 121-2016. Passed 1-17-17.)

CHAPTER 1196

Comprehensive Stormwater Management

- 1196.01 Purpose and scope.**
- 1196.02 Definitions.**
- 1196.03 Disclaimer of liability.**
- 1196.04 Conflicts, severability, nuisances and responsibility.**
- 1196.05 Development of Comprehensive Stormwater Management Plans.**
- 1196.06 Application procedures.**
- 1196.07 Compliance with state and federal regulations.**
- 1196.08 Comprehensive stormwater Management Plans.**
- 1196.09 Performance standards.**
- 1196.10 Alternative actions.**
- 1196.11 Easements.**
- 1196.12 Maintenance and final inspection approval.**
- 1196.13 On-going inspections.**
- 1196.14 Fees.**
- 1196.15 Bond.**
- 1196.16 Installation of water quality stormwater control measures.**
- 1196.17 Violations.**
- 1196.18 Appeals.**
- 1196.99 Penalty.**

CROSS REFERENCES

Erosion and sediment control - see P. & Z. Ch. 1195
 Riparian areas and wetlands - see P. & Z. Ch. 1197

1196.01 PURPOSE AND SCOPE.

- (a) The purpose of this regulation is to establish technically feasible and economically reasonable stormwater management standards to achieve a level of stormwater quality and quantity control that will minimize damage to property and degradation of water resources and will promote and maintain the health, safety, and welfare of the citizens of the City:
- (b) This regulation requires owners who develop or re-develop their property within the City to:
- (1) Control stormwater runoff from their property and ensure that all Stormwater Control Measures (SCMs) are properly designed, constructed, and maintained.
 - (2) Reduce water quality impacts to receiving water resources that may be caused by new development or redevelopment activities.
 - (3) Control the volume, rate, and quality of stormwater runoff originating from their property so that surface water and groundwater are protected and flooding and erosion potential are not increased.
 - (4) Minimize the need to construct, repair, and replace subsurface storm drain systems.
 - (5) Preserve natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, except in slippage prone soils.
 - (6) Incorporate stormwater quality and quantity controls into site planning and design at the earliest possible stage in the development process.
 - (7) Reduce the expense of remedial projects needed to address problems caused by inadequate stormwater management.
 - (8) Maximize use of SCMs that serve multiple purposes including, but not limited to, flood control, erosion control, fire protection, water quality protection, recreation, and habitat preservation.
 - (9) Design sites to minimize the number of stream crossings and the width of associated disturbance in order to minimize the City's future expenses related to the maintenance and repair of stream crossings.
 - (10) Maintain, promote, and re-establish conditions necessary for naturally occurring stream processes that assimilate pollutants, attenuate flood flows, and provide a healthy water resource.

(c) This regulation shall apply to all parcels used or being developed, either wholly or partially, for new or relocated projects involving highways and roads; subdivisions or larger common plans of development; industrial, commercial, institutional, or residential projects; building activities on farms; redevelopment activities; grading; and all other uses that are not specifically exempted in Section 1196.01.

(d) Public entities, including the State of Ohio, Cuyahoga County, and the City of Richmond Heights shall comply with this regulation for roadway projects initiated after March 10, 2006 and, to the maximum extent practicable, for projects initiated before that time.

(e) This regulation does not apply to activities regulated by, and in compliance with, the Ohio Agricultural Sediment Pollution Abatement Rules.

(f) This regulation does not require a Comprehensive Stormwater Management Plan for linear construction projects, such as pipeline or utility line installation, that do not result in the installation of impervious surface as determined by the City Engineer. Such projects must be designed to minimize the number of stream crossings and the width of disturbance. Linear construction projects must comply with the requirements of Chapter 1195 Erosion and Sediment Control. (Ord. 120-2016. Passed 1-17-17.)

1196.02 DEFINITIONS.

For the purpose of this regulation, the following terms shall have the meaning herein indicated:

- (a) ACRE: A measurement of area equaling 43,560 square feet.
- (b) AS-BUILT SURVEY: A survey shown on a plan or drawing prepared by a registered Professional Surveyor indicating the actual dimensions, elevations, and locations of any structures, underground utilities, swales, detention facilities, and sewage treatment facilities after construction has been completed.
- (c) BEST MANAGEMENT PRACTICES (BMPs): Also STORMWATER CONTROL MEASURE (SCMs). Schedule of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and to control stormwater volume and rate. This includes practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. For guidance, please see U.S. EPA's National Menu of BMPs at <http://water.epa.gov/polwaste/npdes/swbmp/index.cfm>.
- (d) CLEAN WATER ACT: Pub. L. 92-500, as amended Pub. L. 95-217, Pub. L. 95-576, Pub. L. 96-483, Pub. L. 97-117, and Pub. L. 100-4, 33 U.S.C. 1251 et. seq. Referred to as the Federal Water Pollution Control Act or the Federal Water Pollution Control Act Amendments of 1972.
- (e) COMMUNITY: The City of Richmond Heights, its designated representatives, boards, or commissions.
- (f) COMPREHENSIVE STORMWATER MANAGEMENT PLAN: The written document and plans meeting the requirements of this regulation that sets forth the plans and practices to minimize stormwater runoff from a development area, to safely convey or temporarily store and release post-development runoff at an allowable rate to minimize flooding and stream bank erosion, and to protect or improve stormwater quality and stream channels.
- (g) CRITICAL STORM: A storm that is determined by calculating the percentage increase in volume of runoff by a proposed development area for the 1 year 24 hour event. The critical storm is used to calculate the maximum allowable stormwater discharge rate from a developed site.
- (h) DEVELOPMENT AREA: A parcel or contiguous parcels owned by one person or persons, or operated as one development unit, and used or being developed for commercial, industrial, residential, institutional, or other construction or alteration that changes runoff characteristics.
- (i) DEVELOPMENT DRAINAGE AREA: A combination of each hydraulically unique watershed with individual outlet points on the development area.
- (j) DISTURBED AREA: An area of land subject to erosion due to the removal of vegetative cover and/or soil disturbing activities.
- (k) DRAINAGE: The removal of excess surface water or groundwater from land by surface or subsurface drains.
- (l) EROSION: The process by which the land surface is worn away by the action of wind, water, ice, gravity, or any combination of those forces.
- (m) EXTENDED DETENTION FACILITY: A stormwater control measure that replaces and/or enhances traditional detention facilities by releasing the runoff collected during the stormwater quality event over at least

24 to 48 hours, retarding flow and allowing pollutants to settle within the facility.

- (n) **FINAL STABILIZATION:** All soil disturbing activities at the site have been completed and a uniform perennial vegetative cover with a density of at least 80% coverage for the area has been established or equivalent stabilization practices, such as the use of mulches or geotextiles, have been employed.
- (o) **GRADING:** The process in which the topography of the land is altered to a new slope.
- (p) **GREEN INFRASTRUCTURE:** Wet weather management approaches and technologies that utilize, enhance or mimic the natural hydrologic cycle processes of infiltration, evapotranspiration and reuse.
- (q) **HYDROLOGIC UNIT CODE:** a cataloging system developed by the United States Geological Survey and the Natural Resource Conservation Service to identify watersheds in the United States.
- (r) **IMPERVIOUS COVER:** Any surface that cannot effectively absorb or infiltrate water. This may include roads, streets, parking lots, rooftops, sidewalks, and other areas not covered by vegetation.
- (s) **INFILTRATION CONTROL MEASURE:** A stormwater control measure that does not discharge to a water resource during the stormwater quality event, requiring collected runoff to either infiltrate into the groundwater and/or be consumed by evapotranspiration, thereby retaining stormwater pollutants in the facility.
- (t) **LARGER COMMON PLAN OF DEVELOPMENT:** A contiguous area where multiple separate and distinct construction activities may be taking place at different times on different schedules under one plan.
- (u) **LOW IMPACT DEVELOPMENT:** Low-impact development (LID) is a site design approach, which seeks to integrate hydrologically functional design with pollution prevention measures to compensate for land development impacts on hydrology and water quality. LID's goal is to mimic natural hydrology and processes by using small-scale, decentralized practices that infiltrate, evaporate, detain, and transpire stormwater. LID stormwater control measures (SCMs) are uniformly and strategically located throughout the site.
- (v) **MAXIMUM EXTENT PRACTICABLE:** The level of pollutant reduction that operators of small municipal separate storm sewer systems regulated under 40 C.F.R. Parts 9, 122, 123, and 124, referred to as NPDES Stormwater Phase II, must meet.
- (w) **MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** A conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) that are:
 - (1) Owned or operated by the federal government, state, municipality, township, county, district, or other public body (created by or pursuant to state or federal law) including a special district under state law such as a sewer district, flood control district or drainage districts, or similar entity, or a designated and approved management agency under section 208 of the Clean Water Act that discharges into water resources; and
 - (2) Designed or used for collecting or conveying solely stormwater,
 - (3) Which is not a combined sewer, and
 - (4) Which is not a part of a publicly owned treatment works.
- (x) **National Pollutant Discharge Elimination System (NPDES):** A regulatory program in the Federal Clean Water Act that prohibits the discharge of pollutants into surface waters of the United States without a permit.
- (y) **NONSTRUCTURAL STORMWATER CONTROL MEASURE (SCM):** Any technique that uses natural processes and features to prevent or reduce the discharge of pollutants to water resources and control stormwater volume and rate.
- (z) **POST-DEVELOPMENT:** The conditions that exist following the completion of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.
- (aa) **PRE-CONSTRUCTION MEETING:** Meeting prior to construction between all parties associated with the construction of the project including government agencies, contractors and owners to review agency requirements and plans as submitted and approved.
- (bb) **PRE-DEVELOPMENT:** The conditions that exist prior to the initiation of soil disturbing activity in terms of topography, vegetation, land use, and the rate, volume, quality, or direction of stormwater runoff.
- (cc) **PROFESSIONAL ENGINEER:** A Professional Engineer registered in the State of Ohio with specific education and experience in water resources engineering, acting in conformance with the Code of Ethics of the Ohio State Board of Registration for Engineers and Surveyors.
- (dd) **REDEVELOPMENT:** A construction project on land that has been previously developed and where the new land use will not increase the runoff coefficient used to calculate the water quality volume. If the new land use will increase the runoff coefficient, then the project is considered to be a new development project rather than a redevelopment project.
- (ee) **RIPARIAN AREA:** Land adjacent to any brook, creek, river, or stream having a defined bed and bank that, if appropriately sized, helps to stabilize streambanks, limit erosion, reduce flood size flows, and/or filter and settle out runoff pollutants, or performs other functions consistent with the purposes of this regulation.
- (ff) **RIPARIAN AND WETLAND SETBACK:** The real property adjacent to a water resource on which soil disturbing activities are limited, all as defined by Chapter 1197 Riparian Areas and Wetlands.
- (gg) **RUNOFF:** The portion of rainfall, melted snow, or irrigation water that flows across the ground surface and is eventually returned to water resources.
- (hh) **SEDIMENT:** The soils or other surface materials that can be transported or deposited by the action of wind, water, ice, or gravity as a product of erosion.
- (ii) **SEDIMENTATION:** The deposition of sediment in water resources.
- (jj) **SITE OWNER/OPERATOR:** Any individual, corporation, firm, trust, commission, board, public or private partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency, the federal government, other legal entity, or an agent thereof that is responsible for the overall construction site.
- (kk) **SOIL DISTURBING ACTIVITY:** Clearing, grading, excavating, filling, or other alteration of the earth's surface where natural or human made ground cover is destroyed that may result in, or contribute to, increased stormwater quantity and/or decreased stormwater quality.
- (ll) **STABILIZATION:** The use of Best Management Practices or Stormwater Control Measures that reduce or prevent soil erosion by stormwater runoff, trench dewatering, wind, ice, gravity, or a combination thereof.
- (mm) **STORMWATER OR STORMWATER:** Defined at 40 CFR 122.26(b)(13) and means stormwater runoff, snow melt runoff and surface runoff and drainage.
- (nn) **STORMWATER CONTROL MEASURE (SCM):** Also Best Management Practice (BMP). Schedule of activities, prohibitions of practices, operation and maintenance procedures, treatment requirements, and other management practices (both structural and non-structural) to prevent or reduce the pollution of water resources and to control stormwater volume and rate. This includes practices to control runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. For guidance, please see U.S. EPA's National Menu of BMPs at <http://water.epa.gov/polwaste/npdes/swbmp/index.cfm>.
- (oo) **STRUCTURAL STORMWATER MANAGEMENT PRACTICE OR STORMWATER CONTROL MEASURE (SCM):** Any constructed facility, structure, or device that prevents or reduces the discharge of pollutants to water resources and controls stormwater volume and rate.
- (pp) **SURFACE WATERS OF THE STATE:** Also Water Resource. Any streams, lakes, reservoirs, pond, marshes, wetlands, or other waterways situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.
- (qq) **TOTAL MAXIMUM DAILY LOAD:** The sum of the existing and/or projected point source, nonpoint source, and background loads for a pollutant to a specified watershed, water body, or water body segment. A TMDL sets and allocates the maximum amount of a pollutant that may be introduced into the water and still ensure attainment and maintenance of water quality standards.
- (rr) **WATER QUALITY VOLUME:** "Water Quality Volume (WQv)" means the volume of stormwater runoff which must be captured and treated prior to discharge from the developed site after construction is complete. WQv is based on the expected runoff generated by the mean storm precipitation volume from post-construction site conditions at which rapidly diminishing returns in the number of runoff events captured begins to occur.
- (ss) **WATER RESOURCE:** Also SURFACE WATER OF THE STATE. Any stream, lake, reservoir, pond, marsh, wetland, or waterway situated wholly or partly within the boundaries of the state, except those private waters which do not combine or affect a junction with surface water. Waters defined as sewerage systems, treatment works or disposal systems in Section 6111.01 of the Ohio Revised Code are not included.
- (tt) **WATER RESOURCE CROSSING:** Any bridge, box, arch, culvert, truss, or other type of structure intended to convey people, animals, vehicles, or materials from one side of a watercourse to another. This does not include private, non-commercial footbridges or pole mounted aerial electric or telecommunication lines, nor does it include below grade utility lines.
- (uu) **WATERSHED:** The total drainage area contributing stormwater runoff to a single point.
- (vv) **WETLAND:** Those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs, and similar areas (40 CFR 232, as amended).

(Ord. 120-2016. Passed 1-17-17.)

1196.03 DISCLAIMER OF LIABILITY.

- (a) Compliance with the provisions of this regulation shall not relieve any person from responsibility for damage to any person otherwise imposed by law. The provisions of this regulation are promulgated to promote the health, safety, and welfare of the public and are not designed for the benefit of any individual or any particular parcel of property.
- (b) By approving a Comprehensive Stormwater Management Plan under this regulation, the City of Richmond Heights does not accept responsibility for the design, installation, and operation and maintenance of SCMs.

(Ord. 120-2016. Passed 1-17-17.)

1196.04 CONFLICTS, SEVERABILITY, NUISANCES AND RESPONSIBILITY.

- (a) Where this regulation is in conflict with other provisions of law or ordinance, the most restrictive provisions, as determined by the City of Richmond Heights Engineer, shall prevail.
- (b) If any clause, section, or provision of this regulation is declared invalid or unconstitutional by a court of competent jurisdiction, the validity of the remainder shall not be affected thereby.
- (c) This regulation shall not be construed as authorizing any person to maintain a nuisance on their property, and compliance with the provisions of this regulation shall not be a defense in any action to abate such a nuisance.
- (d) Failure of the City of Richmond Heights to observe or recognize hazardous or unsightly conditions or to recommend corrective measures shall not relieve the site owner from the responsibility for the condition or damage resulting therefrom, and shall not result in the City of Richmond Heights, its officers, employees, or agents being responsible for any condition or damage resulting therefrom.

(Ord. 120-2016. Passed 1-17-17.)

1196.05 DEVELOPMENT OF COMPREHENSIVE STORMWATER MANAGEMENT PLANS.

- (a) This regulation requires that a Comprehensive Stormwater Management Plan be developed and implemented for all soil disturbing activities disturbing one (1) or more acres of total land, or less than one (1) acre if part of a larger common plan of development or sale disturbing one (1) or more acres of total land, and on which any regulated activity of Section 1196.01 (C) is proposed. A Comprehensive Stormwater Management Plan must be developed and implemented for all commercial and industrial site development. The City Engineer may require a comprehensive stormwater management plan on sites disturbing less than 1 acre.
- (b) The City shall administer this regulation, shall be responsible for determination of compliance with this regulation, and shall issue notices and orders as may be necessary. The City may consult with the Cuyahoga SWCD, state agencies, private engineers, stormwater districts, or other technical experts in reviewing the Comprehensive Stormwater Management Plan.

(Ord. 120-2016. Passed 1-17-17.)

1196.06 APPLICATION PROCEDURES.

- (a) **Pre-Application Meeting:** The applicant shall attend a Pre-Application Meeting with the City Engineer to discuss the proposed project, review the requirements of this regulation, identify unique aspects of the project that must be addressed during the review process, and establish a preliminary review and approval schedule.
- (b) **Preliminary Comprehensive Stormwater Management Plan:** The applicant shall submit two (2) sets of a Preliminary Comprehensive Stormwater Management Plan (Preliminary Plan) and the applicable fees to the Building Commissioner. The Preliminary Plan shall show the proposed property boundaries, setbacks, dedicated open space, public roads, water resources, stormwater control facilities, and easements in sufficient detail and engineering analysis to allow the City Engineer to determine if the site is laid out in a manner that meets the intent of this regulation and if the proposed SCMs are capable of controlling runoff from the site in compliance with this regulation. The applicant shall submit two (2) sets of the Preliminary Plan and applicable fees as follows:
 - (1) **For subdivisions:** In conjunction with the submission of the preliminary subdivision plan.
 - (2) **For other construction projects:** In conjunction with the application for a zoning or building permit.
 - (3) **For general clearing projects:** In conjunction with the application for a zoning or building permit.
- (c) **Final Comprehensive Stormwater Management Plan:** The applicant shall submit two (2) sets of a Final Comprehensive Stormwater Management Plan (Final Plan) and the applicable fees to the Building Commissioner in conjunction with the submittal of the final plat, improvement plans, or application for a building or zoning permit for the site. The Final Plan shall meet the requirements of Section 1196.08 and shall be approved by the City Engineer prior to approval of the final plat and/or before issuance of a zoning or building permit by the Building Commissioner.
- (d) **Review and Comment:** The City Engineer shall review the Preliminary and Final Plans submitted, and shall approve or return for revisions with comments and recommendations for revisions. A Preliminary or Final Plan rejected because of deficiencies shall receive a narrative report stating specific problems and the procedures for filing a revised Preliminary or Final Plan.
- (e) **Approval Necessary:** Land clearing and soil-disturbing activities shall not begin and zoning and/or building permits shall not be issued without an approved Comprehensive Stormwater Management Plan.
- (f) **Valid for Two Years:** Approvals issued in accordance with this regulation shall remain valid for two (2) years from the date of approval.

(Ord. 120-2016. Passed 1-17-17.)

1196.07 COMPLIANCE WITH STATE AND FEDERAL REGULATIONS.

Approvals issued in accordance with this regulation do not relieve the applicant of responsibility for obtaining all other necessary permits and/or approvals from other federal, state, and/or county agencies. If requirements vary, the most restrictive shall prevail. These permits may include, but are not limited to, those listed below. Applicants are required to show proof of compliance with these regulations before the City will

issue a building or zoning permit.

- (a) Ohio Environmental Protection Agency (Ohio EPA) National Pollutant Discharge Elimination System (NPDES) Permits authorizing stormwater discharges associated with construction activity or the most current version thereof: Proof of compliance with these requirements shall be the applicant's Notice of Intent (NOI) number from Ohio EPA, a copy of the Ohio EPA Director's Authorization Letter for the NPDES Permit, or a letter from the site owner certifying and explaining why the NPDES Permit is not applicable.
 - (b) Section 401 of the Clean Water Act: Proof of compliance shall be a copy of the Ohio EPA Water Quality Certification application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 401 of the Clean Water Act is not applicable. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
 - (c) Ohio EPA Isolated Wetland Permit: Proof of compliance shall be a copy of Ohio EPA's Isolated Wetland Permit application tracking number, public notice, project approval, or a letter from the site owner certifying that a qualified professional has surveyed the site and determined that Ohio EPA's Isolated Wetlands Permit is not applicable. Isolated wetlands shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
 - (d) Section 404 of the Clean Water Act: Proof of compliance shall be a copy of the U.S. Army Corps of Engineers Individual Permit application, public notice, or project approval, if an Individual Permit is required for the development project. If an Individual Permit is not required, the site owner shall submit proof of compliance with the U.S. Army Corps of Engineer's Nationwide Permit Program. This shall include one of the following:
 - (1) A letter from the site owner certifying that a qualified professional has surveyed the site and determined that Section 404 of the Clean Water Act is not applicable.
 - (2) A site plan showing that any proposed fill of waters of the United States conforms to the general and special conditions specified in the applicable Nationwide Permit. Wetlands, and other waters of the United States, shall be delineated by protocols accepted by the U.S. Army Corps of Engineers at the time of application of this regulation.
 - (e) Ohio Dam Safety Law: Proof of compliance shall be a copy of the ODNR Division of Soil and Water Resources permit application tracking number, a copy of the project approval letter from the ODNR Division of Soil and Water Resources, or a letter from the site owner certifying and explaining why the Ohio Dam Safety Law is not applicable.
- (Ord. 120-2016. Passed 1-17-17.)

1196.08 COMPREHENSIVE STORMWATER MANAGEMENT PLAN.

- (a) Comprehensive Stormwater Management Plan Required: The applicant shall develop a Comprehensive Stormwater Management Plan describing how the quantity and quality of stormwater will be managed after construction is completed for every discharge from the site and/or into a water resource or small municipal separate storm sewer system (MS4). The Plan will illustrate the type, location, and dimensions of every structural and non-structural SCM incorporated into the site design, and the rationale for their selection. The rationale must address how these SCMs will address flooding within the site as well as flooding that may be caused by the development upstream and downstream of the site. The rationale will also describe how the SCMs minimize impacts to the physical, chemical, and biological characteristics of on-site and downstream water resources and, if necessary, correct current degradation of water resources that is occurring or take measures to prevent predictable degradation of water resources.
- (b) Preparation by Professional Engineer: The Comprehensive Stormwater Management Plan shall be prepared by a registered Professional Engineer and include supporting calculations, plan sheets, and design details. To the extent necessary, as determined by the City Engineer, a site survey shall be performed by a Registered Professional Surveyor to establish boundary lines, measurements, or land surfaces.
- (c) Community Procedures: The City Engineer shall prepare and maintain procedures providing specific criteria and guidance to be followed when designing the stormwater management system for the site. These procedures may be updated from time to time, at the discretion of the City Engineer based on improvements in engineering, science, monitoring, and local maintenance experience. The City Engineer shall make the final determination of whether the practices proposed in the Comprehensive Stormwater Management Plan meet the requirements of this regulation. The City Engineer may also maintain a list of acceptable SCMs that meet the criteria of this regulation to be used in the City.
- (d) Contents of Comprehensive Stormwater Management Plan: The Comprehensive Stormwater Management Plan shall contain an application, narrative report, construction site plan sheets, a long-term Inspection and Maintenance Plan and Inspection and Maintenance Agreement, and a site description with the following information provided:
 - (1) Site description:
 - a. A description of the nature and type of the construction activity (e.g. residential, shopping mall, highway, etc.).
 - b. Total area of the site and the area of the site that is expected to be disturbed (i.e. grubbing, clearing, excavation, filling or grading, including off-site borrow areas).
 - c. A description of prior land uses at the site.
 - d. An estimate of the impervious area and percent of imperviousness created by the soil-disturbing activity at the beginning and at the conclusion of the project.
 - e. Selection (source and justification) and/or calculations of runoff coefficients for water quality volume determination, peak discharge control (curve number/critical storm method), and rational method.
 - f. Existing data describing the soils throughout the site, including soil map units including series, complexes, and association, hydrologic soil group, porosity, infiltration characteristics, depth to groundwater, depth to bedrock, and any impermeable layers.
 - g. If available, the quality of any known pollutant discharge from the site such as that which may result from previous contamination caused by prior land uses.
 - h. The location and name of the immediate water resource(s) and the first subsequent water resource(s).
 - i. The aerial (plan view) extent and description of water resources at or near the site that will be disturbed or will receive discharges from the project.
 - j. If applicable, identify the point of discharge to a municipal separate storm sewer system and the location where that municipal separate storm sewer system ultimately discharges to a stream, lake, or wetland. The location and name of the immediate receiving stream or surface water(s) and the first subsequent receiving water(s) and the aerial extent and description of wetlands or other special aquatic sites at or near the site which will be disturbed or which will receive discharges from undisturbed areas of the project.
 - k. TMDLs applicable for the site [refer to TMDL community identifier table at <http://www.neohiostormwater.com/>]; demonstrate that appropriate (SCMs) have been selected to address these TMDLs.
 - l. For each SCM, identify the drainage area, percent impervious cover within the drainage area, runoff coefficient for water quality volume, peak discharge, and the time of concentration for each subwatershed per Appendix 1 of Ohio's stormwater manual, Rainwater and Land Development. Pervious and impervious areas should be treated as separate subwatersheds unless allowed at the discretion of the community engineer. Identify the SCM surface area, discharge and dewatering time, outlet type and dimensions. Each SCM shall be designated with an individual identification number.
 - m. Describe the current condition of water resources including the vertical stability of stream channels and indications of channel incision that may be responsible for current or future sources of high sediment loading or loss of channel stability.
 - n. The site description shall detail the following: drainage sub areas and description of cover; pre- and post- development runoff and allowable runoff rates; stage-storage-discharge relationships for every control structure; a summary table of results, including basin maximum water surface elevation, design calculations, and other supporting information as applicable or as required by the reviewing authority.
 - (2) Site map showing:
 - a. Limits of soil-disturbing activity on the site.
 - b. Soils map units for the entire site, including locations of unstable or highly erodible soils.
 - c. Existing and proposed one-foot (1') contours. This must include a delineation of drainage watersheds expected before, during, and after major grading activities as well as the size of each drainage watershed in acres.
 - d. Water resource locations including springs, wetlands, streams, lakes, water wells, and associated setbacks on or within 200 feet of the site, including the boundaries of wetlands or streams and first subsequent named receiving water(s) the applicant intends to fill or relocate for which the applicant is seeking approval from the Army Corps of Engineers and/or Ohio EPA.
 - e. Existing and planned locations of buildings, roads, parking facilities, and utilities.
 - f. The location of any in-stream activities including stream crossings. SCMs to be employed on the development area both during and after soil disturbing activities, including their location and size, including detail drawings, maintenance requirements during and after construction.
 - (3) Contact information: Company name and contact information as well as contact name, addresses, and phone numbers for the following:
 - a. The Professional Engineer who prepared the Comprehensive Stormwater Management Plan.
 - b. The site owner.
 - (4) Phase, if applicable, of the overall development plan.
 - (5) List of subplot numbers if project is a subdivision.
 - (6) Ohio EPA NPDES Permit Number and other applicable state and federal permit numbers, if available, or status of various permitting requirements if final approvals have not been received.
 - (7) Location, including complete site address and subplot number if applicable.
 - (8) Location of any easements or other restrictions placed on the use of the property.
 - (9) A site plan sheet showing:
 - a. The location of each proposed post-construction SCMs.
 - b. The geographic coordinates of the site AND each proposed practice in North American Datum Ohio State Plane North.

It is preferred that the entire site be shown on one plan sheet to allow a complete view of the site during plan review. If a smaller scale is used to accomplish this, separate sheets providing an enlarged view of areas on individual sheets should also be provided.
 - (10) Inspection and Maintenance Agreement. The Inspection and Maintenance Agreement required for SCMs under this regulation is a stand-alone document between the City and the applicant. A copy of this agreement should be attached to the property deed. The agreement shall contain the following information and provisions:
 - a. Identification of the landowner(s), organization, or municipality responsible for long-term inspection and maintenance, including repairs, of the SCMs.
 - b. The landowner(s), organization, or municipality shall maintain SCMs in accordance with this regulation.
 - c. The City has the authority to enter upon the property to conduct inspections as necessary, with prior notification of the property owner, to verify that the SCMs are being maintained and operated in accordance with this regulation.
 - d. The City shall maintain public records of the results of site inspections, shall inform the landowner(s), organization, or municipality responsible for maintenance of the inspection results, and shall specifically indicate in writing any corrective actions required to bring the SCMs into proper working condition.
 - e. If the City notifies the landowner(s), organization, or municipality responsible for maintenance of the maintenance problems that require correction, the specific corrective actions shall be taken within a reasonable time as determined by the City.
 - f. The City is authorized to enter upon the property and perform the corrective actions identified in the inspection report if the landowner(s), organization, or municipality responsible for maintenance does not make the required corrections in the specified time period. The City shall be reimbursed by the landowner(s), organization, or municipality responsible for maintenance for all expenses incurred within 10 days of receipt of invoice from the City, or more with written approval from the City Engineer.
 - g. The method of funding long-term maintenance and inspections of all SCMs.
 - h. A release of the City from all damages, accidents, occurrences, or claims that might arise or be asserted against the City from the construction, presence, existence, or maintenance of the SCMs.
 - (11) Inspection and Maintenance Plan. This plan will be developed by the applicant and reviewed by the City. Once the Inspection and Maintenance Plan is approved, a recorded copy of the Plan must be submitted to the City as part of the final inspection approval as described in 1196.12. The plan will include at a minimum:
 - a. The location of each SCM and identification of the drainage area served by each SCM.
 - b. Photographs of each SCM, including all inlets and outlets upon completion of construction.
 - c. Schedule of inspection.
 - d. A schedule for regular maintenance for each aspect of the stormwater management system and description of routine and non-routine maintenance tasks to ensure continued performance of the system as is detailed in the approved Comprehensive Stormwater Management Plan. A maintenance inspection checklist written so the average person can understand it shall be incorporated. The maintenance plan will include a detailed drawing of each SCM and outlet structures with the parts of the outlet structure labeled. This schedule may include additional standards, as required by the City Engineer, to ensure continued performance of SCMs permitted to be located in, or within 50 feet of, water resources.
 - e. The location and documentation of all access and maintenance easements on the property. Alteration or termination of these stipulations is prohibited.
 - (12) Required calculations: The applicant shall submit calculations for projected stormwater runoff flows, volumes, and timing into and through all SCMs for flood control, channel protection, water quality, and the condition of the habitat, stability, and incision of each water resource and its floodplain, as required in Section 1196.09 of this regulation. These submittals shall be completed for both pre- and post-development land use conditions and shall include the underlying assumptions and hydrologic and hydraulic methods and parameters used for these calculations. The applicant shall also include critical storm determination and demonstrate that the runoff from offsite areas have been considered in the calculations.

- (13) List of all contractors and subcontractors before construction: Prior to construction or before the pre-construction meeting, provide the list of all contractors and subcontractors and their names, addresses, and phones involved with the implementation of the Comprehensive Stormwater Management Plan including a written document containing signatures of all parties as proof of acknowledgment that they have reviewed and understand the requirements and responsibilities of the Comprehensive Stormwater Management Plan.
- (14) Existing and proposed drainage patterns: The location and description of existing and proposed drainage patterns and SCMs, including any related SCMs beyond the development area and the larger common development area.
- (15) For each SCM to be employed on the development area, include the following:
 - a. Location and size, including detail drawings, maintenance requirements during and after construction, and design calculations, all where applicable.
 - b. Final site conditions including stormwater inlets and permanent nonstructural and structural SCMs. Details of SCMs shall be drawn to scale and shall show volumes and sizes of contributing drainage areas.
 - c. Any other structural and/or non-structural SCMs necessary to meet the design criteria in this regulation and any supplemental information requested by the City Engineer.
 - d. Each SCM shall be designated with an individual identification number. (Ord. 120-2016. Passed 1-17-17.)

1196.09 PERFORMANCE STANDARDS.

- (a) General: The stormwater system, including SCMs for storage, treatment and control, and conveyance facilities, shall be designed to prevent structure flooding during the 100-year, 24-hour storm event; to maintain predevelopment runoff patterns, flows, and volumes; and to meet the following criteria:
 - (1) Integrated practices that address degradation of water resources: The SCMs shall function as an integrated system that controls flooding and minimizes the degradation of the physical, biological, and chemical integrity of the water resources receiving stormwater discharges from the site. Acceptable practices shall:
 - a. Not disturb riparian areas, unless the disturbance is intended to support a watercourse restoration project and complies with Chapter 1197 Riparian Areas and Wetlands.
 - b. Maintain predevelopment hydrology and groundwater recharge on as much of the site as practicable.
 - c. Only install new impervious surfaces and compact soils where necessary to support the future land use.
 - d. Compensate for increased runoff volumes caused by new impervious surfaces and soil compaction by reducing stormwater peak flows to less than predevelopment levels.
 - e. Be designed according to the methodology included in the most current edition of Rainwater and Land Development or another design manual acceptable for use by the City and Ohio EPA. SCMs that meet the criteria in this regulation, and additional criteria required by the City Engineer, shall comply with this regulation.
 - (2) Practices designed for final use: SCMs shall be designed to achieve the stormwater management objectives of this regulation, to be compatible with the proposed post-construction use of the site, to protect the public health, safety, and welfare, and to function safely with routine maintenance.
 - (3) Stormwater management for all lots: Areas developed for a subdivision, as defined in Chapter 1123, shall provide stormwater management and water quality controls for the development of all subdivided lots. This shall include provisions for lot grading and drainage that prevent structure flooding during the 100-year, 24-hour storm; and maintain, to the extent practicable, the pre-development runoff patterns, volumes, and peaks from each lot.
 - (4) Stormwater facilities in water resources: SCMs and related activities shall not be constructed in water resources unless the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section 1196.07 of this regulation, and the activity is in compliance with Chapter 1195 Erosion and Sediment Control and Chapter 1197 Riparian Areas and Wetlands, all as determined by the City Engineer.
 - (5) Stormwater ponds and surface conveyance channels: All stormwater pond and surface conveyance designs must provide a minimum of one (1) foot freeboard above the projected peak stage within the facility during the 100-year, 24-hour storm. When designing stormwater ponds and conveyance channels, the applicant shall consider public safety as a design factor and alternative designs must be implemented where site limitations would preclude a safe design.
 - (6) Exemption: The site where soil-disturbing activities are conducted shall be exempt from the requirements of Section 1196.09 if it can be shown to the satisfaction of the City Engineer that the site is part of a larger common plan of development where the stormwater management requirements for the site are provided by an existing SCMs, or if the stormwater management requirements for the site are provided by practices defined in a regional or local stormwater management plan approved by the City Engineer.
 - (7) Maintenance: All SCMs shall be maintained in accordance with the Inspection and Maintenance Plan and Agreements approved by the City Engineer as detailed in Section 1196.08.
 - (8) Ownership: Unless otherwise required by the City, SCMs serving multiple lots in subdivisions shall be on a separate lot held and maintained by an entity of common ownership or, if compensated by the property owners, by the City. SCMs serving single lots shall be placed on these lots, protected within an easement, and maintained by the property owner.
 - (9) Preservation of Existing Natural Drainage: Practices that preserve and/or improve the existing natural drainage shall be used to the maximum extent practicable. Such practices may include minimizing site grading and compaction; protecting and/or restoring water resources, riparian areas, and existing vegetation and vegetative buffer strips; phasing of construction operations in order to minimize the amount of disturbed land at any one time, and designation of tree preservation areas or other protective clearing and grubbing practices; and maintaining unconcentrated stormwater runoff to and through these areas. Post-construction stormwater practices shall provide perpetual management of runoff quality and quantity so that a receiving stream's physical, chemical and biological characteristics are protected and ecological functions are maintained.
 - (10) Preservation of Wetland Hydrology: Concentrated stormwater runoff from SCMs to wetlands shall be converted to diffuse flow before the runoff enters the wetlands in order to protect the natural hydrology, hydroperiod, and wetland flora. The flow shall be released such that no erosion occurs down slope. Practices such as level spreaders, vegetative buffers, infiltration basins, conservation of forest covers, and the preservation of intermittent streams, depressions, and drainage corridors may be used to maintain the wetland hydrology. If the applicant proposes to discharge to natural wetlands, a hydrological analysis shall be performed to demonstrate that the proposed discharge matches the pre-development hydroperiods and hydrodynamics that support the wetland.
 - (11) Soil Preservation and Post-Construction Soil Restoration: To the maximum extent practicable leave native soil undisturbed and protect from compaction during construction. Except for areas that will be covered by impervious surface or have been incorporated into an SCM, the soil moisture-holding capacity of areas that have been cleared and graded must be restored to that of the original, undisturbed soil to the maximum extent practicable. Areas that have been compacted or had the topsoil or duff layer removed should be amended using the following steps: 1. till subsoil to a depth of 15-18 inches, 2. incorporate compost through top 12 inches, 3. Replace with stockpiled site or imported suitable topsoil to a minimum depth of 4 inches.
- (b) Stormwater Conveyance Design Criteria: All SCMs shall be designed to convey stormwater to allow for the maximum removal of pollutants and reduction in flow velocities. This shall include but not be limited to:
 - (1) Surface water protection: The City Engineer may allow modification to streams, rivers, lakes, wetlands or other surface waters only if the applicant shows proof of compliance with all appropriate permits from the Ohio EPA, the U.S. Army Corps, and other applicable federal, state, and local agencies as required in Section 1196.07 of this regulation, and the activity is in compliance with Chapter 1195 Erosion and Sediment Control and Chapter 1197 Riparian Areas and Wetlands, all as determined by the City Engineer. At a minimum, stream relocation designs must show how the project will minimize changes to the vertical stability, floodplain form, channel form, and habitat of upstream and downstream channels on and off the property.
 - (2) Off-site stormwater discharges: Off-site stormwater runoff that discharges to or across the applicant's development site shall be conveyed through the stormwater conveyance system planned for the development site at its existing peak flow rates during each design storm. Off-site flows shall be diverted around stormwater quality control facilities or, if this is not possible, the stormwater quality control facility shall be sized to treat the off-site flow. Comprehensive Stormwater Management Plans will not be approved until it is demonstrated to the satisfaction of the City Engineer that off-site runoff will be adequately conveyed through the development site in a manner that does not exacerbate upstream or downstream flooding and erosion.
 - (3) Sheet flow: The site shall be graded in a manner that maintains sheet flow over as large an area as possible. The maximum area of sheet flow shall be determined based on the slope, the uniformity of site grading, and the use of easements or other legally-binding mechanisms that prohibit re-grading and/or the placement of structures within sheet flow areas. In no case shall the sheet flow length be longer than 300 feet, nor shall a sheet flow area exceed 1.5 acres. Flow shall be directed into an open channel, storm sewer, or other SCMs from areas too long and/or too large to maintain sheet flow, all as determined by the City Engineer.
 - (4) Open channels: Unless otherwise allowed by the City Engineer, drainage tributary to SCMs shall be provided by an open channel with vegetated banks and designed to carry the 10 year, 24 hour stormwater runoff from upstream contributory areas.
 - (5) Open drainage systems: Open drainage systems shall be preferred on all new development sites to convey stormwater where feasible. Storm sewer systems shall be allowed only when the site cannot be developed at densities allowed under City zoning or where the use of an open drainage system affects public health or safety, all as determined by the City Engineer. The following criteria shall be used to design storm sewer systems when necessary:
 - a. Storm sewers shall be designed such that they do not surcharge from runoff caused by the 10 year, 24 hour storm, and that the hydraulic grade line of the storm sewer stays below the gutter flow line of the overlying roadway, or below the top of drainage structures outside the roadway during a 25 year, 24 hour storm. The system shall be designed to meet these requirements when conveying the flows from the contributing drainage area within the proposed development and existing flows from offsite areas that are upstream from the development.
 - b. The minimum inside diameter of pipe to be used in public storm sewer systems is 12 inches. Smaller pipe sizes may be used in private systems, subject to the approval of the City Engineer.
 - c. All storm sewer systems shall be designed taking into consideration the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency. The hydraulic grade line for the storm sewer system shall be computed with consideration for the energy losses associated with entrance into and exit from the system, friction through the system, and turbulence in the individual manholes, catch basins, and junctions within the system.
 - d. The inverts of all curb inlets, manholes, yard inlets, and other structures shall be formed and channelized to minimize the incidence of quiescent standing water where mosquitoes may breed.
 - e. Headwalls shall be required at all storm sewer inlets or outlets to and from open channels or lakes.
 - (6) Water Resource Crossings: The following criteria shall be used to design structures that cross a water resource in the City:
 - a. Water resource crossings other than bridges shall be designed to convey the stream's flow for the minimum 25 year, 24 hour storm.
 - b. Bridges, open bottom arch or spans are the preferred crossing technique and shall be considered in the planning phase of the development. Bridges and open spans should be considered for all State Scenic Rivers, coldwater habitat, exceptional warmwater habitat, seasonal salmonid habitat streams, and Class III headwater streams. The footers or piers for these bridges and open spans shall not be constructed below the ordinary high water mark.
 - c. If a culvert or other closed bottom crossing is used, twenty-five (25) percent of the cross-sectional area or a minimum of 1 foot of box culverts and pipe arches must be embedded below the channel bed. The conduit or conveyance must be sized to carry the 25-year storm under these conditions.
 - d. The minimum inside diameter of pipes to be used for crossings shall be 12 inches.
 - e. The maximum slope allowable shall be a slope that produces a 10 fps velocity within the culvert barrel under design flow conditions. Erosion protection and/or energy dissipaters shall be required to properly control entrance and outlet velocities.
 - f. All culvert installations shall be designed with consideration for the tailwater of the receiving facility or water resource. The tailwater elevation used shall be based on the design storm frequency.
 - g. Headwalls shall be required at all culvert inlets or outlets to and from open channels or lakes.
 - h. Streams with a drainage area of 5 square miles or larger shall incorporate floodplain culverts at the bankfull elevation to restrict head loss differences across the crossing so as to cause no rise in the 100-year storm event.
 - i. Bridges shall be designed such that the hydraulic profile through a bridge shall be below the bottom chord of the bridge for either the 100 year, 24 hour storm, or the 100 year flood elevation as determined by FEMA, whichever is more restrictive.
 - (7) Overland flooding: Overland flood routing paths shall be used to convey stormwater runoff from the 100 year, 24 hour storm event to an adequate receiving water resource or SCM such that the runoff is contained within the drainage easement for the flood routing path and does not cause flooding of buildings or related structures. The peak 100-year water surface elevation along flood routing paths shall be at least one foot below the finished grade elevation of all structures. When designing the flood routing paths, the conveyance capacity of the site's storm sewers shall be taken into consideration.
 - (8) Compensatory flood storage mitigation: In order to preserve floodplain storage volumes and thereby avoid increases in water surface elevations, any filling within floodplains approved by the City must be compensated by providing an equivalent storage volume. First consideration for the location(s) of compensatory floodplain volumes should be given to areas where the stream channel will have immediate access to the new floodplain within the limits of the development site. Consideration will also be given to enlarging existing or proposed retention basins to compensate for floodplain fill if justified by a hydraulic analysis of the contributing watershed. Unless otherwise permitted by the City, reductions in volume due to floodplain fills must be mitigated within the legal boundaries of the development. Embankment slopes used in compensatory storage areas must reasonably conform to the natural slopes adjacent to the disturbed area. The use of vertical retaining structures is specifically prohibited.
 - (9) Velocity dissipation: Velocity dissipation devices shall be placed at discharge locations and along the length of any outfall to provide non-erosive flow velocity from the structure to a water resource so that the natural physical and biological characteristics and functions of the water resource are maintained and protected.
- (c) Stormwater Quality Control:
 - (1) Direct runoff to an SCM: The site shall be designed to direct runoff to one or more of the following SCMs. These practices are listed in Table 2 of this regulation and shall be designed to meet the following general performance standards:

- a. Extended detention facilities that detain stormwater; settle or filter particulate pollutants; and release the controlled stormwater to a water resource.
 - b. Infiltration facilities that retain stormwater; promote settling, filtering, and biodegradation of pollutants; and infiltrate captured stormwater into the ground. The City Engineer may require a soil engineering report to be prepared for the site to demonstrate that any proposed infiltration facilities meet these performance standards.
For sites less than five (5) acres, but required to create a comprehensive stormwater management plan, the City Engineer may approve other SCMs if the applicant demonstrates to the City Engineer's satisfaction that these SCMs meet the objectives of this regulation as stated in Section 1196.09.C.6.
 - c. For sites greater than five (5) acres, or less than five (5) acres but part of a larger common plan of development or sale which will disturb five (5) or more acres, the City Engineer may approve other SCMs if the applicant demonstrates to the City Engineer's satisfaction that these SCMs meet the objectives of this regulation as stated in Section 1196.09.C.6, and has prior written approval from the Ohio EPA.
 - d. For the construction of new roads and roadway improvement projects by public entities (i.e. the state, counties, townships, cities, or villages), the City Engineer may approve SCMs not included in Table 2 of this regulation, but must show compliance with the current version of the Ohio Department of Transportation "Location and Design Manual, Volume Two Drainage Design".
- Per Rainwater and Land Development, the water quality volume (WQv) orifice shall be an anti-clogging or non-clogging design such as a reverse slope pipe or a perforated tile pipe with gravel filter. Alternatively, the City may encourage the use of other SCMs for smaller drainage areas.

(2) **Criteria applying to all SCMs.** SCMs chosen must be sized to treat the water quality volume (WQv) and to ensure compliance with Ohio Water Quality Standards (OAC Chapter 3745-1).

- a. The WQv shall be equal to the volume of runoff from a 0.75 inch rainfall event and shall be determined according to one of the following methods:
 - (i) Through a site hydrologic study approved by the City Engineer that uses continuous hydrologic simulation; site-specific hydrologic parameters, including impervious area, soil infiltration characteristics, slope, and surface routing characteristics; proposed SCMs controlling the amount and/or timing of runoff from the site; and local long-term hourly records, or
 - (ii) Using the following equation:

$$WQV = C * P * A / 12$$
 where terms have the following meanings:
 WQV = water quality volume in acre-feet
 C = runoff coefficient appropriate for storms less than 1 in.
 P = 0.75 inch precipitation depth
 A = area draining into the stormwater practice, in acres.
 Runoff coefficients required by the Ohio Environmental Protection Agency (Ohio EPA) for use in determining the WQv can be determined using the list in Table 1 or using the following equation to calculate the runoff coefficient:

$$C = 0.858i^3 - 0.78i^2 + 0.774i + 0.04$$
, where:
 i = fraction of the drainage area that is impervious

Table 1: Runoff Coefficients Based on the Type of Land Use

Land Use	Runoff Coefficient
Industrial & Commercial	0.8
High Density Residential (>8 dwellings/acre)	0.5
Medium Density Residential (4 to 8 dwellings/acre)	0.4
Low Density Residential (<4 dwellings/acre)	0.3
Open Space and Recreational Areas	0.2
Where land use will be mixed, the runoff coefficient should be calculated using a weighted average. For example, if 60% of the contributing drainage area to the stormwater treatment structure is Low Density Residential, 30% is High Density Residential, and 10% is Open Space, the runoff coefficient is calculated as follows $(0.6)(0.3) + (0.3)(0.5) + (0.1)(0.2) = (0.35)$	

- b. An additional volume equal to 20% of the WQv shall be incorporated into the stormwater practice for sediment storage. This volume shall be incorporated into the sections of stormwater practices where pollutants will accumulate.
- c. Each individual SCM must be sized to treat the WQv associated with its entire contributing drainage area. Exceptions to this may be granted by the City Engineer and/or the OEPA on a case-by-case basis.
- d. Stormwater quality management practices shall be designed such that the drain time is long enough to provide treatment and protect against downstream bank erosion, but short enough to provide storage available for successive rainfall events as defined in Table 2.
- e. Sites within watersheds of coldwater habitat streams shall include SCMs to infiltrate the water quality volume or reduce the temperature of discharged runoff. SCMs that reduce the temperature of discharged runoff include bioretention, permeable pavement, underground detention, and incorporation of shading and infiltration in parking lot design.
- f. Each practice shall be designed to facilitate sediment removal, vegetation management, debris control, and other maintenance activities defined in the Inspection Plan and Maintenance Agreement for the site.

Table 2: Draw Down Times for Stormwater Control Measures

Stormwater Control Measure	Drain Time of WQv
Infiltration Basin or Trench ¹	24 - 48 hours
Permeable Pavement - Infiltration ¹	48 hours
Permeable Pavement - Extended Detention 24 hours	
Extended Detention Facilities	
• Dry Extended Detention Basins ²	48 hours
• Wet Extended Detention Basin ³	24 hours
• Constructed Wetlands (above permanent pool) ⁴	24 hours
• Bioretention Area/Cell ^{5,6}	24 hours
• Sand and other Media Filtration ⁵	24 hours
• Pocket Wetland ⁷	24 hours
¹ Practices designed to fully infiltrate the WQv shall empty within 48 hours to provide storage for subsequent storm events. ² The use of a forebay and micropool is required on all dry extended detention basins. Each is to be sized at a minimum 10% of the WQv. ³ Provide both a permanent pool and an extended detention volume above the permanent pool, each sized with at least 0.75*WQV. ⁴ Extended detention shall be provided for the WQv above the permanent water pool. ⁵ The surface ponding area shall completely empty within 24 hours so that there is no standing water. Shorter drawdown times are acceptable as long as design criteria in Rainwater and Land Development have been met. ⁶ This includes grassed linear bioretention, which was previously titled enhanced water quality swale. ⁷ Pocket wetlands must have a wet pool equal to the WQv, with 25% of the WQv in a pool and 75% in marshes. The EDv above the permanent pool must be equal to the WQv.	

(3) **Additional criteria applying to infiltration facilities.**

- a. Infiltration facilities should be designed to meet all criteria in Rainwater and Land Development.
- b. All runoff directed into an infiltration basin must first flow through a pretreatment practice such as a grass channel or filter strip to remove coarser sediments that could cause a loss of infiltration capacity.
- c. During construction, all runoff from disturbed areas of the site shall be diverted away from the proposed infiltration basin site. No construction equipment shall be allowed within the infiltration basin site to avoid soil compaction.

(4) **Additional criteria for extended detention facilities:**

- a. The outlet shall be designed to not release more than the first half of the water quality volume in less than 1/3rd of the drain time. The outlet shall be designed to minimize clogging, vandalism, maintenance, and promote the capture of floatable pollutants.
- b. The basin design shall incorporate the following features to maximize multiple uses, aesthetics, safety, and maintainability:
 - (i) Basin side slopes above the permanent pool shall have a run to rise ratio of 4:1 or flatter.
 - (ii) The perimeter of all permanent pool areas deeper than 4 feet shall be surrounded by an aquatic bench that extends at least 8 feet and no more than 15 feet outward from the normal water edge. The 8 feet wide portion of the aquatic bench closest to the shoreline shall have an average depth of 6 inches below the permanent pool to promote the growth of aquatic vegetation. The remainder of the aquatic bench shall be no more than 15 inches below the permanent pool to minimize drowning risk to individuals who accidentally or intentionally enter the basin, and to limit growth of dense vegetation in a manner that allows waves and mosquito predators to pass through the vegetation. The maximum slope of the aquatic bench shall be 10 (H) to 1 (V). The aquatic bench shall be planted with native plant species comparable to wetland vegetation that are able to withstand prolonged inundation. The use of invasive plant species is prohibited.
 - (iii) A forebay designed to allow larger sediment particles to settle shall be placed at basin inlets. The forebay and micropool volume shall be equal to at least 10% of the water quality volume (WQv).
 - (iv) When post-construction detention/water quality basins are to be used as temporary sediment trapping BMPs, a skimmer discharge device consistent with the Ohio Rainwater Manual shall be utilized during the construction phase and until the site is deemed permanently stabilized by the administrator as required by Chapter 1195, Erosion and Sediment Control.
 - (v) Detention basins shall be provided with an emergency drain, where practicable, so that the basin may be emptied if the primary outlet becomes clogged and/or to drain the permanent pool to facilitate maintenance. The emergency drain should be designed to drain by gravity where possible.

(5) **Criteria for the Acceptance of Alternative post-construction SCMs:** The applicant may request approval from the City Engineer for the use of alternative structural post-construction SCMs if the applicant shows to

the satisfaction of the City Engineer that these SCMs are equivalent in pollutant removal and runoff flow/volume reduction effectiveness to those listed in Table 2. If the site is greater than five (5) acres, or less than five (5) acres but part of a larger common plan of development or sale which will disturb five (5) or more acres, prior approval from the Ohio EPA is necessary. To demonstrate the equivalency, the applicant must show:

- a. The alternative SCM has a minimum total suspended solid (TSS) removal efficiency of 80 percent, using the Level II Technology Acceptance Reciprocity Partnership (TARP) testing protocol.
- b. The water quality volume discharge rate from the selected SCM is reduced to prevent stream bed erosion, unless there will be negligible hydrologic impact to the receiving surface water of the State. The discharge rate from the SCM will have negligible impacts if the applicant can demonstrate one of the following conditions:
 - (i) The entire water quality volume is recharged to groundwater.
 - (ii) The development will create less than one acre of impervious surface.
 - (iii) The development project is a redevelopment project with an ultra-urban setting, such as a downtown area, or on a site where 100 percent of the project area is already impervious surface and the stormwater discharge is directed into an existing storm sewer system.
 - (iv) The stormwater drainage system of the development discharges directly into a large river of fourth order or greater or to a lake, and where the development area is less than 5 percent of the water area upstream of the development site, unless a (TMDL) has identified water quality problems in the receiving surface water of the State.
- (d) **Stormwater Quantity Control:** The Comprehensive Stormwater Management Plan shall describe how the proposed SCMs are designed to meet the following requirements for stormwater quantity control for each watershed in the development:
 - (1) The peak discharge rate of runoff from the Critical Storm and all more frequent storms occurring under post-development conditions shall not exceed the peak discharge rate of runoff from a 1-year, 24-hour storm occurring on the same development drainage area under pre-development conditions.
 - (2) Storms of less frequent occurrence (longer return periods) than the Critical Storm, up to the 100-year, 24-hour storm shall have peak runoff discharge rates no greater than the peak runoff rates from equivalent size storms under pre-development conditions. The 1, 2, 5, 10, 25, 50, and 100-year storms shall be considered in designing a facility to meet this requirement.
 - (3) The Critical Storm for each specific development drainage area shall be determined as follows:
 - a. Determine, using a curve number-based hydrologic method or other hydrologic method approved by the City Engineer, the total volume (acre-feet) of runoff from a 1-year, 24-hour storm occurring on the development drainage area before and after development. These calculations shall meet the following standards:
 - (i) Calculations shall include the lot coverage assumptions used for full build out as proposed.
 - (ii) Calculations shall be based on the entire contributing watershed to the development area.
 - (iii) Model pervious, directly connected impervious and disconnected impervious areas as separate subwatersheds.
 - (iv) Drainage area maps shall include area, curve number, time of concentrations. Time of concentration shall also show the flow path and the separation in flow type.
 - (v) Rainfall Depth - For the most accurate, up-to-date, location-specific rainfall data for stormwater design, use the Precipitation-Frequency Atlas of the United States, NOAA Atlas 14, Vol 2(3). [available online: <http://hdsc.nws.noaa.gov/hdsc/pfds/>]
 - (vi) Temporal Distribution - Use the SCS Type II rainfall distribution for all design events with a recurrence interval greater than 1 year. Include lot coverage assumptions used for full build out of the proposed condition.
 - (vii) Curve numbers for the pre-development condition shall reflect the average type of land use over the past 10 years and not only the current land use.
 - A. Pre-development Curve Numbers - For wooded or brushy areas, use listed values from TR-55 NRCS USDA Urban Hydrology for Small Watersheds, 1986 in good hydrologic condition. For meadows, use listed values. For all other areas (including all types of agriculture), use pasture, grassland, or range in good hydrologic condition.
 - B. Post-development Curve Numbers - Open space areas shall use post-construction HSGs from Rainwater and Land Development unless the soil is amended after development according to the following protocol: till the subsoil to 15-18 inches, then till using a chisel, spader, or rotary tillage and incorporate compost through top 12 inches, replace topsoil to a minimum depth of 4 inches. All undisturbed areas or open space with amended soils shall be treated as "open space in good condition."
 - (viii) Time of Concentration - Use velocity based methods from (TR-55 NRCS USDA Urban Hydrology in Small Watersheds, 1986) to estimate travel time (Tt) for overland (sheet) flow, shallow concentrated flow and channel flow.
 - A. Maximum sheet flow length is 100 ft.
 - B. Use the appropriate "unpaved" velocity equation for shallow concentrated flow from Soil Conservation Service National Engineer Handbook Section 4 - Hydrology (NEH-4).
 - (ix) The volume reduction provided by permeable pavement, bioretention, or other LID SCMs may be subtracted from the post development stormwater volume. Volume reductions for these practices may be demonstrated using methods outlined in Rainwater and Land Development or a hydrologic model acceptable to the City Engineer.
 - b. To account for future post-construction improvements to the site, calculations shall assume an impervious surface such as asphalt or concrete for all parking areas and driveways, regardless of the surface proposed in the site description except in instances of engineered permeable pavement systems. From the volume determined in Section 1196.09(D)(3)(a), determine the percent increase in volume of runoff due to development. Using the percentage, select the 24-hour Critical Storm from Table 3.

Table 3: 24-Hour Critical Storm

If the Percentage of Increase in Volume of Runoff is:		The Critical Storm will be:
Equal to or Greater than:	and Less Than:	
---	10	1 year
10	20	2 year
20	50	5 year
50	100	10 year
100	250	25 year
250	500	50 year
500	---	100 year

For example, if the percent increase between the pre- and post-development runoff volume for a 1-year storm is 35%, the Critical Storm is a 5-year storm. The peak discharge rate of runoff for all storms up to this frequency shall be controlled so as not to exceed the peak discharge rate from the 1-year frequency storm under pre-development conditions in the development drainage area. The post-development runoff from all less frequent storms need only be controlled to meet pre-development peak discharge rates for each of those same storms.

(e) **Stormwater Management on Redevelopment Projects**

- (1) Comprehensive Stormwater Management Plans for redevelopment projects must accomplish one of the following options:
 - a. Reduce existing site impervious areas by at least 25 percent, a one-for-one credit towards the 25 percent net reduction of impervious area can be obtained through the use green roofs.
 - b. Infiltrate at least 25 percent of the WQv.
 - c. Capture, treat and release 50 percent of the WQv.
- (2) Where projects are a combination of new development and redevelopment, the total water quality volume required to be treated shall be calculated by a weighted average based on acreage, with the new development at 100 percent water quality volume and redevelopment at 25% infiltration of the WQv or 50% treatment of the WQv.
- (3) Where conditions prevent impervious area reduction or on-site stormwater management for redevelopment projects, practical alternatives as detailed in Section 1196.10 may be approved by the City Engineer. (Ord. 120-2016. Passed 1-17-17.)

1196.10 ALTERNATIVE ACTIONS.

- (a) When the City determines that site constraints compromise the intent of this regulation, off-site alternatives may be used that result in an improvement of water quality and a reduction of stormwater quantity. Such alternatives shall meet the following standards:
 - (1) Shall achieve the same level of stormwater quantity and quality control that would be achieved by the on-site controls required under this regulation.
 - (2) Implemented in the same Hydrologic Unit Code (HUC) 12 watershed unit as the proposed development project.
 - (3) The mitigation ratio of the water quality volume is 1.5 to 1 or the water quality volume at the point of retrofit, whichever is greater.
 - (4) An inspection and maintenance agreement as described in Chapter 1196.08.D.10 is established to ensure operations and treatment in perpetuity.
 - (5) Obtain prior written approval from Ohio EPA.
- (b) Alternative actions may include, but are not limited to the following. All alternative actions shall be approved by the City Engineer:
 - (1) Fees, in an amount specified by the City to be applied to community-wide SCMs.
 - (2) Implementation of off-site SCMs and/or the retrofit of an existing practice to increase quality and quantity control.
 - (3) Stream, floodplain, or wetland restoration.
 - (4) Acquisition or conservation easements on protected open space significantly contributing to stormwater control such as wetland complexes.
 (Ord. 120-2016. Passed 1-17-17.)

1196.11 EASEMENTS.

Access to SCMs as required by the City Engineer for inspections and maintenance shall be secured by easements. The following conditions shall apply to all easements:

- (a) Easements shall be included in the Inspection and Maintenance Agreement submitted with the Comprehensive Stormwater Management Plan.
- (b) Easements shall be approved by the City prior to approval of a final plat and shall be recorded with the Cuyahoga County Auditor and on all property deeds, and shall be shown on all plats of minor or major subdivisions.
- (c) Unless otherwise required by the City Engineer, access easements between a public right-of-way and all SCMs shall be no less than 25-feet wide. The easement shall also incorporate the entire practice plus an additional 25-foot wide band around the perimeter of the SCM.
- (d) The easement shall be graded and/or stabilized as necessary to allow maintenance equipment to access and manipulate around and within each facility, as defined in the Inspection and Maintenance Agreement for the site.
- (e) Easements to structural SCMs shall be restricted against the construction therein of buildings, fences, walls, and other structures that may obstruct the free flow of stormwater and the passage of inspectors and maintenance equipment; and against the changing of final grade from that described by the final grading plan approved by the City. Any re-grading and/or obstruction placed within a maintenance easement may be removed, after reasonable notification, by the City at the property owners' expense. (Ord. 120-2016. Passed 1-17-17.)

1196.12 MAINTENANCE AND FINAL INSPECTION APPROVAL.

To receive final inspection and acceptance of any project, or portion thereof, the following must be completed by the applicant and provided to the City Engineer:

- (a) Final stabilization must be achieved and all permanent SCMs must be installed and made functional, as determined by the City Engineer and per the approved Comprehensive Stormwater Management Plan.
- (b) An As-Built Certification, including As-Built Survey and Inspection, must be sealed, signed and dated by a Professional Engineer and a Professional Surveyor with a statement certifying that the stormwater control measures, as designed and installed, meet the requirements of the Comprehensive Stormwater Management Plan approved by the City Engineer. In evaluating this certification, the City Engineer may require the submission of a new set of stormwater practice calculations if he/she determines that the design was altered significantly from the approved Comprehensive Stormwater Management Plan. The

As-Built Survey must provide the location, dimensions, and bearing of such practices and include the entity responsible for long-term maintenance as detailed in the Inspection and Maintenance Agreement.

(c) A copy of the complete and recorded Inspection and Maintenance Plan and Inspection and Maintenance Agreement as specified in Section 1196.08 must be provided to the City Engineer.

(Ord. 120-2016. Passed 1-17-17.)

1196.13 ON-GOING INSPECTIONS.

(a) The owner shall inspect SCMs regularly as described in the Inspection and Maintenance Plan and Inspection and Maintenance Agreement. The City has the authority to enter upon the property to conduct inspections as necessary, with prior notification of the property owner, to verify that the SCMs are being maintained and operated in accordance with this regulation. Upon finding a malfunction or other need for maintenance or repair, the City shall provide written notification to the responsible party, as detailed in the Inspection and Maintenance Agreement, of the need for maintenance. Upon notification, the responsible party shall have thirty (30) working days, or other mutually agreed upon time, to make repairs or submit a plan with detailed action items and established timelines. Should repairs not be made within this time, or a plan approved by the City Engineer for these repairs not in place, the City may undertake the necessary repairs and assess the responsible party.

(b) Stormwater management facilities and related SCMs built before the passage of this ordinance and not otherwise subject to an Inspection and Maintenance Agreement shall be subject to applicable provisions of Part Thirteen "Building Code" with regard to property inspection and maintenance. (Ord. 120-2016. Passed 1-17-17.)

1196.14 FEES.

The Comprehensive Stormwater Management Plan review, filing, and inspection fee is part of a complete submittal and is required to be submitted to the City before the review process begins. The City Engineer shall establish a fee schedule based upon the actual estimated cost for providing these services. (Ord. 120-2016. Passed 1-17-17.)

1196.15 BOND.

(a) If a Comprehensive Stormwater Management Plan is required by this regulation, soil-disturbing activities shall not be permitted until a cash bond of 5% of the total project cost has been deposited with the City Finance Department. This bond shall be posted for the City to perform the obligations otherwise to be performed by the owner of the development area as stated in this regulation and to allow all work to be performed as needed in the event that the applicant fails to comply with the provisions of this regulation. The stormwater bond will be returned, less City administrative fees, when the following three criteria are met:

(1) After 80% of the lots of the project have been complete or 100% of the total project has been permanently stabilized or three (3) years from the time of permanent stabilization have passed.

(2) An As-Built Inspection of all stormwater control measures as described in 1196.12 is approved by the City Engineer.

(3) An Inspection and Maintenance Plan has been approved by the City and Inspection and Maintenance Agreement has been signed by the developer, the contractor, the City, and the private owner or homeowners association who will take long term responsibility for these SCMs, is accepted by the City Engineer.

(b) Once these criteria are met, the applicant shall be reimbursed all bond monies that were not used for any part of the project. If all of these criteria are not met after three years of permanent stabilization of the site, the City may use the bond monies to fix any outstanding issues with all stormwater management structures on the site and the remainder of the bond shall be given to the private lot owner/ homeowners association for the purpose of long term maintenance of the project. (Ord. 120-2016. Passed 1-17-17.)

1196.16 INSTALLATION OF WATER QUALITY STORMWATER CONTROL MEASURES.

The applicant may not direct runoff through any water quality structures or portions thereof that would be degraded by construction site sediment until the entire area tributary to the structure has reached final stabilization as determined by the City Engineer. This occurs after the completion of the final grade at the site, after all of the utilities are installed, and the site is subsequently stabilized with vegetation or other appropriate methods. The developer must provide documentation acceptable to the City Engineer to demonstrate that the site is completely stabilized. Upon this proof of compliance, the water quality structure(s) may be completed and placed into service. Upon completion of installation of these practices, all disturbed areas and/or exposed soils caused by the installation of these practices must be stabilized within 2 days.

(Ord. 120-2016. Passed 1-17-17.)

1196.17 VIOLATIONS.

No person shall violate or cause or knowingly permit to be violated any of the provisions of this regulation, or fail to comply with any of such provisions or with any lawful requirements of any public authority made pursuant to this regulation, or knowingly use or cause or permit the use of any lands in violation of this regulation or in violation of any permit granted under this regulation. (Ord. 120-2016. Passed 1-17-17.)

1196.18 APPEALS.

Any person aggrieved by any order, requirement, determination, or any other action or inaction by the City in relation to this regulation may appeal to the court of common pleas. Such an appeal shall be made in conformity with Chapter 2506 of the Ohio Revised Code. Written notice of appeal shall be served on the City.

(Ord. 120-2016. Passed 1-17-17.)

1196.99 PENALTY.

(a) Any person, firm, entity or corporation; including but not limited to, the owner of the property, his agents and assigns, occupant, property manager, and any contractor or subcontractor who violates or fails to comply with any provision of this regulation is guilty of a misdemeanor of the first degree for each offense. A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(Ord. 31-2018. Passed 4-10-18.)

(b) The imposition of any other penalties provided herein shall not preclude the City from instituting an appropriate action or proceeding in a Court of proper jurisdiction to prevent an unlawful development, or to restrain, correct, or abate a violation, or to require compliance with the provisions of this regulation or other applicable laws, ordinances, rules, or regulations, or the orders of the City. (Ord. 120-2016. Passed 1-17-17.)

CHAPTER 1197

Riparian Areas and Wetlands

1197.01 Purpose.

1197.02 Definitions.

1197.03 Scope.

1197.04 Riparian and wetland setback requirements.

1197.05 Establishment of designated watercourses and riparian setbacks.

1197.06 Establishment of wetland setbacks.

1197.07 Procedures for wetland setbacks.

1197.08 Uses permitted in riparian and wetland setbacks.

1197.09 Uses prohibited in riparian and wetland setbacks.

1197.10 Non-conforming structures or uses in riparian and wetland setbacks.

1197.11 Variances within riparian and wetland setbacks.

1197.12 Boundary interpretation and appeals procedure.

1197.13 Inspection of riparian and wetland setbacks.

1197.14 Federal and state laws.

1197.15 Violations.

1197.99 Penalties.

CROSS REFERENCES

Erosion and sediment control - see P. & Z. Ch. 1195

Protected Hillside Zones - see P. & Z. Ch. 1198

1197.01 PURPOSE.

The intent of this chapter is to:

(a) Protect the receiving stream's physical, chemical, and biological characteristics and to maintain stream functions.

(b) Establish consistent, technically feasible and operationally practical standards to achieve a level of storm water quantity and quality control that will minimize damage to public and private property and degradation of water resources, and will promote and maintain the health, safety, and welfare of the residents of the Community.

(c) Preserve to the maximum extent practicable the natural drainage characteristics of the community and building sites and minimize the need to construct, repair, and replace enclosed storm drain systems.

(d) Preserve to the maximum extent practicable natural infiltration and ground water recharge, and maintain subsurface flow that replenishes water resources, wetlands, and wells.

(e) Prevent unnecessary stripping of vegetation and loss of soil, especially adjacent to water resources and wetlands.

(f) Reduce the need for costly maintenance and repairs to roads, embankments, sewage systems, ditches, water resources, wetlands, and storm water management practices that are the result of inadequate storm water control due to the loss of riparian areas and wetlands.

(g) Reduce the long term expense of remedial projects needed to address problems caused by inadequate storm water control.

(Ord. 19-2007. Passed 5-8-07.)

1197.02 DEFINITIONS.

For purposes of this chapter, the following shall mean:

(a) **"Development Area"**: Any tract, lot, or parcel of land, or combination of tracts, lots or parcels of land, which are in one ownership, or are contiguous and in diverse ownership, where earth disturbing activity is to be performed.

(b) **"Water Resources"**: All streams, lakes, ponds, wetlands, water courses, waterways, drainage systems, and all other bodies or accumulations of surface water, either natural or artificial, which are situated wholly or partly within, or border upon this state, or are within its jurisdiction, except those private waters which do not combine or affect a junction with natural surface waters.

(Ord. 19-2007. Passed 5-8-07.)

1197.03 SCOPE.

(a) This chapter applies to development areas having new or relocated projects involving highways, underground cables, pipelines, property/parcel splits, industrial projects, commercial projects, building activities on farms, redevelopment of urban areas and all other land uses not specifically exempted. This chapter does not apply to:

(1) Land disturbing activities related to producing agricultural crops or SIViculture operations regulated by the Ohio Agricultural Sediment Pollution Abatement Rules (1501: 15-3-01 to 1501: 15-3-09 of the Ohio Administrative Code) and existing at the time of passage of this chapter.

(2) Strip mining operations regulated by Chapter 1513 of the Ohio Revised Code and existing at the time of passage of this chapter.

(3) Surface mining operations regulated by Chapter 1514 of the Ohio Revised Code and existing at the time of passage of this chapter.

(Ord. 19-2007. Passed 5-8-07.)

1197.04 RIPARIAN AND WETLAND SETBACK REQUIREMENTS.

(a) It is hereby determined that the system of wetlands, riparian areas, rivers, streams, and other natural watercourses within the City contributes to the health, safety, and general welfare of the residents. The specific purpose and intent of this part of this chapter is to regulate uses and developments within riparian and wetland setbacks that would impair the ability of riparian and wetland areas to:

(1) Reduce flood impacts by absorbing peak flows, slowing the velocity of floodwaters, and regulating base flow.

(2) Assist in stabilizing the banks of watercourses to reduce bank erosion and the downstream transport of sediments eroded from watercourse banks.

(3) Reduce pollutants in watercourses during periods of high flows by filtering, settling, and transforming pollutants already present in watercourses.

(4) Reduce pollutants in watercourses by filtering, settling, transforming and absorbing pollutants in runoff before they enter watercourses.

(5) Provide watercourse habitats with shade and food.

(6) Provide habitat to a wide array of aquatic organisms, wildlife, many of which are on Ohio's Endangered and/or Threatened Species listings, by maintaining diverse and connected riparian and wetland vegetation.

- (7) Benefit the City economically by minimizing encroachment on wetlands and watercourse channels and the need for costly engineering solutions such as dams, retention basins, and rip rap to protect structures and reduce property damage and threats to the safety of residents; and by contributing to the scenic beauty and environment of the City, and thereby preserving the character of the City, the quality of life of the residents of the City, and corresponding property values.
- (b) This chapter has been enacted to protect these services of riparian and wetland areas by providing reasonable controls governing structures and uses within a wetland and/or riparian setback along designated watercourses in the City.
- (c) Applicability and Compliance:
- (1) This chapter shall apply to:
 - A. All lands that are within the jurisdiction of the City and that border designated watercourses and wetlands as defined in this chapter.
 - B. This chapter shall apply to property/parcel split plan approvals, site plan approvals, and land development plan approvals requested of the City.
 - C. This chapter shall apply to all building permits, which involve soil disturbing activities.
 - (2) The City shall issue no approvals or permits without full compliance with the terms of this chapter. (Ord. 19-2007. Passed 5-8-07.)

1197.05 ESTABLISHMENT OF DESIGNATED WATERCOURSES AND RIPARIAN SETBACKS.

- (a) Designated watercourses shall include those watercourses meeting any one of the following criteria:
- (1) All watercourses draining an area greater than one-half (1/2) square mile, or
 - (2) All watercourses draining an area less than one-half (1/2) square mile and having a defined bed and bank.
 - (3) In determining if watercourses have a defined bed and bank, the City may consult with a representative of the Cuyahoga SWCD or other technical experts as necessary.
- (b) Riparian setbacks on designated watercourses are established as follows:
- (1) A minimum of three hundred feet (300') on both sides of all watercourses draining an area greater than three hundred (300) square miles.
 - (2) A minimum of one hundred twenty feet (120') on both sides of all watercourses draining an area greater than twenty (20) square miles and up to and including three hundred (300) square miles.
 - (3) A minimum of seventy-five feet (75') on both sides of all watercourses draining an area greater than one-half (1/2) square mile and up to and including twenty (20) square miles.
 - (4) A minimum of twenty-five feet (25') on both sides of all watercourses draining an area less than one-half (1/2) square mile and having a defined bed and bank as determined above.
- (c) Riparian Setback Map:
- (1) The City shall use the latest edition of the official soil survey that shows drainage features, on the paper maps in the back of the book, as the map identifying designated watercourses and their riparian setbacks. The drainage features identified on the paper maps in the official soil survey and the information contained therein shall be believed to be accurate.
 - (2) At the time of application of this chapter, if any discrepancy is found between the Riparian Setback Map and the criteria for designated watercourses or riparian setbacks as set forth in these regulations, the criteria shall prevail.
 - (3) In reviewing and interpreting the maps, the City may consult with a representative of the Cuyahoga SWCD and other technical experts as necessary.
- (d) The following conditions shall apply in riparian and wetland setbacks:
- (1) Riparian and wetland setbacks shall be measured in a perpendicular and horizontal direction outward from the ordinary high water mark of each designated watercourse and defined wetland boundary.
 - (2) Except as otherwise provided in this chapter, riparian and wetland setbacks shall be preserved in their natural state and shall be established and marked in the field prior to any soil disturbing or land clearing activities.
 - (3) Where the one hundred (100) year floodplain is wider than a riparian setback on either or both sides of a designated watercourse, the riparian setback shall be extended to the outer edge of the one hundred (100) year floodplain. The one hundred (100) year floodplain shall be determined by the project engineer conducting a hydrologic analysis of the project area in conformance with standard engineering practices and approved by the City Engineer.
 - (4) Where wetlands are identified within a riparian setback, the minimum riparian setback width shall be extended to the outer boundary of the wetland. In addition, wetlands shall be protected to the extent detailed in this chapter.
 - (5) Wetlands shall be delineated by a site survey approved by the City using delineation protocols accepted by the U.S. Army Corps of Engineers and the Ohio EPA at the time of application of this chapter. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.
- (e) The applicant or his or her designated representative shall be responsible for delineating riparian and wetland setbacks, including any expansions or modifications as required by this chapter, and identifying these setbacks on all property/parcel splits, commercial development or other land development plans, and/or building permit applications submitted to the City. This delineation may be done by a metes and bounds, or higher level, survey and shall be subject to review and approval by the City. As a result of this review, the City may consult with a representative of the Cuyahoga SWCD or other technical experts as necessary.
- (f) Prior to any soil disturbing activity, riparian and wetland setbacks shall be clearly delineated on site by the applicant or his or her designated representative, and such delineation shall be maintained throughout soil disturbing activities.
- (g) No approvals or permits shall be issued by the City prior to on-site delineation of riparian and wetland setbacks in conformance with this chapter.
- (h) Upon completion of an approved property/parcel split, land development, or other improvement, riparian and wetland setbacks shall be permanently recorded on the plat records of the City. (Ord. 19-2007. Passed 5-8-07.)

1197.06 ESTABLISHMENT OF WETLAND SETBACKS.

- (a) Wetland setbacks are established as follows:
- (1) A minimum of one hundred twenty feet (120') surrounding and including all Ohio EPA Category 3 Wetlands, or current equivalent Ohio EPA classification.
 - (2) A minimum of seventy-five feet (75') surrounding and including all Ohio EPA Category 2 Wetlands, or current equivalent Ohio EPA classification. (Ord. 19-2007. Passed 5-8-07.)

1197.07 PROCEDURES FOR WETLAND SETBACKS.

- (a) No change to parcel boundaries or land use:
- (1) Upon filing a request for a building permit that does not involve changing of any parcel boundaries or changes in land use, the applicant will check for indicators of wetlands on the National Wetlands Inventory maps, and Ohio Wetlands Inventory map, and the Cuyahoga County Wetlands Inventory (if applicable). A photo copy of the applicable section of each map will be attached to the permit application.
 - (2) If a potential wetland is shown on any of the maps or if there is reason for the City to believe that an unmapped wetland exists on or within one hundred feet (120') of the project site the applicant will retain a qualified wetland professional to evaluate the proposed project site for wetlands or wetland buffer areas. If no wetland or wetland buffer areas are found, the applicant shall submit a letter from the qualified wetland professional with the preliminary plat or permit application verifying his or her negative findings.
- (b) New residential or commercial or other type development and projects involving a change to parcel boundaries or a land use change:
- (1) Upon filing a request for approval of a preliminary plat or building permit for new residential, commercial or other type of development that involves changes in any parcel boundaries or changes in land use, the applicant or his or her designated representative shall retain a qualified wetland professional to survey the proposed development site for wetlands. If no wetlands are found, the applicant or his or her designated representative shall submit a letter with the preliminary plat or permit application verifying that a qualified wetland professional has surveyed the site and found no wetlands. If wetlands are found, the following procedures shall be followed:
 - (2) A qualified wetland professional, acceptable to the City Engineer, shall determine the presence of Ohio EPA Category 2 or 3 wetlands (or current equivalent Ohio EPA classification) on the proposed development site using the latest version of the Ohio Rapid Assessment Method for wetland evaluation approved at the time of application of this chapter. Acceptance of this determination shall be subject to approval by the City Engineer.
 - (3) If Ohio EPA Category 2 or 3 wetlands (or current equivalent Ohio EPA classification) are located on the proposed development site, the applicant or his or her designated representative shall delineate these wetlands and the wetland setback in conformance with this chapter. The applicant or his or her designated representative shall identify all delineated wetlands and their associated setbacks on all property/parcel split plans, land development plans, and/or permit applications submitted to the City.
 - A. Wetlands shall be delineated by a site survey, approved by the City, using delineation protocols accepted by the US Army Corps of Engineers and the Ohio EPA at the time of application of this chapter. If a conflict exists between the delineation protocols of these two agencies, the delineation protocol that results in the most inclusive area of wetland shall apply.
 - B. Wetland setbacks shall be delineated through a metes and bounds, or higher level, survey subject to approval by the City.
 - (4) Prior to any soil or vegetation disturbing activity, the applicant or his or her designated representative shall delineate wetland setbacks on the development site in such a way that they can be clearly viewed, and such delineation shall be maintained throughout construction.
 - (5) No approvals or permits shall be issued by the City prior to delineation of wetland setbacks in conformance with this chapter.
- (c) Upon completion of an approved property/parcel split, commercial development or other land development or improvement, riparian and wetland setbacks shall be permanently recorded on the plat records for the City and shall be maintained as open space thereafter through a permanent conservation easement. A third party, not the landowner or permittee or the City, that is allowed by state law shall be given the conservation easement. If no third party will accept the conservation easement, the City shall accept it and protect it in perpetuity. (Ord. 19-2007. Passed 5-8-07.)

1197.08 USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS.

- (a) By-Right Uses Without A Permit: Open space uses that are passive in character shall be permitted in riparian and wetland setbacks, including, but not limited to, those listed in this chapter. No use permitted under this chapter shall be construed as allowing public trespass on privately held lands.
- (1) Recreational Activity. Passive recreational uses, as permitted by federal, state, and local laws, such as hiking, fishing, hunting, picnicking, and similar uses.
 - (2) Removal of Damaged or Diseased Trees. Damaged or diseased trees may be removed.
 - (3) Revegetation and/or Reforestation. Riparian and wetland setbacks may be revegetated with non-invasive plant species.
 - (4) Maintenance of lawns, gardens and landscaping. Lawns, gardens and landscaping, that existed at the time this chapter was enacted, may be maintained as long as they are not increased in size.
- (b) By-Right Uses With A Permit:
- (1) Selective Harvesting of Timber. Selective harvesting of timber may be allowed upon presentation of a Forest Management and Harvest Plan prepared by a Qualified Forester and accepted by the City Engineer.
 - A. Any landowner harvesting timber for sale shall post a one thousand dollar (\$1,000) performance guarantee with the City. This performance guarantee shall be in the form of a Security Bond, Escrow Account, Certified Check or Cash, and it shall be held until completion of the timber-harvesting operation.
 - B. Due to the potential for felled logs and branches to damage downstream properties and/or to block ditches or otherwise exacerbate flooding, logs or branches resulting from permitted selective harvesting that are greater than six inches (6") in diameter at the cut end shall be cut into sections no longer than six feet (6') or removed from the one hundred (100) year floodplain. Harvested trees or felled logs and branches that are part of a designed and approved Streambank Stabilization and Erosion Control Measure shall be allowed to remain in a designated watercourse.
 - C. The Forest Management and Harvest Plan must:
 1. Show that the site will be adequately stocked after the approved selective harvest. "Adequately stocked" shall be defined as the residual stocking level greater than the B- Level on the Allegheny Hardwood Stocking Guide produced by the United States Forest Service, or other United States Forest Service stocking guides as dictated by the forest community to be harvested.
 2. Show that trees located less than twenty-five feet (25') from the ordinary high water mark will not be impacted by the proposed harvesting.
 3. Include a map of the site. This map shall specify the location of any skid and haul roads required for transporting harvested trees and fire wood from riparian and wetland setbacks.
 4. Include the method to be used to transport harvested trees from riparian and wetland setbacks.
 5. Specify the erosion control Best Management Practices that will be employed during and after the proposed harvest. These erosion control practices shall be in conformance with the Ohio Department of Natural Resources, Division of Forestry's BMPs for Erosion Control on Logging Jobs in Ohio.
 6. Provide the US Army Corps of Engineers and the Ohio EPA Wetland and Stream protection permit numbers and the associated permit requirements.
 - (2) Streambank Stabilization and Erosion Control Measures. Streambank stabilization and erosion control measures may be allowed provided that such measures are ecologically compatible and substantially utilize natural materials and native plant species where practical. The streambank stabilization and erosion control measures shall only be undertaken upon approval of an Soil Erosion and Sediment Control Plan by the City.
 - (3) Crossings. Crossings of designated watercourses and through riparian setbacks by publicly and privately owned sewer and/or water lines and public and private utility transmission lines shall only be allowed upon

approval of a Crossing Plan by the City Engineer. Such crossings shall minimize disturbance in riparian setbacks and shall mitigate any necessary disturbances. Erosive materials will not be used in making stream crossings.

(Ord. 19-2007. Passed 5-8-07.)

1197.09 USES PROHIBITED IN RIPARIAN AND WETLAND SETBACKS.

Any use not authorized under this chapter shall be prohibited in riparian and wetland setbacks. By way of example, the following uses are specifically prohibited; however, prohibited uses are not limited to those examples listed here.

- (a) Construction. There shall be no structures of any kind.
- (b) Dredging or Dumping. There shall be no drilling, filling, dredging, or dumping of soil, spoils, liquid, or solid materials, except for non-commercial composting of uncontaminated natural materials, and except as permitted under the USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS section of this chapter.
- (c) Roads or Driveways. There shall be no roads or driveways permitted in riparian and/or wetland setback area, except as permitted under the USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS section of this chapter. There shall be no roads or driveways or roads permitted in wetlands or watercourses without a permit issued by the US Army Corps of Engineers and/or the Ohio EPA.
- (d) Motorized Vehicles. There shall be no use of motorized vehicles, except as permitted under the USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS section of this chapter.
- (e) Disturbance of Natural Vegetation. There shall be no disturbance, including mowing, of the natural vegetation, except for such conservation maintenance that the landowner deems necessary to control noxious weeds; for such plantings as are consistent with this chapter; for such disturbances as are approved under the USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS section of this chapter; and for the passive enjoyment, access, and maintenance of landscaping or lawns existing at the time of passage of this chapter. Nothing in this chapter shall be construed as requiring a landowner to plant or undertake any other activities in riparian and wetland setbacks.
- (f) Parking Lots. There shall be no parking lots or other human-made impervious cover, except as permitted under the USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS section of this chapter.
- (g) New Surface and/or Subsurface Sewage Disposal or Treatment Areas. Riparian and wetland setbacks shall not be used for the disposal or treatment of sewage except in accordance with Cuyahoga County Board of Health regulations in effect at the time of application of this chapter.
- (h) Crossings. Crossings of designated riparian and wetland setbacks by publicly and privately owned sewer and/or water lines and small public and small private utility transmission lines without a permit issued by the US Army Corps of Engineers and/or the Ohio EPA.

(Ord. 19-2007. Passed 5-8-07.)

1197.10 NON-CONFORMING STRUCTURES OR USES IN RIPARIAN AND WETLAND SETBACKS.

(a) A non-conforming use within a riparian and wetland setback which is in existence at the time of passage of this chapter, and which is not otherwise permitted under this chapter, may be continued. However, the use shall not be changed or enlarged unless it is changed to a use permitted under this chapter.

(b) A non-conforming structure within a riparian and wetland setback which is in existence at the time of passage of this chapter, and which is not otherwise permitted under this chapter, may be continued. However, the existing building footprint or roofline may not be expanded or enlarged in such a way that would move the structure closer to the stream or wetland.

(c) A non-conforming structure or use or deteriorated structure within a riparian and wetland setback which is in existence at the time of passage of this chapter, and which is discontinued, terminated, or abandoned for a period of six (6) months or more, may not be revived, restored, or re-established.

(d) A non-conforming structure or use that is discontinued may be resumed any time within six (6) months from such discontinuance but not thereafter. No change or resumption shall be permitted that is more detrimental to riparian and wetland setbacks, as measured against the intent and objectives of this chapter as determined by the City, than the existing or former non-conforming structure or use.

(Ord. 19-2007. Passed 5-8-07.)

1197.11 VARIANCES WITHIN RIPARIAN AND WETLAND SETBACKS.

(a) The City may grant a variance from this chapter as provided herein. In determining whether there is unnecessary hardship or practical difficulty such as to justify the granting of a variance, the City shall consider the potential harm or reduction in riparian and/or wetland area functions that may be caused by a proposed structure or use.

(b) In making a variance determination, the City shall consider the following:

(1) Varying the front, rear and side yard setback before the riparian and wetland setbacks are varied.

(2) Variances should not be granted for asphalt or concrete paving in the riparian and wetland setbacks in any situation where gravel or porous pavement (i.e., porous pavers, and similar products) will do the job.

(c) In making a variance determination, the City may consider the following:

(1) A parcel existing at the time of passage of this chapter is made unbuildable.

(2) The soil type natural vegetation of the parcel, as well as the percentage of the parcel that is in the one hundred (100) year floodplain. The criteria of the City's flood damage prevention regulations may be used as guidance when granting variances in the one hundred (100) year floodplain.

(3) The extent to which the requested variance impairs the flood control, soil erosion control, sediment control, water quality protection, or other functions of the riparian and/or wetland area. This determination shall be based on sufficient technical and scientific data.

(4) The degree of hardship this chapter places on the landowner, and the availability of alternatives to the proposed activity.

(5) Soil disturbing activities permitted in a riparian and/or wetland setback through variances should be implemented in order to minimize clearing to the extent possible, and to include Best Management Practices necessary to minimize soil erosion and maximize sediment control.

(6) The presence of significant impervious cover, or smooth vegetation such as maintained lawns, in riparian setback areas compromises their benefits to the City.

(7) A reduction in storm water infiltration into the soil in wetland areas will occur.

(8) A requested above ground fence does not increase the existing area of mowed grass or lawn.

(Ord. 19-2007. Passed 5-8-07.)

1197.12 BOUNDARY INTERPRETATION AND APPEALS PROCEDURE.

(a) When an applicant or his or her designated representative disputes the boundary of a riparian or wetland setback or the ordinary high water mark of a watercourse, the applicant or his or her designated representative shall submit documentation to the City which describes the boundary, the applicant's proposed boundary, and justification for the proposed boundary change.

(b) The City shall evaluate this documentation and shall make a written determination within a reasonable period of time, not to exceed sixty (60) days, a copy of which shall be submitted to the applicant. If during this evaluation the City requires further information, it may be required of the applicant. In the event that the City requests such additional information, the sixty (60) day limit on the City's review shall be postponed until the applicant provides such information.

(c) Any party aggrieved by any wetland or riparian setback determination under this chapter may appeal to the Zoning Board of Appeals.

(Ord. 19-2007. Passed 5-8-07.)

1197.13 INSPECTION OF RIPARIAN AND WETLAND SETBACKS.

(a) The delineation of riparian and/or wetland setbacks shall be inspected by the City, as follows:

(1) Prior to any soil disturbing activities for a property/parcel split, land development plan and/or building permit authorized by the City, the applicant or his or her designated representative shall provide the City with at least five (5) working days notice prior to starting soil disturbing or land clearing activities.

(2) Prior to starting any of the activities authorized by the City under the USES PERMITTED IN RIPARIAN AND WETLAND SETBACKS section of this chapter, the applicant or his or her designated representative shall provide the City with at least five (5) working days notice prior to starting such activities.

(3) Any time evidence is brought to the attention of the City that uses or structures are occurring that may reasonably be expected to violate the provisions of this chapter.

(Ord. 19-2007. Passed 5-8-07.)

1197.14 FEDERAL AND STATE LAWS.

In addition to complying with the provisions of this chapter, the applicant shall also comply with all applicable federal and state regulations, including permitting requirements, regarding riparian areas and wetlands.

(Ord. 19-2007. Passed 5-8-07.)

1197.15 VIOLATIONS.

No person shall violate, or cause, or knowingly permit to be violated, any of the provisions of this chapter, or fail to comply with any such provisions or with any lawful requirements of any public authority made pursuant to this chapter, or knowingly use or cause or permit the use of any lands in violation of this chapter or in violation of any permit granted under this chapter.

(Ord. 19-2007. Passed 5-8-07.)

1197.99 PENALTIES.

(a) Whoever violates or fails to comply with any provision of this chapter is guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (\$1,000.00) or imprisoned for no more than one hundred eighty (180) days, or both, for each offense.

(b) A separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(c) Upon notice from the City Engineer, or designated representative, that work is being performed contrary to this chapter, such work shall immediately stop. Such notice shall be in writing and shall be given to the owner or person responsible for the development area, or person performing the work, and shall state the conditions under which such work may be resumed; provided, however, in instances where immediate action is deemed necessary for public safety or the public interest, the City Engineer may require that work be stopped upon verbal order pending issuance of the written order.

(d) The imposition of any other penalties provided herein shall not preclude the City, by or through its Law Director and/or any of his or her assistants, from instituting an appropriate action or proceeding in a Court of Proper Jurisdiction to prevent an unlawful development or to restrain, correct or abate a violation, or to require compliance with the provisions of this chapter or other applicable laws, or ordinances, rules or regulations or the orders of the City Engineer.

(Ord. 19-2007. Passed 5-8-07.)

CHAPTER 1198

Protected Hillside Zone

1198.01 Intent.

1198.02 Definitions.

1198.03 Protected Hillside Zone Map.

1198.04 Criteria to determine Protected Hillside Zone.

1198.05 Applicability.

1198.06 Administration and enforcement.

1198.07 Required hillside control measures.

1198.08 Schedule of fees and deposits.

1198.09 Appeals.

1198.10 Enforcement.

1198.99 Penalty.

CROSS REFERENCES

Erosion and sediment control - see P. & Z. Ch. 1195
Riparian areas and wetlands - see P. & Z. Ch. 1197

1198.01 INTENT.

Whereas, the Protected Hillside Zone areas of this City differ from other areas of the City because the hillsides and unique scenic resources and scenic river areas necessitate different provisions for their development and their protection; and

Whereas, the Protected Hillside Zone regulations are established to achieve, among others, the following objectives:

- (a) To protect the public and private property owners from the potential damage to human life and safety and property damage that could potentially be caused by increased hillside instability.
- (b) To assure access to properties within the Protected Hillside Zone by emergency police and fire vehicles to protect persons and property.
- (c) To preserve and protect the unique scenic resources and scenic river habitats in the Protected Hillside Zone.
- (d) To preserve and protect the valuable hydrologic systems, fragile hillside and valuable flora and fauna in the Protected Hillside Zone.
- (e) To permit, subject to the best available technology, development on Protected Hillside Zone areas while conserving and promoting the public health, safety, convenience and general welfare by minimizing problems due to water runoff and soil erosion problems incurred in adjustment of the topography to meet developmental needs.
- (f) To use the best accepted design, landscape architecture, architecture, civil engineering and hydrological engineering to preserve, enhance and promote the existing and future appearance and resources in Protected Hillside Zone areas.
- (g) To preserve and enhance the natural beauty of Protected Hillside zones by encouraging the maximum retention of natural topographical features such as natural drainage swales, streams, slope ridge lines, rock outcroppings, vistas from and of hillside, trees and other natural plant formations and retain the sense of identity and image that the Protected Hillside Zone areas now impart to the City.
- (h) To complement the other actions of this Council including the enactment of a storm water management ordinance and an erosion and sediment control ordinance.

(Ord. 19-2007. Passed 5-8-07.)

1198.02 DEFINITIONS.

For purposes of this chapter, the following terms shall have the meaning herein indicated:

- (a) "Cut" means a portion of land surface or area from which the earth has been removed or will be removed by excavation.
- (b) "Owner/developer/builder/occupant" means an individual, firm, association, syndicate, partnership or corporation having sufficient proprietary interest to seek development of land.

(Ord. 19-2007. Passed 5-8-07.)

1198.03 PROTECTED HILLSIDE ZONE MAP.

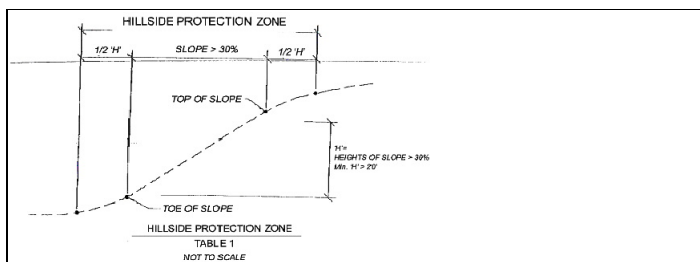
The City Building Commissioner, in consultation with the City Engineer, and such other professionals including one or more civil engineers, hydrological and geotechnical engineers, botanists, biologists and landscape architects as he or she may deem necessary, shall create a map suggesting and attempting to identify the Protected Hillside Zone(s) of the City. Said map shall be published as a convenient reference document and the information contained therein shall be believed to be accurate; however, the City shall not certify the accuracy of the map and shall assume no liability or responsibility for discrepancies between the map and the criteria for the Protected Hillside Zone as set forth in Section 1198.04. Said map shall become a guide only after it has been reviewed by the Planning and Zoning Commission and approved by resolution of Council, after public notice and hearing.

(Ord. 19-2007. Passed 5-8-07.)

1198.04 CRITERIA TO DETERMINE PROTECTED HILLSIDE ZONE.

The Protected Hillside Zone contains one or more of the following criteria:

- (a) Areas that exhibit evidence of past or present unstable soil.
- (b) Areas having slopes with a natural gradient within the limits set forth in Table 1.
- (c) All areas that exhibit evidence of the presence of Geeburg soils, based on the most recent Cuyahoga County soil survey maps or by soil surveys performed by the applicant done by a certified soils specialist.



(Ord. 19-2007. Passed 5-8-07.)

1198.05 APPLICABILITY.

(a) No owner, developer, builder or occupant shall make changes of any land proposed to be subdivided, developed or changed in use by grading, excavating or by their removal or destruction of any natural vegetation or the removal of any topsoil, trees or other vegetation covering thereon within the Protected Hillside Zone as defined in Section 1198.04 without first having obtained a permit from the Building Commissioner authorizing such activity in the Protected Hillside Zone. No permit shall be issued by the Building Commissioner unless it has been reviewed and approved by the Planning and Zoning Commission.

(b) This chapter shall not be interpreted to prohibit normal landscaping, gardening, maintenance or routine arboreal activities or to prohibit small scale planting of ornamental flowers or shrubs or the removal of diseased, dead or damaged trees or trees which are a threat to the health and safety of the owner of the property. However, such activity shall be carried out in the conformance with the standards of vegetation or revegetation of this chapter.

(c) Where Geeburg soils are present in the area of proposed disturbance as defined in Section 1198.04(c), no earth disturbing activity shall take place within the Hillside Protection Zone as defined in Table 1.

The area of proposed disturbance shall include any area that will be subjected to paving installation of sidewalks, construction of structures or other man made improvements.

(Ord. 19-2007. Passed 5-8-07.)

1198.06 ADMINISTRATION AND ENFORCEMENT.

All applications for Protected Hillside Zone permits shall be submitted to the Building Commissioner. The Building Commissioner shall prepare forms necessary for such application. The Building Commissioner shall review the application to insure the application has information required by Section 1198.07. In connection with such review, the Building Commissioner is authorized to consult and obtain opinions from such other professionals as the City Engineer, hydrological and geotechnical engineers, botanists, biologists and landscape architects as he may deem necessary. No Protected Hillside Zone permit shall be issued until the application, together with the report of the Building Commissioner, has been reviewed and approved by the Planning and Zoning Commission.

(Ord. 19-2007. Passed 5-8-07.)

1198.07 REQUIRED HILLSIDE CONTROL MEASURES.

The following standards and procedures shall be applied by the Building Commissioner and Planning and Zoning Commission in reviewing an application for issuance of a permit in the Protected Hillside Zone.

(a) Maps and Data. Maps and data, either separate or combined, should be provided as follows:

- (1) Vicinity Map. A print, showing the location of the proposed subdivision and its relationship to adjacent developments streets and community facilities which serve or influence it.
 - (2) Property line map. A drawing, showing bearings and distances of the parcel to be subdivided, location, width and purpose of easements, the name, width and location of abutting streets including location of pavements and sidewalks, structures on the parcel and within one hundred feet (100') on adjoining property.
 - (3) Topographic map. A drawing, showing contours at two foot (2') intervals based on the County datum plane. It shall show approximate direction and gradient of ground slope on immediately adjacent land; indicate subsurface condition of tract; and show watercourses, marshes, wooded areas, isolated preservable trees and other significant features. The topography shall be at the same scale as the preliminary plan. In addition to those requirements this drawing will clearly indicate the limits of the Protected Hillside Zone.
- (b) Site Plan. A site plan, superimposed on the topographic and property line map, should show the following:
- (1) Improvements plan. Must depict the location of all improvements and impervious surfaces with a clear indication of their relationship to the Protected Hillside Zone, including, but not limited to, all structures, utilities, septic systems, driveways, terraces, tennis courts, pools, etc.
 - (2) Grading plan. Must show proposed contours and shall list the total amount of cut and fill and shall show the extent of all cut and fill operations.
 - (3) Profiles. The City reserves the right to request profiles and/or cross sections that will indicate proposed and existing grades.
 - (c) Geotechnical Report. A geotechnical report by a qualified geotechnical engineer, that addresses all factors pertinent to site stability, both present and future, will be required by the City, and shall include the following:

- (1) Present stability evaluation. An evaluation of the present stability of the site, based on field exploration that includes test borings, followed by lab testing and stability analysis.
 - (2) Future stability evaluation. An evaluation of the effect of the planned construction on stability based on the findings in subsection (c)(1) above.
 - (3) Recommended strategies. Detailed strategies to insure that existing or potential instabilities will be mitigated.
- (d) Control of Erosion and Sedimentation. Plans shall meet the standards of Chapter 1195, Erosion and Sediment Control.
- (e) Vegetation Management Report. A vegetation removal and revegetation report shall be submitted by a registered landscape architect, and it will address the following:
- (1) Vegetation Inventory. A site plan showing the general limits of the various kinds of vegetation (wood lot, meadow, etc.), the locations of all trees nine inch (9") or greater caliper fourteen inches (14") above ground level (including their genus, species and condition) that are within fifty feet (50') of the limits of the area proposed to be disturbed; location and type of vegetation to be destroyed; location and type of vegetation to be removed due to health, safety and welfare requirements.
 - (2) Landscaping plan. A landscape plan, prepared or approved in writing by a professional registered landscape architect trained and experienced in both the characteristics of plant material and proper procedures for installation, shall be submitted with each application for a Hillside Protection Zone permit.
- (f) Gradients. The following standards will be applied to the Protected Hillside Zone:
- (1) Driveways. No driveways will exceed a maximum gradient of ten percent (10%).
 - (2) Embankments. Fill areas may not exceed three feet (3') horizontal to one foot (1') vertical slope.
 - (3) Excavations. Cut areas may not exceed a two and one half (2-1/2) horizontal to one foot (1') vertical slope.
- (g) Miscellaneous. Septic systems. Leach beds may not be located on slopes in excess of four feet (4') horizontal to one foot (1') vertical slope.

(Ord. 19-2007. Passed 5-8-07.)

1198.08 SCHEDULE OF FEES AND DEPOSITS.

(a) At the time of filing the application for a Protected Hillside Zone permit, there shall be paid to the Treasurer a filing fee in the amount of fifty dollars (\$50.00). There shall also, at such time, be deposited with the Treasurer and thereafter maintained on deposit the amount of one thousand dollars (\$1,000) or such larger or lesser amount as may be determined by the Building Commissioner based on his estimate of the costs to be incurred by the City in reviewing the application for permit and to insure payment by the applicant of expenses incurred by the City in the processing of the application and all pertinent papers connected therewith.

(b) The cost and expense of any investigation which may be necessary by the Building Commissioner, City Engineer, hydrological and geotechnical engineers, botanists, biologists, landscape architects and the Director of Law and such other City officials to determine whether the proposed application is in accordance with law, the cost of any and all notices required, and all other necessary expenses shall be paid by the owner, developer or builder.

(c) The actual expenditures shall be paid by the applicant upon demand of the Treasurer. The unexpended balance of the deposit shall be refunded to the applicant upon completion of all administrative proceedings involved in connection therewith. No filing fee shall be refunded or returned. No permits shall be issued until any amounts required to be paid by the applicant have been paid.

(Ord. 19-2007. Passed 5-8-07.)

1198.09 APPEALS.

If any person is aggrieved by any provisions of this chapter, final determination of the Building Commissioner or Planning and Zoning Commission, said person may appeal to Council. Such appeal shall be taken within thirty (30) days after the decision appealed from by filing with the Building Commissioner and with the Clerk of Council a notice of appeal specifying the grounds therefor. The Building Commissioner shall forthwith transmit to Council all papers constituting the record upon which the action appealed was taken.

(Ord. 19-2007. Passed 5-8-07.)

1198.10 ENFORCEMENT.

(a) In the event that work performed does not conform with the provisions of the Protected Hillside Zone permit, a written notice to comply shall be served upon the owner, developer, builder or occupant. Such notice shall set forth the nature of the correction required and the time within which correction shall be made. Failure to comply with such notice shall result in the issuance of a stop work order applicable to all activity except that necessary for correction of the violation. Upon correction of the violation, the stop work order shall be voided and all permitted activity may resume.

(b) In the event of a continued violation of the approved Protected Hillside Zone permit, a public hearing on the matter shall be conducted by the Planning and Zoning Commission. Written notice of such hearing shall be served upon the owner, developer, builder or occupant by registered mail and shall state:

- (1) The grounds of the complaint;
- (2) The time and place such hearing is to be held.

Such notice shall be served at least fifteen days prior to the date set for the hearing. At any such hearing, the owner, developer, builder or occupant shall be given an opportunity to be heard and he may call witnesses and present evidence on his behalf.

If, after such hearing, the Planning and Zoning Commission concludes that the issuance of additional corrective notices would be futile, any bonds or cash deposits posted with the City shall be forfeited, whereupon such security shall be used for completion of the Protected Hillside Zone permit as approved. Any additional costs incurred by the City shall be certified to Council for certification to the County Auditor for placement as a lien upon the property under authority of Ohio R.C. 715.47.

(c) In the case of a real and present emergency, the Building Commissioner shall refer the matter to the Director of Law who shall institute an appropriate action at law.

(Ord. 19-2007. Passed 5-8-07.)

1198.99 PENALTY.

The owner, developer, builder or occupant or any person who is found guilty of violating any provision of this chapter shall, were no other penalty is provided, be guilty of a misdemeanor of the first degree and shall be fined no more than one thousand dollars (\$1,000.00) or be imprisoned no more than one hundred eighty (180) days, or both, for each offense. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

(Ord. 19-2007. Passed 5-8-07.)

**CODIFIED ORDINANCES OF RICHMOND HEIGHTS
PART THIRTEEN - BUILDING CODE**

TITLE ONE - Standards

- Chap. 1301. Ohio Building Code.
- Chap. 1302. Ohio Plumbing Code.
- Chap. 1303. Residential Code of Ohio for One-, Two- and Three-Family Dwellings.
- Chap. 1304. Local Regulations.

TITLE THREE - Local Provisions

- Chap. 1305. Certificates of Occupancy.
- Chap. 1306. Certificate of Authorized Occupancy.
- Chap. 1307. Condominiums.
- Chap. 1309. Property Maintenance Code.
- Chap. 1313. Fences.
- Chap. 1317. Garbage and Rubbish Disposal Systems.
- Chap. 1319. Compost Piles.
- Chap. 1321. Grading and Landscaping.
- Chap. 1325. Permits and Fees.
- Chap. 1329. Protection of Property During Building Operations.
- Chap. 1333. Removal of Debris.
- Chap. 1335. Contractor Registration, Procedure, Suspension and Revocation.
- Chap. 1341. Swimming Pools and Spas.
- Chap. 1345. Trailers.
- Chap. 1347. Dish-Type Satellite Signal-Receiving Earth Stations.
- Chap. 1349. Demolition of Structures.
- Chap. 1351. Multiple-Family Residential Exterior Doors.
- Chap. 1353. Outdoor Lighting.

TITLE FIVE - Housing Code

- Chap. 1361. Minimum Standards. (Repealed)

TITLE SEVEN - Business Maintenance Code

- Chap. 1370. General Provisions and Definitions.
- Chap. 1372. Administration, Enforcement and Penalty.
- Chap. 1374. Certificates of Business Occupancy.
- Chap. 1376. Basic Standards for Business Occupancy.
- Chap. 1378. Abandoned or Inoperative Gasoline Service Stations.
- Chap. 1380. Registration and Maintenance of Vacant Nonresidential Properties.

TITLE NINE - Flood Damage Reduction

- Chap. 1390. General Provisions.
- Chap. 1391. Definitions.
- Chap. 1392. Administration.
- Chap. 1393. Use and Development Standards for Flood Hazard Reduction.
- Chap. 1394. Appeals and Variances.
- Chap. 1395. Enforcement.

**CODIFIED ORDINANCES OF RICHMOND HEIGHTS
PART THIRTEEN - BUILDING CODE
TITLE ONE - Standards**

- Chap. 1301. Ohio Building Code.
- Chap. 1302. Ohio Plumbing.
- Chap. 1303. Residential Code of Ohio for One-, Two- and Three-Family Dwellings.
- Chap. 1304. Local Regulations.

CHAPTER 1301

Ohio Building Code

1301.01 Adoption of State standards.

1301.02 File and distribution copies.

1301.03 Definitions.

1301.04 Conflict of laws.

1301.05 Enforcement.

1301.99 Penalty; equitable remedies.

CROSS REFERENCES

Power to regulate building erection - see Ohio R.C. 715.26, 715.29, 737.28, 737.37

Adoption of technical codes - see Ohio R.C. 731.231

Building Inspector established - see ADM. 145.02

1301.01 ADOPTION OF STATE STANDARDS.

(a) In addition to all the conditions and requirements of this Building Code, the requirements of the Ohio Building Code as adopted by the Ohio Board of Building Standards, effective January 1, 2002, and as published in Division 4101:1 of the Ohio Administrative Code for all occupancies named in such Code shall represent the minimum requirements for all buildings proposed to be constructed and erected in the City, other than those excepted in Ohio Building Code. Such requirements are hereby incorporated and made a part of the Building Code of the City as if the same were written into such Building Code in their entirety.

(b) The same are hereby intended to be adopted within the City in their most current edition or amendment including all additions, deletions and amendments made subsequent hereto, and the same are incorporated as if fully set out at length.

(Ord. 8-2003. Passed 3-11-03.)

1301.02 FILE AND DISTRIBUTION COPIES.

One copy of the Ohio Building Code shall be filed as a part of the ordinance records of the City and the same are adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect the provisions thereof shall be controlling in the construction of all buildings and structures except one, two and three-family dwellings and appurtenant structures contained within the City. One copy of each of the documents shall also be on file in the Cuyahoga County Law Library and the Clerk shall have copies available for distribution to the public at cost.

(Ord. 8-2003. Passed 3-11-03.)

1301.03 DEFINITIONS.

Wherever titles, words and phrases are used in portions of the regulations adopted in Section 1301.01 , such terms shall be construed to mean the equivalent officer, word or phrase applicable to the City.

(Ord. 8-2003. Passed 3-11-03.)

1301.04 CONFLICT OF LAWS.

In the event of a conflict between any of the provisions of the Ohio Building Code and a provision of any other standard technical code adopted by the City or any local ordinance, resolution, rule or regulation, the stricter standard shall control.
(Ord. 8-2003. Passed 3-11-03.)

1301.05 ENFORCEMENT.

(a) The Commissioner of Building, Zoning and Housing (Building Commissioner) or the Commissioner's designee shall have authority to approve plans and enforce the provisions of the regulations adopted in this chapter, and all of the provisions of such documents shall be administered by the Building Commissioner or the Commissioner's designee. The Building Commissioner and a properly certified fire safety inspector shall have authority to administer and enforce the provisions of Chapter 1501 of the Codified Ordinances.

(b) The position of Fire Safety Inspector, as the position is used in Chapter 1501 of the Codified Ordinances, shall administer and enforce the provisions of Chapter 1501 of the Codified Ordinances within the Division of Building, Zoning and Housing, and under the supervision of the Building Commissioner. (Ord. 113-2014. Passed 1-27-15.)

1301.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of the Ohio Building Code, as adopted in Section 1301.01, is guilty of a misdemeanor of the first degree for each offense. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) hereof shall not be deemed to prevent the enforced removal of prohibited conditions, or application of any other equitable remedy.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1302

Ohio Plumbing Code

1302.01 Adoption of State standards.

1302.02 File and distribution copies.

1302.03 Definitions.

1302.04 Conflict of laws.

1302.05 Enforcement.

1302.99 Penalty; equitable remedies.

CROSS REFERENCES

Adoption of technical codes - see Ohio R.C. 731.231

1302.01 ADOPTION OF STATE STANDARDS.

(a) For the purpose of establishing uniform standards for the installation of all plumbing devices, equipment and facilities in the City, the requirements of the Ohio Plumbing Code as adopted by the Ohio Board of Building Standards, effective January 1, 2002, and as published in Division 4101:3 of the Ohio Administrative Code (OAC) shall govern the general regulations regarding the design and installation of plumbing not specific to other chapters of the Building Code. Such requirements are hereby incorporated and made a part of the Building Code of the City as if the same were written into such Building Code in their entirety.

(b) The same are hereby intended to be adopted within the City in their most current edition or amendment including all additions, deletions and amendments made subsequent hereto, and the same are incorporated as if fully set out at length.

(Ord. 8-2003. Passed 3-11-03.)

1302.02 FILE AND DISTRIBUTION COPIES.

One copy of the Ohio Plumbing Code shall be filed as a part of the ordinance records of the City and the same are adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect the provisions thereof shall be controlling within the City. One copy of each of the documents shall also be on file in the Cuyahoga County Law Library and the Clerk shall have copies available for distribution to the public at cost.

(Ord. 8-2003. Passed 3-11-03.)

1302.03 DEFINITIONS.

Wherever titles, words and phrases are used in portions of the regulations adopted in Section 1302.01, such terms shall be construed to mean the equivalent officer, word or phrase applicable to the City.

(Ord. 8-2003. Passed 3-11-03.)

1302.04 CONFLICT OF LAWS.

In the event of a conflict between any of the provisions of the Ohio Plumbing Code and a provision of any other standard technical code adopted by the City or any local ordinance, resolution, rule or regulation, the stricter standard shall control.

(Ord. 8-2003. Passed 3-11-03.)

1302.05 ENFORCEMENT.

The Commissioner of Building, Housing and Zoning (Building Commissioner) or the Commissioner's designee shall have authority to approve plans and enforce the provisions of the regulations adopted in this chapter, and all of the provisions of such documents shall be administered by the Building Commissioner or the Commissioner's designee.

(Ord. 8-2003. Passed 3-11-03.)

1302.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) shall not be deemed to prevent the enforced removal of prohibited conditions or the application of any other equitable remedy.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1303

International Residential Code

1303.01 Adoption.

1303.02 File and distribution copies.

1303.03 Definitions.

1303.04 Enforcement.

1303.05 Appeals.

1303.99 Penalty; equitable remedies.

1303.01 ADOPTION.

(a) For the purpose of establishing rules and regulations for the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of all detached one, two and three-family dwellings and appurtenant structures which are not constructed as industrialized units, including permits and penalties, the building code known as the Residential Code of Ohio for One-, Two-, and Three- Family Dwellings as adopted by the Ohio Board of Building Standards pursuant to R.C. 3781.10 is hereby adopted.

(b) The same is hereby intended to be adopted within the City in its most current edition or amendment and the same is incorporated as if fully set out at length herein.

(Ord. 8-2007. Passed 1-23-07.)

1303.02 FILE AND DISTRIBUTION COPIES.

One copy of the Residential Code of Ohio for One-, Two- and Three-Family Dwellings shall be filed as a part of the ordinance records of the City and the same are adopted and incorporated as fully as if set out at length herein, and from the date on which this chapter shall take effect the provisions thereof shall be controlling in the construction of all one, two and three- family dwellings and appurtenant structures contained within the City. One copy of such Code shall also be on file in the Cuyahoga County Law Library and the Clerk shall have copies available for distribution to the public at cost.

(Ord. 8-2007. Passed 1-23-07.)

1303.03 DEFINITIONS.

Wherever titles, words and phrases are used in portions of the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings adopted in Section 1303.01, such terms shall be construed to mean the equivalent officer, word or phrase applicable to the City.

(Ord. 8-2007. Passed 1-23-07.)

1303.04 ENFORCEMENT.

The Commissioner of Building, Housing and Zoning (Building Commissioner) or the Commissioner's designee shall have authority to issue plan approvals and to administer and enforce the provisions of this chapter.

(Ord. 8-2007. Passed 1-23-07.)

1303.05 APPEALS.

The Board of Zoning Appeals shall hear all appeals from the orders, determinations and decisions of the Building Commissioner or the Commissioner's designee relative to the application and interpretation of this chapter as provided for in Chapter 1185 of the Codified Ordinances.

(Ord. 8-2007. Passed 1-23-07.)

1303.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings, as adopted in Section 1303.01, is guilty of a misdemeanor of the first degree for each offense. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) shall not be deemed to prevent the enforced removal of prohibited conditions or the application of any other equitable remedy.

(Ord. 8-2007. Passed 1-23-07.)

CHAPTER 1304

Local Regulations

1304.01 Work exempt from approval.

1304.02 Expiration of approval.

1304.03 Climatic and geographic design criteria.

1304.04 Opening protection.

1304.05 Detached accessory structures.

1304.06 Floor surface.

- 1304.07 Minimum depth, detached garage.
- 1304.08 Foundation walls above finished grade.
- 1304.09 Concrete or masonry foundations.
- 1304.10 Clear height.
- 1304.11 Floor.
- 1304.12 Concrete floors, general.
- 1304.13 Exterior wall sheathing.
- 1304.14 Roof and ceiling construction requirements.
- 1304.15 Installation of wood structural panel sheathing.
- 1304.16 Roof drainage.
- 1304.17 Attached garages.
- 1304.18 Sump pump outlets.
- 1304.19 Underground service conductors.
- 1304.20 Enforcement.
- 1304.21 Appeals.
- 1304.22 Separability.

1304.01 WORK EXEMPT FROM APPROVAL.

Approvals shall not be required for the following:

- (a) Building:
 - (1) Painting, papering, tiling, carpeting, cabinets, counter tops and similar finish work.
 - (2) Swings and other playground equipment accessory to a one, two or three family dwelling.
 - (3) Prefabricated swimming pools that are less than 18" deep.
 - (4) Window awnings supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.
- (b) Electrical: Repairs and maintenance: Approvals shall not be required for minor repair work, including replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles.
- (c) Gas:
 - (1) Portable heating, cooking or clothes drying appliances.
 - (2) Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
 - (3) Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
- (d) Mechanical:
 - (1) Portable heating appliance.
 - (2) Portable ventilation appliance.
 - (3) Portable cooling unit.
 - (4) Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
 - (5) Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.
 - (6) Portable evaporative cooler.
 - (7) Self-contained refrigeration systems containing 10 pound (4.54 kg) or less of refrigerant or that are actuated by motors of 1 horsepower (746 W) or less.
 - (8) Portable fuel cell appliances that are not connected to a fixed piping system and are not interconnected to a power grid.
- (e) The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drainpipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
- (f) The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures.

Exemption from the approval requirements of this chapter or the Residential Code of Ohio for One-, Two- and Three-Family Dwellings shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction.

(Ord. 10-2007. Passed 1-23-07.)

1304.02 EXPIRATION OF APPROVAL.

- (a) Approval for new construction shall become null and void under the following conditions:
 - (1) If a certificate of occupancy has not been granted within twelve (12) months of the date of issuance of such approval.
 - (2) If the work for which approval was issued is delayed or suspended for more than six (6) months.
 - (3) If the work for which approval was issued has not commenced within six (6) months of the date of issuance.
- (b) Any approval for additions, alterations, repairs, demolition or excavation shall become null and void for work for which approval is issued if it is not completed and a certificate of occupancy is granted within one-hundred twenty (120) days of the date of issuance.
- (c) The Building Commissioner may grant an extension of up to six (6) months for new construction and an extension of up to two (2) months for all other construction.
- (d) Before any work can be resumed after expiration of the approval, new approval shall be obtained to do so and the fees for such approval shall be equal to those required for the original approval.

(Ord. 10-2007. Passed 1-23-07.)

1304.03 CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.

The climatic and geographic design criterion applicable in the City is as follows:

- (a) Ground snow load 30 pounds per square foot
- (b) Wind speed 90 miles per hour
- (c) Seismic design category C
- (d) Weathering Severe
- (e) Frost line depth Thirty-six inches (36")
- (f) Termite probability Moderate to heavy
- (g) Decay probability Slight to moderate
- (h) Winter design temperature 1-degree Fahrenheit
- (i) Ice shield underlayment required Yes
- (j) Flood hazards Flood Insurance Rate Map dated
June 18, 1976
Community Panel 390126 0005 B
- (k) Air freezing index 1000-2000
- (l) Mean annual temperature 45 F

(Ord. 10-2007. Passed 1-23-07.)

1304.04 OPENING PROTECTION.

Openings from a private garage into a room used for sleeping purposes shall not be permitted. Other openings between the garage and the residence shall be equipped with a one-hour rated door equipped with a self-closing mechanism.

(Ord. 10-2007. Passed 1-23-07.)

1304.05 DETACHED ACCESSORY STRUCTURES.

A detached accessory structure shall not be located closer than ten feet (10') to a residential structure unless the entire interior of the accessory structure is protected with 1/2 inch (12.7 mm) gypsum board or equivalent.

(Ord. 10-2007. Passed 1-23-07.)

1304.06 FLOOR SURFACE.

Garage floor surfaces shall be four-inch (4") thick concrete with a compressive strength of 3,500 pounds per square inch and shall be sloped into an approved garage floor drain or towards the main entry to facilitate the movement of liquids. The sill of the door opening from the garage to the residence or adjacent interior space shall be raised not less than four inches (4") above the garage floor. In the case of access from the garage to a lower area, a curb not less than four inches (4") in height is required.

(Ord. 10-2007. Passed 1-23-07.)

1304.07 MINIMUM DEPTH, DETACHED GARAGE.

The footing depth for a detached garage located a minimum of ten feet (10') from a residential structure on the same lot shall not be less than eighteen inches (18") below grade.

(Ord. 10-2007. Passed 1-23-07.)

1304.08 FOUNDATION WALLS ABOVE FINISHED GRADE.

- (a) Foundation walls above finished grade shall be finished with a nominal four-inch (4") wide brick and approved by the Architectural Review Board.
- (b) Exceptions to the requirements of subsection (a) are as follows:
 - (1) Foundation walls above grade on an addition to an existing structure shall match the existing construction when the foundation of the existing construction possess an architectural finish as approved by the Architectural Review Board.
 - (2) Foundation walls above grade on an addition to an existing structure without an architectural finish (i.e., exposed concrete block or concrete) shall be provided with an architectural finish as approved by the Architectural Review Board
 - (3) Wood foundations shall be provided with materials approved by this code and the Architectural Review Board to provide an architectural finish.

(Ord. 10-2007. Passed 1-23-07.)

1304.09 CONCRETE OR MASONRY FOUNDATIONS.

- (a) Foundation drains shall be provided for all foundations enclosing usable or habitable spaces located below grade.
- (b) The drains shall be a minimum four-inch (4") diameter poly-vinyl chloride conduit meeting ASTM F789, ASTM 3034 or SDR 35 with solvent welds and perforations a minimum of one sieve size smaller than # 57 gravel or washed stone.
- (c) An accessible clean out with the proper sweep shall be located on each side of the dwelling unit.
- (d) The foundation drain system shall discharge by gravity or mechanical means into an approved storm sewer system.

(Ord. 10-2007. Passed 1-23-07.)

1304.10 CLEAR HEIGHT.

All under-floor spaces shall have a minimum horizontal dimension of not less than forty inches (40") measured from the top of the concrete slab to the bottom of the floor joists.

(Ord. 10-2007. Passed 1-23-07.)

1304.11 FLOOR.

The floor for an under-floor space shall consist of two inch (2") thick concrete slab over a four inch (4") thick base. An approved vapor retarder shall be placed between the concrete slab and the base material.

(Ord. 10-2007. Passed 1-23-07.)

1304.12 CONCRETE FLOORS, GENERAL.

- (a) Concrete slab-on-ground floors shall be a minimum of four inches (4") thick.
- (b) The compressive strength shall be not less than 3,500 pounds per square inch.
- (c) Concrete slabs shall be provided with crack control joints and reinforcement as referenced by American Concrete Institute (ACI) Publication 318-99.

(Ord. 10-2007. Passed 1-23-07.)

1304.13 EXTERIOR WALL SHEATHING.

- (a) Wooden structural sheathing panels shall be installed on all exterior frame walls.
- (b) Wood structural sheathing panels shall consist of 15/32-inch (11.9 mm), exterior grade plywood or 7/16-inch (11.1 mm) oriented strand board on all exterior surfaces and shall be fastened in accordance with the Fastener Schedule for Structural Members in this Building Code.
- (c) The Building Commissioner may permit alternate materials with equal strength and durability for applications employing masonry or stucco veneer.

(Ord. 10-2007. Passed 1-23-07.)

1304.14 ROOF AND CEILING CONSTRUCTION REQUIREMENTS.

- (a) Roof and ceiling construction shall be capable of accommodating all loads imposed according to Section R301 of the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings and of transmitting the resulting loads to the supporting structural elements.
- (b) The minimum pitch for a roof shall not be less but including four in twelve.
- (c) Flat roofs are prohibited.

(Ord. 10-2007. Passed 1-23-07.)

1304.15 INSTALLATION OF WOOD STRUCTURAL PANEL SHEATHING.

Wood structural panel used as roof sheathing shall be a minimum 5/8-inch (15.9 mm) or 19/32-inch (15.7 mm) in thickness and shall be installed with joints staggered or nonstaggered in accordance with Table R602.3(1) of the Residential Code of Ohio for One-, Two- and Three- Family Dwellings, or APA E30 for wood framing or with Table R804.3 of the Residential Code of Ohio for One-, Two- and Three-Family Dwellings for steel framing.

(Ord. 10-2007. Passed 1-23-07.)

1304.16 ROOF DRAINAGE.

- (a) A roof drainage system shall be provided for all structures in excess of 150 square foot of floor area.
- (b) The roof drainage system shall consist of gutters located at the low point of each roof. The gutter shall carry drainage into a downspout. The sizing for the gutter and downspout system shall comply with the plumbing code. The gutter and downspout system shall discharge into a minimum four-inch (4") diameter poly-vinyl chloride conduit meeting ASTM F789, ASTM 3034 or SDR 35 with solvent welds which will carry the drainage to a centralized storm sewer system via a gravity means, unless otherwise approved pursuant to subsection 304.7 of Chapter 1309.05. The pipe shall be bedded with a minimum of two inches (2") of #57 gravel or washed stone and backfilled to within one foot of finished grade with #57 gravel or washed stone.
- (c) Where a centralized storm sewer system is not available the roof drainage system shall discharge in a method approved by the City Engineer and the Building Commissioner.

(Ord. 76-2008. Passed 12-9-08.)

1304.17 ATTACHED GARAGES.

In addition to any other electrical outlets required for installation in a detached garage, there shall also be an outlet located in the ceiling for a garage door opener. This outlet shall be exempt from ground fault circuit interrupter requirements.

(Ord. 10-2007. Passed 1-23-07.)

1304.18 SUMP PUMP OUTLETS.

All sump pump installations shall be included with a dedicated single receptacle outlet, sized in accordance with the manufacturer's instructions, installed within three feet (3') of the sump pump. This outlet shall be exempt from ground fault circuit interrupter requirements.

(Ord. 10-2007. Passed 1-23-07.)

1304.19 UNDERGROUND SERVICE CONDUCTORS.

Electrical conductors carrying secondary power for an electrical service shall be protected from the elements of backfill by placement within a Schedule 80 rigid nonmetallic conduit from the power source to the point in which they enter the building.

(Ord. 10-2007. Passed 1-23-07.)

1304.20 ENFORCEMENT.

The Building Commissioner or the Commissioner's designee shall have authority to issue plan approvals and to administer and enforce the provisions of this chapter.

(Ord. 10-2007. Passed 1-23-07.)

1304.21 APPEALS.

The Board of Zoning Appeals shall hear all appeals from the orders, determinations and decisions of the Building Commissioner or the Commissioner's designee relative to the application and interpretation of this chapter as provided for in Chapter 1185 of the Codified Ordinances. (Ord. 10-2007. Passed 1-23-07.)

1304.22 SEPARABILITY.

All sections, subsections, parts, and provisions of this chapter are hereby declared to be independent sections, subsections, parts, and provisions, and the holding of any section, subsection, part, or provision to be unconstitutional, void, or ineffective for any cause shall not affect or render invalid any other section, subsection, part, or provision thereof.

(Ord. 10-2007. Passed 1-23-07.)

TITLE THREE - Local Provisions

- Chap. 1305 . Certificates of Occupancy.
- Chap. 1306 . Certificate of Authorized Occupancy.
- Chap. 1307 . Condominiums.
- Chap. 1309 . Property Maintenance Code.
- Chap. 1313 . Fences.
- Chap. 1317 . Garbage and Rubbish Disposal Systems.
- Chap. 1319 . Compost Piles.
- Chap. 1321 . Grading and Landscaping.
- Chap. 1325 . Permits and Fees.
- Chap. 1329 . Protection of Property During Building Operations.
- Chap. 1333 . Removal of Debris.
- Chap. 1335 . Contractor Registration, Procedure, Suspension and Revocation.
- Chap. 1341 . Swimming Pools and Spas.
- Chap. 1345 . Trailers.
- Chap. 1347 . Dish-Type Satellite Signal-Receiving Earth Stations.
- Chap. 1349 . Demolition of Structures.
- Chap. 1351. Multiple-Family Residential Exterior Doors.
- Chap. 1353. Outdoor Lighting.

CHAPTER 1305

Certificates of Occupancy

1305.01 Certificate required before occupancy.

1305.02 Requirements to be met.

1305.03 Conditional occupancy permit.

1305.04 Appeals to Council.

1305.05 Owner's responsibility.

1305.06 When house is considered in use.

1305.07 Notification of all constructors.

1305.08 Violations.

1305.99 Penalty.

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261

Fees - see BLDG. 1325.02

1305.01 CERTIFICATE REQUIRED BEFORE OCCUPANCY.

Any house or other structure now being constructed or hereafter constructed or remodeled within the limits of this City shall not be occupied or used as a place of human habitation until a certificate of occupancy is obtained from the Building Inspector and the fee therefor is paid.

(Ord. 44-83. Passed 4-12-83.)

1305.02 REQUIREMENTS TO BE MET.

The Building Inspector shall not issue a certificate of occupancy to the owner of any house or other structure intended for human habitation until the following requirements have been met:

- (a) A continuous means of egress shall be constructed and paved with concrete or asphalt from the house or structure to the City right of way and from that point on to the public street in front of the subplot only concrete may be used.

(Ord. 44-83. Passed 4-12-83.)

- (b) Proper provision must be made for the drainage and disposal of sanitary and storm sewage and other liquid wastes in accordance with the ordinances of this City and the statutes of this State.
 - (c) All the requirements of the Building Code and Zoning Code must be met.
 - (d) A heating unit to be used in heating the entire house and a unit for heating hot water must be installed and in operable condition.
 - (e) If natural gas is to be used to meet any of the requirements of this chapter, then such gas must be available inside of such structure.
 - (f) If electricity is to be used to meet any of the requirements of this chapter, then such electricity must be available inside such structure.
 - (g) A device in accordance with the requirements of the City as such requirements now exist or are hereafter enacted must be installed to dispose of garbage or other burnable trash.
 - (h) All excess building materials, soil or other debris must be removed from the property surrounding such structure and all trenches or excavations filled.
 - (i) The owner or developer of a subdivision, or the person applying for a permit for a lot in a new subdivision, shall submit evidence that the boundary markers required by Section 1101.01 (d) of the Codified Ordinances are in place.
- (Ord. 16-83. Passed 2-8-83.)

1305.03 CONDITIONAL OCCUPANCY PERMIT.

The Building Inspector may issue a conditional occupancy permit for the house or structure if the weather conditions or other extenuating circumstances, as determined by the Building Inspector, then existing prevent completion of one or more of the eight requirements outlined in Section 1305.02 , provided, however, that the persons constructing the house or structure shall agree in writing that the work not completed will be completed by a date determined by the Building Inspector and set forth in such agreement and in the conditional occupancy permit. If such work is not completed by the date set forth, then the conditional occupancy permit shall be considered to have been revoked as of the date on which it was issued and the person constructing the house or structure shall be considered in violation of this chapter from the first day on which the house or structure was occupied. In order that the Building Inspector may issue a conditional occupancy permit, he must first determine that the existing weather conditions or other extenuating circumstances, as determined by the Building Inspector, prevent completion of the work required in Section 1305.02 and that occupancy of the house or structure will not in any fashion be detrimental to the public health, safety or welfare, nor that it will create any problems relative to sanitary or storm sewerage, and that the lives or health of any persons occupying such house or structure will not be placed in jeopardy by occupancy. The agreement in writing that work not completed will be completed by a date determined by the Building Inspector in accordance with provisions set forth above shall be provided on a form or forms to be provided by the Building Inspector.

(Ord. 44-83. Passed 4-12-83.)

1305.04 APPEALS TO COUNCIL.

The decision of the Building Inspector shall be final except that any person who feels that such Inspector has wrongfully refused to issue such permit or conditional occupancy permit may appeal such decision to Council by informing the Clerk of Council in writing, and setting forth the reasons that he believes entitle him to such permit or conditional occupancy permit, of a desire to bring such matter before Council. The Clerk shall thereupon bring the appeal before Council for hearing not later than the next regular meeting. Council may, by a majority vote of the elected members, overrule the Building Inspector and order such certificate of occupancy issued.

(Ord. 715-57. Passed 4-15-57.)

1305.05 OWNER'S RESPONSIBILITY.

The requirement of a permit may be avoided by the contractor if he secures the signature of the purchaser of such property upon a waiver form to be supplied by the Building Inspector. However, if the purchaser of such property executes such a waiver, he thereupon shall become subject to the provisions and requirements of this chapter as set forth above, and before occupying, permitting to occupy or reselling such house or structure, must secure a certificate of occupancy. The owner, if he has executed such a waiver, may secure a conditional occupancy permit by agreeing that the work necessary to complete the requirements of Section 1305.02 will be completed by a certain date, which date shall be set forth in both the agreement and in the conditional occupancy permit.

Such conditional occupancy permit shall be issued by the Building Inspector only after findings required for the issuance of such permit in Section 1305.03 have been made and if the owner fails to complete the work necessary by the date set forth, then such conditional occupancy permit shall be considered to have been revoked as of the date of its issuance. Each day of occupancy shall be considered to be the commission of a misdemeanor and a separate violation of this chapter as if a conditional occupancy permit had not been secured. Failure by the purchaser to secure a permit or a conditional occupancy permit shall be a violation of this chapter and the commission of a misdemeanor. For the purposes of determining a violation of this chapter, each day in which such purchaser fails to obtain a certificate of occupancy in accordance with the provisions of this section shall be deemed a separate violation.

(Ord. 715-57. Passed 4-15-57.)

1305.06 WHEN HOUSE IS CONSIDERED IN USE.

For purposes of this chapter, houses or other structures shall be considered as being used or occupied for human habitation when any one or more human beings shall use such houses or structures, or spend more than twelve hours in any single day within the boundaries of the property on which the houses or structures are located.

(Ord. 715-57. Passed 4-15-57.)

1305.07 NOTIFICATION OF ALL CONSTRUCTORS.

The Building Inspector is authorized and directed to modify the form of application for the building permit so as to notify all prospective constructors of houses of the provisions of this chapter.

(Ord. 715-57. Passed 4-15-57.)

1305.08 VIOLATIONS.

Any person who sells a house or structure now being, or hereafter constructed, to any person whosoever without first securing a certificate of occupancy as heretofore described shall have violated this chapter and thereby committed a misdemeanor. Each day after which such sale is finally consummated and no certificate of occupancy has been obtained, shall be considered to be a separate violation of this chapter.

(Ord. 715-57. Passed 4-15-57.)

1305.99 PENALTY.

Whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1306

Certificate of Authorized Occupancy

- 1306.01 Definitions.**
- 1306.02 Certificate of Authorized Occupancy.**
- 1306.03 Application, inspection and issuance.**
- 1306.04 Fees.**
- 1306.05 Revocation.**
- 1306.06 Posting of certificate.**
- 1306.07 New or remodeled building.**
- 1306.08 Changes, new certificate required.**
- 1306.09 Changes in ownership.**
- 1306.10 Changes in use or occupancy.**
- 1306.11 Sale of dwelling structure.**
- 1306.99 Penalty; equitable remedies.**

1306.01 DEFINITIONS.

For the purposes of this chapter, and unless stated otherwise, the following terms shall have the meaning herein indicated:

- (a) Dwelling. "Dwelling" means a building intended or designed to be occupied by not more than two families living separately and independently of each other.
- (b) Dwelling Structure. "Dwelling structure" means a building or structure used or designed to be used, all or in part, for residential purposes.
- (c) Dwelling Unit. "Dwelling unit" means a group of rooms arranged, maintained or designed to be occupied by a single family and shall consist of a complete bathroom with toilet, lavatory and tub or shower facilities; one, and one only, complete kitchen or kitchenette with approved cooking, refrigeration and sink facilities and approved living and sleeping facilities, all of which are in contiguous rooms and are used exclusively by such family and by any authorized persons occupying such dwelling unit with the family. The words "dwelling unit," "apartment" and "suites" are synonymous.
- (d) Double House. "Double house" means a detached dwelling arranged, intended or designed to be occupied by but two families living side by side with a party wall between.
- (e) Multiple Dwelling. "Multiple dwelling" means a building containing three or more dwelling units, or two or more dwelling units above the first or ground floor, or one or more dwelling units if the building contains a use other than a dwelling use. For the purpose of applying this definition, any building which is being operated as a rooming house pursuant to a valid Richmond Heights license shall not be classed as a multiple dwelling. The words "multiple dwelling," "dwelling house" and "apartment house" are synonymous.
- (f) Multi-family Dwelling. "Multiple family or multi-family dwelling" means a building, or portion thereof, designed exclusively for occupancy by three or more families, living independently of each other with each unit having a separate entrance or at least one entrance to a common hall leading to the exterior.
- (g) Single-family Dwelling. "Single-family dwelling" means a building designed exclusively for and occupied exclusively by one family, which is not physically attached to any other dwelling unit. The word "one-family dwelling" is synonymous.
- (h) Two-family Dwelling. "Two-family dwelling" means a building designed exclusively for occupancy by two families living independently of each other.
- (i) Rental Unit. "Rental unit" means any dwelling unit; or any rented room within a single-family or two-family dwelling or duplex; or the third floor of a two-family dwelling or duplex, where either money or other valuable consideration is paid for occupancy of such unit, or a person, not the record owner, is occupying the unit, whether or not such person pays money or other valuable consideration therefor. "Rental unit" does not include a room for rent in a hotel.

(Ord. 28-2007. Passed 5-8-07.)

1306.02 CERTIFICATE OF AUTHORIZED OCCUPANCY.

On or after January 1, 2008, no person shall occupy a rental unit, and no owner, agent or person in charge of any dwelling structure, including but not limited to a single-family dwelling, two-family dwelling, multi-family dwelling, multiple dwelling and double house, used or designed or intended to be used as a single-family dwelling unit shall rent or lease a rental unit for residential occupancy unless the owner thereof has submitted an application for a certificate of authorized occupancy to the Commissioner of Building, Zoning and Housing ("Building Commissioner") and either a certificate of authorized occupancy has been issued by the Building Commissioner or the written notice by the owner or the owner's authorized agent has been served upon a prospective tenant or lessee for the rental unit, pursuant to Section 1306.03(e) of this chapter. There shall be no occupancy of a rental unit that is subject to the regulations of this chapter where the certificate of authorized occupancy required by this chapter has expired, been revoked or otherwise become null and void, unless: the written notice to the prospective tenant or lessee has been served as provided for by Section 1306.03(e) of this chapter; or such dwelling structure or part thereof is licensed as a temporary rooming house.

(Ord. 68-2018. Passed 6-26-18.)

1306.03 APPLICATION, INSPECTION AND ISSUANCE.

(a) Application. An application for a certificate of authorized occupancy shall be made annually and separately for each rental unit and/or multiple dwelling to the Building Commissioner on forms supplied by him and shall be accompanied by the fee required by the provisions of this chapter. The annual application shall be made by December 31 of the previous calendar year for which the application is made and be in writing by supplying necessary information to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy. Such information shall include, but need not be limited to, the following:

- (1) The name, address and telephone number of the owner of the property;

- (2) The name, address and telephone number of the agent or person in charge of the property, if any;
 - (3) The address of the property and the number of dwelling units contained in the dwelling structure;
 - (4) The current name, address, and telephone number of the persons who, since the last application, have been occupying the dwelling unit, and the address or identification of the dwelling unit which they occupied; and
 - (5) The familial relationship, if any, among the persons listed in paragraph (a)(4) above;
- The Building Commissioner may require the submission of an affidavit stating the foregoing information. Should any of the required information change during the period for which a certificate is issued, such changes shall be timely conveyed to the Building Commissioner to allow for up-dating of records.

(b) Applications for a certificate of authorized occupancy pursuant to this chapter that are requested to be issued for the year in which the application is made and that are issued by the Building Commissioner shall only be effective through December 31 of that year.

(c) **Inspection.** The Building Commissioner shall inspect or cause to be inspected the interior premises and exterior premises and property areas of the dwelling structure used for rent or lease within thirty (30) days of the initial application for a certificate of authorized occupancy. The purpose of the inspection is to enable the Building Commissioner to list any repairs or other work necessary to eliminate any unsafe or hazardous conditions, to ensure compliance with applicable requirements of the Planning and Zoning Code, Building Code, Fire Prevention Code and other relevant ordinances, and also to correct any unlawful nuisance conditions.

(d) If the owner, occupant, or agent thereof does not consent to the inspection provided for in subdivision (b) of this section, then the Building Commissioner, or the Commissioner's agent may appear before a judge in a court of competent jurisdiction and seek an administrative search warrant to allow an inspection. Any such application shall be made within ten (10) calendar days after the non-consent. The application for the warrant shall specify the basis upon which the warrant is being sought and shall include a statement that the inspection will be limited to a determination whether there are violations of the Planning and Zoning Code, Building Code, and Fire Prevention Code. The court may consider any of the following factors along with such other matters as it deems pertinent in its decision as to whether a warrant shall issue:

- (1) Eyewitness account of violation;
- (2) Citizen complaints;
- (3) Tenant complaints;
- (4) Plan view violations;
- (5) Violations apparent from city records;
- (6) Property deterioration;
- (7) Age of property (or the septic system);
- (8) Nature of an alleged violation;
- (9) Condition of similar properties in the area;
- (10) Documented violations on similar properties in the area;
- (11) Passage of time since last inspection; and/or
- (12) Previous violations on the property.

(e) If, a warrant as referred to in subdivision (c) of this section, is issued, no owner, occupant, or agent thereof shall fail or neglect, upon presentation of a warrant, to properly permit entry of the subject premises by the Building Commissioner or the Commissioner's authorized designee.

(f) If the court declines to issue a warrant, or if no warrant is sought, the inspection shall still take place but the scope thereof shall be limited to such areas that are in plain view. However, if the Building Commissioner only conducts a limited scope inspection of areas in plain view, the owner or the owner's authorized agent shall be obligated to notify the prospective tenant or lessee, in writing, within ten (10) days of notice to the owner or the owner's authorized agent of the limited scope inspection by the Building Commissioner and that the property has not been fully inspected by the Building Commissioner. No criminal penalty shall attach solely by reason of the owner's, occupant's or agent's refusal to consent to a full inspection by the Building Commissioner.

(g) **Issuance.** If a full inspection has occurred and it is found that a rental unit is in compliance with the provisions of this Code and all other laws, ordinances, rules and regulations applicable thereto, the Building Commissioner shall issue a certificate of authorized occupancy valid until December 31 of the calendar year for which the certificate is issued. A certificate of authorized occupancy for such rental unit shall contain the following information:

- (1) The street address or other identifying characteristics of the dwelling structure.
- (2) The name and address of the owner, and if the owner does not reside on the premises, the name and address of the resident agent in charge of the dwelling structure, and the name and address of the nonresident agent, if any.
- (3) The exact nature and extent of the use or occupancy authorized.
- (4) The period for which such certificate of authorized occupancy is issued.

(h) **Certificate must be valid.** Such certificate shall be valid through December 31 of the calendar year for which it is issued unless there is a change or alteration of the premises which revises the authorized occupancy, or until there is a change in the ownership of the premises. (Ord. 68-2018. Passed 6-26-18.)

1306.04 FEES.

(a) Unless otherwise indicated, an application for a certificate of authorized occupancy shall be accompanied by a nonrefundable fee of two hundred fifty dollars (\$250.00) for each dwelling unit for the initial annual certificate of authorized occupancy required by Section 1306.02 of this Code. For each subsequent annual renewal of the certificate of authorized occupancy, a fee of one hundred fifty dollars (\$150.00) for each dwelling unit shall be charged.

(b) Notwithstanding the charges in subsection (a) hereof, in the case of a multiple dwelling building, the application fee for an initial certificate of occupancy shall be the greater of either seven hundred fifty dollars (\$750.00) or twenty-five dollars (\$25.00) per dwelling unit and for each subsequent annual renewal of the certificate of authorized occupancy, it shall be the greater of either four hundred fifty dollars (\$450.00) or twenty-five dollars (\$25.00) per dwelling unit.

(c) In addition to the penalty and remedies set forth in Section 1306.99 of this Code, in the event an owner, agent, or person in charge of any rental unit fails to timely submit a complete and proper application pursuant to Sections 1306.02 and 1306.03 of this Code, an additional fee of one hundred twenty-five dollars (\$125.00) shall be charged to such owner, agent, or person in charge prior to the issuance of a certificate of authorized occupancy.

(d) If the person responsible for paying the fees set forth in this section fails to make the payment of any such fees within sixty (60) days of the date of a notice of delinquency of fee payment being sent to such person by regular United States Mail:

- (1) The Building Commissioner shall report the failure to make payment and the amount owed in writing to City Council; and
- (2) Upon Council's receipt of the report of the amount owed in subsection (d)(1) of this section, it shall make written return to the Fiscal Officer of Cuyahoga County of the City's action to collect the delinquent fees with the statement of the amount owed on those delinquent fees and a description of the premises of the person responsible for paying the fee for which the certificate of authorized occupancy was required for the purpose of making the same a lien upon the lands of said premises, to be collected as other taxes and returned to the City with the General Fund."
- (3) An administrative fee of \$150.00 shall be added to the total amount owed per Sections 1306.04(a) through 1304.06(c) of this ordinance by the owner of each parcel for which the failure to make the necessary payments was reported to City Council by the Building Commissioner. Said administrative fee shall be added to the amount reported to the County Fiscal Officer to be collected as taxes. (Ord. 34-2014. Passed 6-24-14.)

1306.05 REVOCATION.

The Building Commissioner shall have the power to revoke a certificate of authorized occupancy if any false statement is made by the applicant in connection with the issuance of such certificate, or for noncompliance of a structure or its use with the requirements of this Code, or if the owner, agent or person in charge of a structure refuses to comply with any provisions of this Code required to be observed by him. (Ord. 28-2007. Passed 5-8-07.)

1306.06 POSTING OF CERTIFICATE.

If the Building Commissioner has issued a Certificate of Authorized Occupancy, then the owner, agent or person in charge of every dwelling structure shall cause to be posted conspicuously at all times, at the main entrance of such structure, the certificate of authorized occupancy hereinbefore required. Such certificate shall be provided with a protective covering and shall be securely affixed to the wall. (Ord. 68-2018. Passed 6-26-18.)

1306.07 NEW OR REMODELED BUILDING.

(a) The owner of a dwelling structure which will be completed or remodeled and available for occupancy subsequent to January 1 of any year and which requires a certificate of authorized occupancy, shall apply for such certificate as soon as practicable. Failure to so apply will be deemed to be a violation of this chapter and will subject the owner of the structure to the legal action and penalty described herein.

(b) Any new or remodeled dwelling structure must also comply with Chapter 1305. (Ord. 68-2018. Passed 6-26-18.)

1306.08 CHANGES, NEW CERTIFICATE REQUIRED.

In the event there is a change in the resident agent or nonresident agent as shown by the certificate of authorized occupancy, the owner shall notify the Building Commissioner in writing within thirty (30) days of such change, giving the name and address of the new resident agent or nonresident agent. Failure to so notify the Building Commissioner within the specified time shall constitute a violation of this chapter. (Ord. 28-2007. Passed 5-8-07.)

1306.09 CHANGES IN OWNERSHIP.

In the event there is a change in ownership of record, the certificate of authorized occupancy issued under the provisions of this chapter to the former owner shall become null and void within thirty (30) days of the recorded date of such change of ownership and the new owner must apply for a new certificate of authorized occupancy. Application for such new certificate of authorized occupancy shall be made not more than thirty (30) days after such change in ownership has occurred, on forms supplied by the Building Inspector. A fee of one hundred dollars (\$100.00) shall be paid upon application for each such new certificate. The new certificate shall expire on the same date as that of the certificate which it replaces. (Ord. 68-2018. Passed 6-26-18.)

1306.10 CHANGE IN USE OR OCCUPANCY.

Any change in the nature or extent of the use or occupancy as specified on the certificate of authorized occupancy shall render the certificate of authorized occupancy null and void upon the happening of such change. Any such change without the approval of the proper City authorities will subject the owner, operator or agent to the penalties provided in this Code. (Ord. 68-2018. Passed 6-26-18.)

1306.11 SALE OF DWELLING STRUCTURE.

Before an owner enters into an agreement for the sale of a dwelling structure containing rental unit(s), he shall exhibit to the prospective buyer of such premises a copy of the certificate of authorized occupancy for the premises being sold. As evidence of the owner's compliance with the requirements of this Code, the owner shall obtain the signature of the prospective buyer, or his agent, on the certificate of authorized occupancy for such premises or on a copy thereof, in the space indicated on the certificate together with the date of such signing. (Ord. 28-2007. Passed 5-8-07.)

1306.99 PENALTY; EQUITABLE REMEDIES.

(a) Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the first degree and shall be fined or imprisoned or both for each offense in accordance with Section 501.99 of the General Offenses Code. Unless otherwise provided, a separate offense shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) shall not be deemed to prevent the enforced removal of prohibited conditions of the application of any other equitable remedy. (Ord. 28-2007. Passed 5-8-07.)

CHAPTER 1307

Condominiums

1307.01 Title and purpose.

1307.02 Construction; separability; applicability.

1307.03 Definitions.

1307.04 General requirements for sale of ownership interest.

1307.05 Public offering statements.

1307.06 Protection of tenants and purchasers.

1307.07 Prohibitions against unlawful representations.

1307.08 Equal opportunity.

1307.09 Remedies.

1307.10 Revocation of license, certificate or permit.

1307.99 Penalty.

CROSS REFERENCES

Condominium property - see Ohio R. C. Ch. 5311

Property offenses - see GEN. OFF. Ch. 541

Landlord tenant relations - see BUS. REG. Ch. 761

Property Maintenance Code - see BLDG. Ch. 1309

1307.01 TITLE AND PURPOSE.

(a) Title. This chapter shall be known and may be cited as the Richmond Heights Residential Condominium Ordinance.

(b) Purpose. The purpose of this chapter and the policy of the City is to establish standards for all future conversion condominium developments within the City in order to protect the tenants of rental units designated for condominium conversion and the purchasers of conversion condominium units, and also to encourage the maintenance and improvement of the housing in the City.

(Ord. 80-79. Passed 8-28-79.)

1307.02 CONSTRUCTION; SEPARABILITY; APPLICABILITY.

(a) Construction. This chapter shall be liberally construed and applied to promote its purposes and policies.

(b) Separability. If any provision of this chapter or the application thereof to any person or circumstance is held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

(c) Applicability.

(1) This chapter shall apply to all multifamily dwellings located within the City as follows:

A. Which are developed as conversion condominium developments;

B. Which consist of twenty residential units or more; and

C. In which the developer has not, on the effective date of this section (Ordinance 80-79, passed August 28, 1979), commenced a public and common promotional plan for the sale of condominium units therein.

(2) The provisions of this chapter shall not apply to resales of condominium units other than resales of condominium units by the developer.

(3) The provisions of this chapter, with the exception of Section 1307.06 (k), shall not apply to or be enforceable against any party to a sale of a unit other than the developer, nor shall any violation or noncompliance by the developer of any of the provisions of this chapter operate to impose, either directly or indirectly, any civil or criminal liability upon any such other party, including title insurance companies, mortgages, escrow agents, attorneys, and real estate brokers other than those directly employed by the developer.

(Ord. 80-79. Passed 8-28-79.)

1307.03 DEFINITIONS.

As used in this chapter:

(a) "Capital improvement" means any improvement with a useful life greater than one year and subject to the depreciation rules of the United States Internal Revenue Code.

(b) "Common areas and facilities" include, except as otherwise provided in the declaration, the following parts of the condominium property:

(1) The land described in the declaration; and

(2) All other areas, facilities, places and structures that are not a part of a unit, including, but not limited to:

A. The foundations, columns, girders, beams, supports, supporting walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes, entrances and exits of buildings;

B. The basements, yards, gardens, parking areas, garages and storage spaces;

C. The premises for the lodging of janitors or persons in charge of the property;

D. Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;

E. The elevators, tanks, pumps, motors, fans, compressors, ducts and, in general, all apparatus and installations existing for common use;

F. Such community and commercial facilities as may be provided for in the declaration; and

G. All other parts of the condominium property necessary or convenient in its existence, maintenance and safety, or normally in common use, or that have been designed as common areas and facilities in the declaration or drawings.

(c) "Condominium" means real property, portions of which are designated for separate unit ownership by the unit owners and the remainder of which is designated for common ownership by the unit owners.

(d) "Condominium development" means a condominium property in which two or more individual dwelling units, together with undivided interests in the common areas and facilities of the property, are offered for sale pursuant to a common promotional plan.

(e) "Condominium ownership interest" means a fee simple estate or a ninety-nine year leasehold estate, renewable forever, in a unit, together with an appurtenant undivided interest in the common areas and facilities.

(f) "Condominium unit" or "unit" means a portion of the condominium development designated for separate ownership.

(g) "Conversion condominium development" means a condominium development in which the condominium units were previously rental units.

(h) "Declarant" means any person who plans to execute or has executed the declaration or on whose behalf the declaration is executed.

(i) "Declaration" means an instrument by which property is submitted to the Ohio Condominium Act, Ohio R. C. Chapter 5311.

(j) "Developer" means any person who, directly or indirectly, sells or offers for sale condominium ownership interests in a condominium development, including the declarant of a condominium development and any successor to the declarant who stands in the same relation to the condominium development as the declarant, and including any agent thereof.

(k) "Public offering statement" means a document provided by the developer under Section 1307.05 , which discloses the characteristics of the condominium development.

(l) "Purchaser" means both an actual and a prospective purchaser of a condominium ownership interest.

(m) "Unit owner" means a person who owns a condominium ownership interest in a condominium unit.

(Ord. 80-79. Passed 8-28-79.)

1307.04 GENERAL REQUIREMENTS FOR SALE OF OWNERSHIP INTEREST.

(a) Filing of the Public Offering Statement. No developer shall sell or offer to sell a condominium ownership interest in a conversion condominium development in the City unless he first files the following items with the Commissioner of Building, Engineering and Inspection:

(1) Twenty copies of the public offering statement provided by the developer under Section 1307.05 ;

(2) Any bond required by subsection (b) hereof; and

(3) A fee of twenty dollars (\$20.00) per condominium unit. Such fee shall be in substitution for all other fees incidental to the conversion condominium development under this Part Thirteen - the Building Code.

(b) Compliance with Regional Dwelling House Code. No developer shall sell or offer to sell a condominium ownership interest in a conversion condominium development in the City unless the Commissioner has issued a Certificate of Occupancy attesting that all common areas therein are in compliance with Chapter 1303 , unless within the public offering statement there is described the specific common areas therein which the Commissioner has determined are not in compliance with the Regional Dwelling House Code, and also the following:

(1) A statement by the developer specifying the estimated cost and estimated time of completion of all work necessary to correct each such Code violation, such time of completion not to exceed six months from the date of filing, subject to strikes, adverse weather conditions, acts of God, and/or other similar events beyond the control of the developer; and

(2) A bond filed with the City in the sum of 100 percent of the estimated cost of the work required for Code compliance, such estimated cost to be verified by copies of contracts for the completion of the work required for Code compliance.

(c) Compliance with Housing Code. At the time of closing of a sale of a condominium unit, the developer shall deliver to the purchaser thereof a Certificate of Occupancy issued by the Commissioner attesting that the particular unit is in compliance with Chapter 1361 .

(d) Compliance with Warranties.

(1) To assure compliance with the warranty obligations specified under Section 1307.05 (a)(4), the developer shall place in a separate warranty escrow account a sum equal to one percent of the gross sales price of each unit as sold, such escrow account to be established at a financial institution in the City whose accounts are insured by a government agency. Such warranty escrow account shall be maintained for the period of the warranty.

(2) Following notification by a unit owner or the unit owners' association, the developer shall make any required repairs or replacements of the warranted areas and facilities in a timely manner or as promptly as conditions necessitate in case of emergency. If the developer fails to comply with the warranty provisions, the unit owner or the unit owners' association may notify the developer in writing of its intention to correct the condition at the developer's expense. If the developer fails to comply within fourteen days after being notified by the unit owner or unit owners' association, or as promptly as conditions require in case of emergency, the unit owner or unit owners' association may, after receiving two or more written estimates of the cost, have the work done by the tradesman submitting the lowest, responsible estimate, and have the cost of the work deducted from the warranty escrow account. If litigation is necessary in order to enforce any warranty hereunder and/or to attach funds from such escrow account, a prevailing plaintiff may, in addition to damages, be awarded reasonable attorney fees by the court.

(Ord. 80-79. Passed 8-28-79.)

1307.05 PUBLIC OFFERING STATEMENTS.

(a) Disclosures. The public offering statement shall disclose fully and accurately the characteristics of the conversion condominium development and the units therein and all unusual and material circumstances and features affecting the condominium development. The public offering statement shall not intentionally omit any material fact or contain any untrue statement of a material fact and shall contain all of the following:

(1) A statement indicating the names and addresses of:

A. The developer and legal and beneficial owner, if different, of the land and improvements, including all general partners of a partnership, or all directors and owners of ten percent or more of the beneficial interest in the stock of a corporation; and

B. The mortgagees, the principal sales and management agents, attorneys, accountants, architects, engineers and contractors.

(2) A description of all condominium property and improvements, including the following:

A. A general narrative description stating the total number of units, a description of the types of units, the price of each type of unit and all appliances and personal property included with each unit;

B. A description of all of the common areas and facilities and the share of ownership of each unit in the common areas and facilities; limited common areas and facilities, if any, and their ownership shall also be indicated.

- C. A site plan showing the location and dimensions of the conversion condominium development and the land it occupies, together with all capital improvements, a typical floor plan and typical individual unit plans, including dimensions;
 - D. A description of each of the capital improvements contemplated but not yet completed by the developer, including the type and quality of materials to be used, the estimated cost and the dates by which such capital improvements will be completed;
 - E. A description of the nature and ownership of all improvements and sublots occupying the same zoning lot, but which are not part of the conversion condominium development, and the locations, nature and ownership of easements, streets, roads, driveways and parking facilities which are associated with the condominium development;
 - F. A statement as to the maximum number of units the developer intends to retain ownership of and/or to transfer to persons who do not intend to reside therein;
 - G. A statement disclosing whether any units or common areas or facilities in the conversion condominium development may be used for commercial purposes, the nature and extent of such uses, and the effect of such uses, if any, on the condominium unit owners;
 - H. A description of the nature of any restraints on the free alienability and/or use of all or any part of the conversion condominium development, excluding residential zoning use; if there are any restrictions upon the free sale, transfer, conveyance, encumbrance or leasing of a unit, the following statement shall be inserted in a type size and style equal to at least twenty point bold type: "THE SALE, LEASE OR TRANSFER OF UNITS (NUMBERS) ARE RESTRICTED OR CONTROLLED." Immediately following this statement, there shall appear a reference to the documents, articles, paragraphs and pages where the restriction, limitation or control on the sale, lease or transfer of units is set forth or described in detail.
 - I. A description of all restrictions, notices, lis pendens and encumbrances of record, and a statement of any pending or threatened litigation concerning the conversion condominium development; and
 - J. A report by the developer stating the age, the condition and the developer's opinion of the remaining useful life of structural elements and mechanical and supporting systems, together with the developer's estimate of repair and replacement costs projected for five years from the date of the filing of the declaration.
- (3) Estimated financial statements, including the following:
- A. A two-year estimated operating budget, revised and updated at least every six months, of annual expenditures necessary to operate and maintain the common areas and facilities of the conversion condominium development, specifically stating the assumptions and bases on which each item included in such operating budget was formulated; the developer may be held financially responsible for any intentional misrepresentations in the estimated operating budget. The estimated operating budget shall include at least the following costs, if applicable:
 - 1. Operating costs.
 - a. Utilities;
 - b. Heating fuels;
 - c. Janitorial services;
 - d. Trash and garbage disposal;
 - e. Ground and building maintenance;
 - f. Security;
 - g. Maintenance and operation of recreational and other facilities;
 - h. Building insurance;
 - i. Elevator maintenance;
 - j. Sidewalks and street maintenance; and
 - k. Other operating costs.
 - 2. Management costs.
 - a. Accounting and bookkeeping services;
 - b. Legal services;
 - c. Management fees; and
 - d. Other management costs.
 - 3. Reserve costs.
 - a. Reserve for unexpected repair work;
 - b. Reserve for replacement and upkeep of common areas and facilities; and
 - c. Other reserve funds.

If no reserve is provided for any one or more of the applicable reserve costs listed herein, the following statement shall be inserted in a type size and style equal to at least twenty point bold type: "THE DEVELOPER HAS NOT PROVIDED A RESERVE FOR CERTAIN POSSIBLE FUTURE COSTS OF THE CONDOMINIUM IN HIS BUDGET. ACCORDINGLY, IT MAY BE NECESSARY TO PROVIDE FOR A SPECIAL ASSESSMENT TO ALL CONDOMINIUM UNIT OWNERS TO PAY FOR SUCH COSTS SHOULD THEY OCCUR."
 - B. A two-year statement of the estimated common area and facility operating budget for each individual unit, and a statement of all additional estimated monthly expenses for the same period for each unit, to be itemized as to utilities, parking, recreational facilities and any other anticipated expenses for each unit;
 - C. A statement as to what financial arrangements, if any, the developer has made to cover the estimated common areas operating budget in the event an insufficient number of units are sold;
 - D. A statement of the current realty taxes for each individual unit and estimated changes in the tax assessment for each individual unit assuming the taxes as reappraised are based upon the sales price of the real estate;
 - E. A statement that any deposit made in connection with the purchase or reservation of any unit shall be placed in an escrow account or held in trust until:
 - 1. Delivered to the developer at closing;
 - 2. Delivered to the developer because of the purchaser's default under a contract to purchase the unit; or
 - 3. Refunded to the purchaser.

A deposit of two thousand dollars (\$2,000) or more, if held for more than ninety days, shall bear interest at the rate of four percent per year for any period exceeding ninety days, and the statement shall so specify. Such escrow funds shall not be subject to attachment by the creditors of either the purchaser or the developer, and the statement shall so specify.
- (4) A description of warranties, including the following:
- A. A two-year warranty by the developer covering the full cost of any labor and materials for any repair or replacement of the common areas and facilities and a one-year warranty covering the full cost of labor and materials for any repair or replacement of structural, mechanical and other elements pertaining to each unit, excluding costs necessitated by acts of God;
 - B. The warranties specified herein shall commence on the date of the filing of the deed of the first condominium ownership interest transfer in the conversion condominium development to a purchaser in good faith for value.
 - C. In the case of appliances furnished as part of the unit by the developer, the valid assignment by the developer of the express and/or implied warranty of the manufacturer shall satisfy the developer's warranty obligation.
 - D. All warranties owned by the developer that exceed time periods specified herein with respect to any part of the units or common areas and facilities shall be assigned to the purchaser.
- (5) Copies of the sales documents and literature, including, but not limited to:
- A. The sales brochures and purchase contracts to be used by the developer; and
 - B. The declaration and by-laws of the condominium association.
- (6) Descriptions of the following documents:
- A. Any leases of real or personal property in the conversion condominium development other than residential leases expiring later than two years after the filing of the public offering statement with the City;
 - B. Any employment contract, insurance policy, or other contract affecting the use, maintenance or access to all or part of the conversion condominium development expiring later than two years after the filing of the public offering statement with the City;
 - C. The coverage and amounts of any insurance policies applicable to the conversion condominium development; and
 - D. Any management agreement, including the name of the management agent, services to be performed, term, charges, circumstances, if any, under which the charges may be increased, conditions, if any, under which the agreement may be cancelled or terminated, and a statement stating the relationship between the developer and the management firm, if any. The term of such management agreement shall be governed by Ohio R.C. 5311.25(D).
- (7) A statement as to recreational facilities, including a statement of whether, and under what circumstances, the unit owners are required to be members of, support, or participate financially other than as part of their common expenses in recreational facilities, such as, but not limited to, health clubs, exercise rooms, tennis courts, swimming pools, party rooms and golf putting greens; if any recreational facility is not part of the common areas, charges for its use shall not exceed charges customarily made for similar facilities in the City or in surrounding communities, and the statement shall so specify. Additionally, if any recreational facility is not part of the common areas, the following warning shall be inserted in a type size and style equal to at least twenty point bold type: "THE (HERE NAME FACILITIES) ARE NOT INCLUDED IN THE COMMON FACILITIES. THESE FACILITIES ARE AVAILABLE TO UNIT OWNERS FOR (HERE DESCRIBE MONTHLY CHARGE AND INVITATION FEE). UNIT OWNERS ARE/ARE NOT (AS APPLICABLE) REQUIRED TO PARTICIPATE FINANCIALLY."
- (8) A statement as to parking facilities, including a description of the location, ownership and availability to unit owners and the general public of parking associated with the condominium; if all such parking facilities are not part of the common areas or divided as individual parking spaces among and designated as being part of the units, the parking facilities must be legally dedicated to the exclusive use of the conversion condominium development and charges for the use of the parking facilities shall not exceed charges customarily made for similar facilities in the City or surrounding communities, and the statement shall so specify. Further, the following statement shall be inserted in a type size and style equal to at least twenty point bold type: "PARKING FACILITIES ASSOCIATED WITH THIS BUILDING ARE NOT OWNED INDIVIDUALLY OR IN COMMON BY THE UNIT OWNERS."
- (9) A statement conspicuously displayed on the first page of each copy of the public offering statement in a type size and style equal to at least twenty point bold type: "WARNING: ORAL REPRESENTATIONS CANNOT BE RELIED UPON AS CORRECTLY STATING THE REPRESENTATIONS OF THE DEVELOPER AND ARE NOT BINDING ON THE DEVELOPER. REFER TO THIS PUBLIC OFFERING STATEMENT FOR CORRECT REPRESENTATIONS."
- (10) The signature of the executive officer of the developer to a statement affirming under oath that the public offering statement is, and any supplements, modifications and amendments are true, full, complete and correct as he truly believes.
- (b) Amendments to Public Offering Statement. The developer shall amend the public offering statement from time to time when any material changes occur in any matter contained therein. Amendments shall be made as soon as practicable after such material change occurs or the developer has reason to know of such material change, and a public offering statement is not current unless all amendments are incorporated therein.
- (c) Promotional Use of Public Offering Statement. The public offering statement shall not be distributed or used for any promotional purposes before its filing with the City, and afterwards, with the exception of sales brochures contained therein, shall be used only in its entirety for promotional purposes.

(Ord. 80-79. Passed 8-28-79.)

1307.06 PROTECTION OF TENANTS AND PURCHASERS.

- (a) Notification to Prospective Tenants. For so much of the 180-day period immediately before the filing of a declaration with the County Recorder during which a developer of a conversion condominium development is the owner thereof, he shall give written notification to each prospective tenant before entering into a lease that such rental units may be converted to condominiums within such period.
- (b) Notice of Conversion and Public Offering Statement. A developer of a conversion condominium development shall deliver to each of the tenants in possession written notice of conversion and the public offering statement not less than 120 days before requiring the tenant to vacate, provided that in the case of any tenant who is over sixty years of age or who is deaf or blind or who is unable to walk without assistance, the developer shall deliver such notice of conversion and the public offering statement not less than 180 days before requiring such tenant to vacate.
- (c) Appropriate Notices. A developer of a conversion condominium development shall deliver appropriate notices of conversion based upon his best knowledge and information as to the age and/or health of each tenant. No tenant who receives other than a 180-day notice of conversion shall be deemed to be entitled to a 180-day notice unless, within fifteen days of receipt of such inappropriate notice, the tenant delivers a written statement to the developer declaring that the tenant is over sixty years of age or is deaf or blind or is unable to walk without assistance, and in such case such statement shall be presumed to be true in the absence of evidence to the contrary.
- (d) Expiration of Tenancy Before End of Notice Period. Any tenant whose tenancy expires other than for cause before the expiration of 120 days from the date of delivery of such notice of conversion shall have the right to additional tenancy on the same terms and conditions and for the same rental until the expiration of such 120-day period, by the giving of written notice thereof by the tenant to the developer within thirty days of the

date of delivery of such notice of conversion, provided that in the case of any tenant who is over sixty years of age or who is deaf or blind or who is unable to walk without assistance, such tenant shall have the right to an additional tenancy on the same terms and conditions and for the same rental until the expiration of such 180-day period, by the giving of written notice thereof by the tenant to the developer within sixty days of the date of delivery of such notice of conversion.

(e) Expiration of Tenancy After Ninety Days from Notice.

- (1) Any tenant whose tenancy expires after ninety days from the date of delivery of such notice of conversion shall have the right to terminate the lease upon forty-five days' written notice, without penalty or other termination charge to the tenant. By delivering the notice of termination, the tenant waives the right of first refusal under subsection (h) hereof.
- (2) Paragraph (e)(1) hereof shall not apply to tenants who have received notification under subsection (a) hereof before entering into a lease.

(f) Contents of Notice of Conversion.

- (1) The notice of conversion shall include a copy of this chapter as an attachment.
- (2) The notice of conversion shall contain a statement indicating that such notice shall not be construed as abrogating any rights any tenant may have under a valid existing written lease.
- (3) The notice of conversion shall contain a statement instructing the tenant that he may advise the City Division of Building Engineering and Inspection of any structural or mechanical defects in the building or common areas and of any unhealthful or unsafe conditions therein which the tenant believes should be corrected.

- (4) Failure of a developer to give notice of conversion as herein required shall be a defense to an action for possession.

(g) Service of Notice of Conversion and Delivery of Public Offering Statement.

- (1) Such notice of conversion and public offering statement shall be deemed to be delivered on the third day after they are deposited in the United States mail addressed to the tenant at his last known residence, which may be the address of the property subject to the lease, sent by certified or registered mail, return receipt requested, with sufficient prepaid postage affixed to carry it to its destination. A tenant's refusal to accept delivery shall be deemed adequate service. If such mailing is returned to the developer undelivered to the tenant for any reason other than refusal of the tenant to accept delivery, the developer shall forthwith re-mail such mailing by regular United States mail and such remailing shall be deemed to be delivered on the third day after it is deposited in the mail. Personal delivery is permissible if service cannot be made by United States mail.
- (2) The public offering statement shall be filed with the City on the same day that the notice of conversion and public offering statement are deposited in the United States mail to tenants.

(h) Tenants' Right of First Refusal.

- (1) During the period of ninety days following delivery of the notice of conversion and the public offering statement, and during the period of 120 days following delivery of the notice of conversion and the public offering statement in the case of any person who is over sixty years of age or who is deaf or blind or who is unable to walk without assistance, any person who was both a tenant on the date of delivery of notice of conversion and the public offering statement and also a current tenant shall have the exclusive right of first refusal to purchase his unit.
- (2) During such period, the developer may offer to sell such unit to prospective purchasers other than the tenant at a price not less than offered to the tenant and/or on terms not more favorable than offered to the tenant, and each contract for sale of a unit shall conspicuously disclose the existence of, and shall be subject to, such right of first refusal.
- (3) If during such period the tenant fails to purchase the unit, the developer shall not offer to sell that unit during the following ninety days at a price or on terms more favorable to the offeree than the price or terms offered to the tenant without first making the same offer to the tenant, who shall have ten days therefrom within which to accept the offer.

(i) Co-Tenant's Rights.

- (1) If there is more than one tenant leasing a unit, then each such tenant shall be entitled to contract for the purchase of a proportionate share of the unit and of a proportionate share of the share of any tenant who elects not to purchase.
- (2) In no case shall this provision be deemed to authorize the purchase of less than the entire interest in the unit to be conveyed.

(j) Tenant's Right to Cancel Contract.

- (1) A tenant may, at his election, cancel an executed contract between himself and the developer for the purchase of a condominium ownership interest by delivering to the developer or his agent written notice of cancellation at any time before midnight local time of the third day following the date the contract is signed by the tenant, notwithstanding any other provisions of this chapter.
- (2) Upon receipt of a timely cancellation, the developer shall immediately refund any deposit, earnest money or other funds and the parties shall have no further rights or liabilities under the contract. Each tenant's contract for sale of a unit shall conspicuously disclose the tenant's right of cancellation.

(k) Developer's Right of Access.

- (1) The tenant in a conversion condominium development shall not unreasonably withhold consent to the developer to enter the unit in order to inspect the premises, make necessary or agreed repairs, supply necessary or agreed services or show the unit to a purchaser.
- (2) Except in case of emergency or unless it is impracticable to do so, the developer shall give the tenant reasonable notice of his intent to enter and may enter only at reasonable times. Twenty-four hours is presumed to be a reasonable notice in the absence of evidence to the contrary.
- (3) The developer shall not abuse the right of access or use it to harass the tenant. Entry by the developer in excess of twice in any seven-day period for the purpose of showing the unit to purchasers shall be presumed to be an abuse of the right of access in the absence of evidence to the contrary.

(l) Nonwaivability of Obligations and Rights. Neither the obligations nor the rights under this section may be waived in a contract of lease, a contract of sale or otherwise, and any attempted waiver is void.

(m) Delivery of Public Offering Statement to Purchasers Other Than Tenants.

- (1) The developer shall deliver a copy of the public offering statement to a purchaser other than a tenant not less than fifteen days before the execution of a contract for the purchase of a unit.
- (2) On the day of delivery of the public offering statement, the developer shall obtain a receipt signed by such purchaser acknowledging that he has received the public offering statement and has also received a copy of such receipt on that date. Such receipts shall be kept on file in the possession of the developer for a period of two years from the date of delivery to and signature by the purchaser, and such receipts shall be subject to inspection by the City at any reasonable time.

(n) Purchaser's Right to Cancel Contract.

- (1) Unless a purchaser is given the public offering statement not less than fifteen days before executing a contract for the purchase of a unit, the purchaser may cancel the contract within fifteen days after first receiving the public offering statement. The notice of cancellation by the purchaser must be in writing and cancellation is to be without penalty. All payments which were made by the purchaser before cancellation, including interest where applicable, shall be refunded by the developer within three days after receiving notice of cancellation.
- (2) If the developer fails to provide a purchaser with a public offering statement and all amendments thereto before conveying a unit, the purchaser, in addition to any rights to damages or other relief, is entitled to receive from the developer an amount equal to ten percent of the sales price of the unit as liquidated damages.
- (3) The provisions of subsection (h) hereof shall apply to tenants in addition to the tenant's right to cancel under subsection (j) hereof.
- (4) Each purchaser's contract for the sale of a unit shall conspicuously disclose the purchaser's right of cancellation.
- (5) The purchaser's right to cancel under this section may not be waived in the contract of sale or otherwise and any attempted waiver is void.

(Ord. 80-79. Passed 8-28-79.)

1307.07 PROHIBITIONS AGAINST UNLAWFUL REPRESENTATIONS.

(a) General Unlawful Representations. No developer or agent selling or offering to sell any condominium unit in any condominium development shall do any of the following:

- (1) Employ any device, scheme or artifice to defraud;
- (2) Obtain money or property by means of any untrue statement of a material fact or by any omission to state a material fact necessary in order to make the statements made not misleading or by any pictorial representation which is false;
- (3) Engage in any transaction, practice or course of business which operates or would operate as a fraud or deceit upon a purchaser;
- (4) Make or cause to be made in any document required by this chapter any statement or representation that is knowingly false or misleading; or
- (5) Make or cause to be made to any purchaser any oral representation which differs from the statements made in any document required by this chapter.

(b) Specific Unlawful Representations. No developer or agent in selling or offering to sell any condominium unit in any condominium development shall do any of the following:

- (1) Request a tenant and/or purchaser to acknowledge receipt of any notice or public offering statement which he has not received, or falsify the date of receipt;
- (2) Certify falsely to having provided notices of the public offering statement required by this chapter; or
- (3) Employ undue pressure to induce a tenant to purchase a unit which intrudes on or prevents his use of his best judgment in deciding whether to purchase, including any of the following:
 - A. Any direct or indirect increase or decrease in the purchase price or benefits offered to tenants during any portion of the period during which the tenants are entitled to a right of first refusal pursuant to Section 1307.06 (h);
 - B. Any false statements as to the number of standby or backup sales contracts, reservations, subscriptions or like agreements;
 - C. Any false statement prior to the end of the period during which the tenant may not be evicted without cause pursuant to Section 1307.06 as to a future rent increase; or
 - D. Any false statement relating to future conversions which would reduce rental units available in the City.

(Ord. 80-79. Passed 8-28-79.)

1307.08 EQUAL OPPORTUNITY.

No person shall be denied the right to purchase or lease a condominium unit in the City because of race, color, creed, sex, religious beliefs or national origin.

(Ord. 80-79. Passed 8-28-79.)

1307.09 REMEDIES.

(a) Public's Remedies.

- (1) The rights, obligations and remedies set forth in this chapter shall be cumulative and in addition to any others available at law or in equity.
- (2) The City or any tenant or purchaser or owner of a unit may enforce compliance of any provision of this chapter in a court of competent jurisdiction, provided that only the City may enforce the provisions of subsection (b) hereof.
- (3) In any action brought to enforce any provision of this chapter except subsection (b) hereof, a prevailing plaintiff shall be entitled to recover, in addition to any other remedy available, his reasonable attorney's fees.
- (4) If a developer fails to comply with any of the provisions of this chapter, a purchaser may at his option at any time prior to the closing of the sale, rescind, in writing, the contract of sale, without any liability on the part of the purchaser and shall thereupon be entitled to the return of any moneys made on account of the contract, and any expenses incurred on account of the contract shall be the responsibility of the developer.

(b) City's Remedies. Whenever it is determined by the Director of Law that there has been a violation of any of the provisions of this chapter, the Law Department is authorized, at its discretion, to commence with one or more of the following procedures:

- (1) Attempt to conciliate the matter by conference or otherwise and secure a written conciliation agreement;
- (2) Seek a written assurance of discontinuance which shall be signed by the developer and the Director of Law;
- (3) Institute injunctive or other appropriate action or proceeding in any court of competent jurisdiction to obtain a restraining order, permanent or temporary injunction, or any other appropriate form of relief; and
- (4) Institute criminal proceedings.

(Ord. 80-79. Passed 8-28-79.)

1307.10 REVOCATION OF LICENSE, CERTIFICATE OR PERMIT.

In addition to the penalty provided in Section 1307.99, the violation of any provision of this chapter shall be cause for revocation of any license, certificate or permit issued to the violator or offending party by the City.

(Ord. 80-79. Passed 8-28-79.)

1307.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. Each day such violation occurs or continues shall constitute a separate offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1309

Property Maintenance Code

1309.01 Adoption.
1309.02 File and distribution copies.
1309.03 Administration.
1309.04 Definitions.
1309.05 General requirements.
1309.99 Penalty.

CROSS REFERENCES

Power to regulate building erection - see Ohio R. C. 715.26, 715.29, 737.28, 737.37
Removal of unsafe structures - see Ohio R. C. 715.26(B), 715.261
Garbage and rubbish dumping - see S. & P. S. 951.02
Building permit fees - see BLDG. 1325.02
Outdoor lighting - see BLDG. Ch. 1353

1309.01 ADOPTION.

There is hereby adopted for the purpose of establishing rules and regulations governing the conditions and maintenance of all property, buildings and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use, and the demolition of such existing structures in the City of Richmond Heights that certain code known as the most currently published edition of the International Property Maintenance Code except such portions as are hereinafter added, amended, modified or deleted. In the event there is a direct conflict between the most currently published edition of the International Property Maintenance Code and the additions, amendments, modifications, or deletions set forth in this Chapter 1309, the provisions of Chapter 1309 shall apply.

(Ord. 27-2007. Passed 5-8-07.)

1309.02 FILE AND DISTRIBUTION COPIES.

One copy of the International Property Maintenance Code shall be filed as part of the ordinance records of the City and the same adopted and incorporated as provided for in Section 1309.01. One copy of such Code shall be on file and available for inspection in the Department of Building, Zoning and Housing.

(Ord. 27-2007. Passed 5-8-07.)

1309.03 ADMINISTRATION.

SECTION 101 GENERAL.

101.1 Title. (amended) These regulations shall be known as the Property Maintenance Code of the City of Richmond Heights, hereinafter referred to as "this code."

101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of life safety, safety from fire and other hazards, and for a reasonable level of safe and sanitary maintenance? the responsibility of owners, an owner's authorized agent, operators and occupants? the occupancy of existing structures and premises, and for administration, enforcement and penalties.

101.3 Intent. (amended) This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

SECTION 102 APPLICABILITY.

102.1 General. Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of this code and the referenced standards, the provisions of this code shall apply. Where, in a specific case, different sections of this code specify different requirements, the most restrictive shall govern.

102.2 Maintenance. Equipment, systems, devices and safeguards required by this code or a previous regulation or code under which the structure or premises was constructed, altered or repaired shall be maintained in good working order. No owner, owner's authorized agent, operator or occupant shall cause any service, facility, equipment or utility which is required under this section to be removed from or, shut off from or discontinued for any occupied dwelling, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of this code are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing structures. Except as otherwise specified herein, the owner or the owner's authorized agent shall be responsible for the maintenance of buildings, structures and premises.

102.3 Application of other codes. (amended) Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of all laws, codes, local ordinances, resolutions, rules and regulations of the City of Richmond Heights. Nothing in this code shall be construed to cancel, modify or set aside any provision of said laws, codes, local ordinances, resolutions, rules and regulations.

102.3.1 Conflict of laws. (added) In the event of a conflict between any of the provisions of the Property Maintenance Code and a provision of any other standard technical code adopted by the City or any other local ordinance, resolution, rule, regulation, the stricter standard shall control.

102.4 Existing remedies. The provisions in this code shall not be construed to abolish or impair existing remedies of the jurisdiction or its officers or agencies relating to the removal or demolition of any structure which is dangerous, unsafe and unsanitary.

102.5 Workmanship. Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of this code shall be executed and installed in a workmanlike manner and installed in accordance with the manufacturer's instructions.

102.6 Historic buildings. (amended) The City of Richmond Heights has historic areas within its jurisdiction that have historic structures and dwellings that have distinctive and unique architectural styles and details, and such styles and details shall be preserved whenever reasonably possible. When repairing or altering a dwelling or structure in an historic area, the existing architectural style, details and materials shall be preserved, repaired, matched or reproduced and not removed, altered, destroyed or replaced with alternate materials. Alternate architectural style, details and materials shall not be utilized unless approved by the Architectural Board of Review (ABR). The tuck-pointing of masonry assemblies such as foundations, porches, stairs/steps, chimneys and chimney caps shall be performed in a neat and workman-like manner with materials that match the existing materials in style, color (including mortar color) and texture.

102.7 Referenced codes and standards. (deleted)

102.7.1 Conflicts. (deleted)

102.7.2 Provisions in referenced codes and standards. (deleted)

102.8 Requirements not covered by code. Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public safety, health and general welfare, not specifically covered by this code, shall be determined by the code official.

102.9 Application of references. References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of this code.

102.10 Other laws. (amended) The provisions of this code shall not be deemed to nullify any provisions of the Codified Ordinances of the City of Richmond Heights, state or federal law.

SECTION 103 PROPERTY MAINTENANCE INSPECTION;

ADMINISTRATION AND ENFORCEMENT.

103.1 General. (amended) The Commissioner of Building, Zoning and Housing or the Commissioner's designee shall have the authority to enforce the provisions of the regulations adopted in this chapter, and all the provisions of such documents shall be administered by the Commissioner or the Commissioner's designee.

103.2 Appointment. (deleted)

103.3 Deputies. (amended) Authorized inspectors under this code are hereby referred to as "code official."

103.4 Liability. (amended) The liability of any code official, member of the City's Zoning Board of Appeals, Planning Commission, and ARB, and an officer or employee charged with the enforcement of this code, while acting for the jurisdiction, and the costs for the defense thereof, shall not thereby be governed by the provisions of the Ohio Revised Code, Chapter 2744.

103.5 Fees. (deleted)

SECTION 104 DUTIES AND POWERS OF THE CODE OFFICIAL.

104.1 General. The code official shall is hereby authorized and directed to enforce the provisions of this code.

104.2 Rule-making authority. (amended) The code official shall have the authority to render interpretations as necessary in the interest of this code and public health, safety and general welfare, to adopt and promulgate rules and procedures; to interpret and implement the provisions of this code; to secure the intent and purposes thereof; and to designate requirements applicable because of local climatic or other conditions. Such rules shall not have the effect of waiving structural or fire performance requirements specifically provided for in this code, or of violating accepted engineering methods involving public safety or varying any provision of the Planning and Zoning Code and the Building Code of the City of Richmond Heights.

104.3 Inspections. The code official shall make all of the required inspections to determine whether such comply with this code, or shall accept reports of inspection by agencies or individuals approved by the code official. All reports of such inspections shall be in writing and be certified by a responsible officer of such approved agency or by the responsible individual. The code official is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise, subject to the approval of the appointing authority.

104.4 Right of entry. (amended) Where it is necessary to make an inspection to enforce the provisions of this code, or whenever the code official has reasonable cause to believe that there exists in a structure or upon a premises a condition in violation of this code, the code official is authorized to enter the structure or premises at reasonable times to inspect or perform the duties imposed by this code, provided that if such structure or premises is occupied, the code official shall present identification to the occupant and request entry. If such structure or premises is unoccupied, the code official shall first make a reasonable effort to locate the owner, owner's authorized agent or other person having charge or control of the structure or premises and request entry. If entry is refused or consent to entry is not obtained, the code official shall have recourse to the remedies provided by law to secure entry.

104.5 Identification. The code official shall carry proper identification when inspecting structures or premises in the performance of duties under this code.

104.6 Notices and orders. (added) The code official shall issue all necessary notices or orders to ensure compliance with this code. When the code official takes action in response to findings of non-compliance or denies any approval, such action shall be initiated by issuing an adjudication order prior to seeking any remedy, civil or criminal, unless immediate action is required to protect lives and property.

104.7 Department records. The code official shall keep official records of all business and activities of the department specified in the provisions of this code. Such records shall be retained in the official records for the period required for retention of public records.

104.8 Coordination of inspections. Whenever in the enforcement of this code or another code or ordinance, the responsibility of more than one code official of the jurisdiction is involved, it shall be the duty of the code officials involved to coordinate their inspections and administrative orders as fully as practicable so that the owners and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders. Whenever an inspector from any agency or department observes an apparent or actual violation of some provision of some law, ordinance or code not within the inspector's authority to enforce, the inspector shall report the findings to the code official having jurisdiction.

104.9 Inspection and status reports requested by interested parties; fees. (added)

(a) **Application for Inspection.** Whenever an owner, operator, occupant, bona fide prospective purchaser, mortgagee or bona fide prospective occupant shall apply to the code official for an inspection in order to ascertain if any section of this code has been violated, the code official shall, upon payment of the fee hereunder stated, cause an inspection to be made of the premises and issue an informational certificate or report of the inspection to the applicant, indicating therein any violations of this code on the premises. The applicant for such inspection shall state in writing his full name, residence, reasons and basis for which the inspection is requested. The code official may deny the application for failure to comply with this requirement.

(b) **Application for Status Report.** Where, in lieu of an inspection, an owner, operator, occupant, lessee, bona fide prospective purchaser, mortgagee or bona fide prospective occupant requests a status report as to whether or not there are any known violations presently pending on the premises, upon payment of the fee prescribed herein and the written request, a copy of any notice or order on any violation then pending shall be sent to the applicant.

(c) **Limitations of Inspection or Status Report.** No inspection report issued under subsection (a) herein or status report under subsection (b) herein shall be construed as providing a defense against any violation of this code or any other ordinance of the City of Richmond Heights which may be discovered thereafter whether or not the condition or violation existed at the time of any such inspection or status report. The inspection or status report is provided as a convenience to the public and shall not constitute a limitation on the full enforcement of this code. The inspection or status report shall include only such matters as are embraced in this code.

(d) **Inspection and Status Report Fees.** The minimum fee for any inspection made under subsection (a) herein shall be fifteen dollars (\$15.00). Dwellings of more than ten dwelling units or rooming units shall pay an additional fee of five dollars (\$5.00) for each unit in excess of ten.

104.10. Certificate of Occupancy. (added) When it is determined by the Division of Building, Zoning and Housing that a dwelling, building or structure is in compliance with the provisions of these Codified Ordinances and all other applicable rules and regulations applicable thereto, the Building Official shall issue a Certificate of Occupancy for the premises.

SECTION 105 APPROVALS

105.1 Modifications. Whenever there are practical difficulties involved in carrying out the provisions of this code, the code official shall have the authority to grant modifications for individual cases upon application of the owner or owner's authorized agent, provided the code official shall first find that special individual reason makes the strict letter of this code impractical, and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety requirements. The details of action granting modifications shall be recorded and entered in the department files.

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prohibit any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction shall be approved where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety. Where the alternative material, design or method of construction is not approved, the code official shall respond in writing, stating the reasons the alternative was not approved.

105.3 Required testing. Whenever there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the code official shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

105.3.1 Test methods. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the code official shall be permitted to approve appropriate testing procedures performed by an approved agency.

105.3.2 Test reports. Reports of tests shall be retained by the code official for the period required for retention of public records.

105.4 Used material and equipment. The use of used materials that meet the requirements of this code for new materials is permitted. Materials, equipment and devices shall not be reused unless such elements are in good repair or have been reconditioned and tested where necessary, placed in good and proper working condition and approved by the code official.

105.5 Approved materials and equipment. Materials, equipment and devices approved by the code official shall be constructed and installed in accordance with such approval.

105.6 Research reports. Supporting data, where necessary to assist in the approval of materials or assemblies not specifically provided for in this code, shall consist of valid research reports from approved sources.

SECTION 107 NOTICES AND ORDERS

107.1 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 Sections 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3.

107.2 Form. Such notice prescribed in Section 107.1 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 or owner's authorized agent of the right to appeal.
6. Include a statement of the right to file a lien in accordance with Section 106.3.

107.3 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.

107.4 Unauthorized tampering. Signs, tags or seals posted or affixed by the code official shall not be mutilated, destroyed or tampered with, or removed without authorization from the code official.

107.5 Penalties. (deleted)

107.6 Transfer of ownership. It shall be unlawful for the owner of any 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 or the owner's authorized agent 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.

SECTION 108 UNSAFE STRUCTURES AND EQUIPMENT.

108.1 General. When a structure or equipment is found by the code official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.

108.1.1 Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

108.1.2 Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

108.1.3 Structure unfit for human occupancy. A structure is unfit for human occupancy whenever the code official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

108.1.4 Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or was erected, altered or occupied contrary to law.

108.1.5 Dangerous structure or premises. For the purpose of this code, any structure or premises that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the jurisdiction as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, structure or appurtenance that has been damaged by fire, earthquake, wind, flood, deterioration, neglect, abandonment, vandalism or by any other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.
6. The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.
7. The building or structure is neglected, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.
8. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or structure, used or intended to be used for dwelling purposes, because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation or in such a condition that is likely to cause sickness or disease.
10. Any building or structure, because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.
11. Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.

108.2 Closing of vacant structures. If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner or owner's authorized agent to close up the premises within the time specified in the order, the code official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and shall be collected by any other legal resource.

108.2.1 (amended) Authority to disconnect service utilities. The code official shall have the authority to authorize disconnection of utility service to the building, structure or system regulated by this code in case of emergency where necessary to eliminate an immediate hazard to life or property or where such utility connection has been made without approval. The code official shall notify the serving utility and, whenever possible, the owner or owner's authorized agent and occupant of the building, structure or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner, owner's authorized agent or occupant of the building structure or service system shall be notified in writing as soon as practical thereafter.

108.3 Notice. Whenever the code official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place in or about the structure affected by such notice and served on the owner, owner's authorized agent or the person or persons responsible for the structure or equipment in accordance with Section 107.3. If the notice pertains to equipment, it shall be placed on the condemned equipment. The notice shall be in the form prescribed in Section 107.2.

108.4 Placarding. Upon failure of the owner, owner's authorized agent or person responsible to comply with the notice provisions within the time given, the code official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment or removing the placard.

108.4.1 Placard removal. The code official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this code.

108.5 Prohibited occupancy. Any occupied structure condemned and placarded by the code official shall be vacated as ordered by the code official. Any person who shall occupy a placarded premise or shall operate placarded equipment, and any owner, owner's authorized agent or person responsible for the premises who shall let anyone occupy a placarded premise or operate placarded equipment shall be liable for the penalties provided by this code.

108.6 Abatement methods. The owner, owner's authorized agent, operator or occupant of a building, premises or equipment deemed unsafe by the code official shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other approved corrective action.

108.7 Record. The code official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.

SECTION 109 EMERGENCY MEASURES

109.1 Imminent danger. (amended) When, in the opinion of the code official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the code official is hereby authorized and empowered to declare a case of emergency and immediately order and require the occupants to vacate the premises forthwith. The code official shall cause to be posted at each entrance to such structure a notice reading as follows: "NOTICE OF EMERGENCY: This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

109.2 Temporary safeguards. (amended) Notwithstanding other provisions of this code, whenever, in the opinion of the code official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done immediately, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.

109.3 Closing streets. When necessary for public safety, the code official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways and places adjacent to unsafe structures, and prohibit the same from being utilized.

109.4 Emergency repairs. For the purposes of this section, the code official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

109.5 Costs of emergency repairs. Costs incurred in the performance of emergency work shall be paid by the jurisdiction. The legal counsel of the jurisdiction shall institute appropriate action against the owner of the premises or owner's authorized agent where the unsafe structure is or was located for the recovery of such costs.

109.6 Hearing. (amended) Any person ordered to take emergency measures shall comply with such order forthwith. Any owner or lessee affected by such an order shall thereafter, upon petition directed to the Zoning Board of Appeals, be afforded a hearing as described in this code.

SECTION 110 DEMOLITION

110.1 General. (amended) The code official shall order the owner or owner's authorized agent of any premises upon which is located any structure, which in the code official's or owner's authorized agent judgment after

review is so deteriorated or old, dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than four months, to demolish and remove such structure.

110.2 Notices and orders. All notices and orders shall comply with Section 107.

110.3 Failure to comply. If the owner of a premises or owner's authorized agent fails to comply with a demolition order within the time prescribed, the code official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.

110.4 Salvage materials. When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement aforesaid shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.

SECTION 111 MEANS OF APPEAL

111.1 Application for appeal. (amended) Any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the Zoning Board of Appeals of the City of Richmond Heights provided that a written application for appeal is filed within thirty (30) days after the day the decision, notice or order was served, as service is provided for a civil summons in Ohio. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted there under have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means. Unless the code official has declared a case of emergency in accordance with Section 109 of this code, an application for appeal shall suspend action on enforcement of such notice until the appeal is acted upon by said Board. Failure to file an application for appeal in the time prescribed herein shall constitute a waiver of the right to appeal.

111.2 Membership of board. (deleted)

111.2.1 Alternate members. (deleted)

111.2.2 Chairman. (deleted)

111.2.3 Disqualification of member. (deleted)

111.2.4 Secretary. (deleted)

111.2.5 Compensation of members. (deleted)

111.3 Notice of meeting. (modified) Notice of the time, place and date of hearings on appeals to the board as provided for in this chapter shall be sent by certified mail or hand-delivery to all persons owning property that adjoins the property at issue or that is located directly across the right-of-way from the property at issue. The notice shall also advise such persons that they have the right to appear and to be heard at the hearing.

111.4 Open hearing. (modified) All hearings before the board shall be open to the public. The appellant, the appellant's representative, the code official and any person owning property that adjoins the property at issue or that is located directly across the right-of-way from the property at issue shall be given an opportunity to be heard.

111.4.1 Procedure. (deleted)

111.5 Postponed hearing. (deleted)

111.6 Board decision. (deleted)

111.6.1 Records and copies. The decision of the board shall be recorded. Copies shall be furnished to the appellant and to the code official.

111.6.2 Administration. The code official shall take immediate action in accordance with the decision of the board.

111.7 Court review. (deleted)

111.8 Stays of enforcement. (amended) Appeals of notice and orders (other than Imminent Danger notices) shall stay the enforcement of the notice and order until the appeal is heard by the Zoning Board of Appeals.

111.9 Additional legal recourse. (added) The imposition of any penalty or determination by the Zoning Board of Appeals for a violation shall not preclude the legal counsel of the jurisdiction from seeking any additional legal recourse related to such violation under this code or other applicable law.

SECTION 112 STOP WORK ORDER

112.1 Authority. Whenever the code official finds any work regulated by this code being performed in a manner contrary to the provisions of this code or in a dangerous or unsafe manner, the code official is authorized to issue a stop work order.

112.2 Issuance. A stop work order shall be in writing and shall be given to the owner of the property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work is authorized to resume.

112.3 Emergencies. Where an emergency exists, the code official shall not be required to give a written notice prior to stopping the work.

112.4 Failure to comply. (amended) 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 perform to remove a violation or unsafe condition, shall be liable to a fine of not less than ninety-nine dollars (\$100.00) or more than nine hundred and ninety-nine dollars (\$999.00), and such shall be deemed a public nuisance. (Ord. 79-2016. Passed 8-23-16.)

1309.04 DEFINITIONS.

SECTION 201 GENERAL.

201.1 Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

201.2 Interchangeability. Words stated in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

201.3 Terms defined in other codes. (amended) Where terms are not defined in this code and are defined in the Ohio Building Code, Ohio Fire Code, Residential Code of Ohio for One-, Two-, and Three-Family Dwellings, National Electrical Code and the Planning and Zoning Code of the City of Richmond Heights, such terms shall have the meanings ascribed to them as in those codes.

201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

201.5 Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "rooming house," "rooming unit" "housekeeping unit" or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

SECTION 202 GENERAL DEFINITIONS.

ACCESSORY. (added) A structure or use that is subordinate to the main or principal building on a lot and used for purposes customarily incidental to those of the main building.

ANCHORED. Secured in a manner that provides positive connection.

APPROVED. Acceptable to the code official.

BASEMENT. That portion of a building which is partly or completely below grade.

BATHROOM. A room containing plumbing fixtures including a bathtub or shower.

BEDROOM. Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

CODE OFFICIAL. (amended) The official who is charged with the administration and enforcement of this code, or any duly authorized representative.

CONDEMN. To adjudge unfit for occupancy.

COST OF SUCH DEMOLITION OR EMERGENCY REPAIRS. The costs shall include the actual costs of the demolition or repair of the structure less revenues obtained if salvage was conducted prior to demolition or repair. Costs shall include, but not be limited to, expenses incurred or necessitated related to demolition or emergency repairs, such as asbestos survey and abatement if necessary; costs of inspectors, testing agencies or experts retained relative to the demolition or emergency repairs; costs of testing; surveys for other materials that are controlled or regulated from being dumped in a landfill; title searches; mailing(s); postings; recording; and attorney fees expended for recovering of the cost of emergency repairs or to obtain or enforce an order of demolition made by a code official, the governing body or board of appeals.

DETACHED. When a structural element is physically disconnected from another and that connection is necessary to provide a positive connection.

DETERIORATION. To weaken, disintegrate, corrode, rust or decay and lose effectiveness.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

EASEMENT. That portion of land or property reserved for present or future use by a person or agency other than the legal fee owner(s) of the property. The easement shall be permitted to be for use under, on or above a said lot or lots.

EQUIPMENT SUPPORT. Those structural members or assemblies of members or manufactured elements, including braces, frames, lugs, snuggers, hangers or saddles, that transmit gravity load, lateral load and operating load between the equipment and the structure.

EXTERIOR PROPERTY. The open space on the premises and on adjoining property under the control of owners or operators of such premises.

EXTERMINATION. (added) The control and elimination of insects, rats or other pests by eliminating their harborage places; by removing or making inaccessible materials that serve as their food; by poison spraying, fumigating, trapping or by any other approved pest elimination methods.

GARBAGE. The animal or vegetable waste resulting from the handling, preparation, cooking and consumption of food.

GUARD. A building component or a system of building components located at or near the open sides of elevated walking surfaces that minimizes the possibility of a fall from the walking surface to a lower level.

HABITABLE SPACE. Space in a structure for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces, and similar areas are not considered habitable spaces.

HISTORIC BUILDING. Any building or structure that is one or more of the following:

1. Listed or certified as eligible for listing, by the State Historic Preservation Officer or the Keeper of the National Register of Historic Places, in the National Register of Historic Places.
2. Designated as historic under an applicable state or local law.
3. Certified as a contributing resource within a National Register or state or locally designated historic district.

HOUSEKEEPING UNIT. A room or group of rooms forming a single habitable space equipped and intended to be used for living, sleeping, cooking and eating which does not contain, within such a unit, a toilet, lavatory and bathtub or shower.

IMMINENT DANGER. A condition which could cause serious or life-threatening injury or death at any time.

INFESTATION. The presence, within or contiguous to, a structure or premises of insects, rodents, vermin or other pests.

INOPERABLE MOTOR VEHICLE. A vehicle which cannot be driven upon the public streets for reason including but not limited to being unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

LABELED. Equipment, materials or products to which have been affixed a label, seal, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency or other organization concerned with product evaluation that maintains periodic inspection of the production of the above-labeled items and whose labeling indicates either that the equipment, material or product meets identified standards or has been tested and found suitable for a specified purpose.

LET FOR OCCUPANCY or LET. To permit, provide or offer possession or occupancy of a dwelling, dwelling unit, rooming unit, building, premise or structure by a person who is or is not the legal owner of record thereof, pursuant to a written or unwritten lease, agreement or license, or pursuant to a recorded or unrecorded agreement of contract for the sale of land.

MULTIPLE FAMILY DWELLING. (added) A dwelling unit comprised of three or more attached dwelling units.

NEGLECT. The lack of proper maintenance for a building or structure.

OCCUPANCY. The purpose for which a building or portion thereof is utilized or occupied.

OCCUPANT. Any individual living or sleeping in a building, or having possession of a space within a building.

OPENABLE AREA. That part of a window, skylight or door which is available for unobstructed ventilation and which opens directly to the outdoors.

OPERATOR. Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER. Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON. An individual, corporation, partnership or any other group acting as a unit.

PEST ELIMINATION. The control and elimination of insects, rodents or other pests by eliminating their harborage places? by removing or making inaccessible materials that serve as their food or water? by other approved pest elimination methods.

PREMISES. A lot, plot or parcel of land, easement or public way, including any structures thereon.

PUBLIC WAY. Any street, alley or similar parcel of land essentially unobstructed from the ground to the sky, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

ROOMING HOUSE. A building arranged or occupied for lodging, with or without meals, for compensation and not occupied as a one- or two-family dwelling.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit occupied or intended to be occupied for sleeping or living, but not for cooking purposes.

RUBBISH. Combustible and non-combustible waste materials, except garbage; the term shall include the residue from the burning of wood, coal, coke and other combustible materials, paper, rags, cartons, boxes, wood, excelsior, rubber, leather, tree branches, yard trimmings, tin cans, metals, mineral matter, glass, crockery and dust and other similar materials.

SLEEPING UNIT. A room or space in which people sleep, which can also include permanent provisions for living, eating and either sanitation or kitchen facilities, but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

STRICT LIABILITY OFFENSE. An offense in which the prosecution in a legal proceeding is not required to prove criminal intent as a part of its case. It is enough to prove that the defendant either did an act which was prohibited, or failed to do an act which the defendant was legally required to do.

STRUCTURE. That which is built or constructed or a portion thereof.

TENANT. A person, corporation, partnership or group, whether or not the legal owner of record, occupying a building or portion thereof as a unit.

TOILET ROOM. A room containing a water closet or urinal but not a bathtub or shower.

ULTIMATE DEFORMATION. The deformation at which failure occurs and which shall be deemed to occur if the sustainable load reduces to 80 percent or less of the maximum strength.

USE. (added) The purpose for which buildings, other structures or land may be arranged, designed, intended, maintained or occupied.

VENTILATION. The natural or mechanical process of supplying conditioned or unconditioned air to, or removing such air from, any space.

WORKMANLIKE. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

YARD. An open space on the same lot with a structure.

(Ord. 79-2016. Passed 8-23-16.)

1309.05 GENERAL REQUIREMENTS.

SECTION 301 GENERAL.

301.1 Scope. The provisions of this chapter shall govern the minimum conditions and the responsibilities of persons for maintenance of structures, equipment and exterior property.

301.2 Responsibility. The owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided for in this code. A person shall not occupy as owner-occupant or permit another person to occupy premises which are not in a sanitary and safe condition and which do not comply with the requirements of this chapter. Occupants of a dwelling unit, rooming unit or housekeeping unit are responsible for keeping in a clean, sanitary and safe condition that part of the dwelling unit, rooming unit, housekeeping unit or premises which they occupy and control.

301.3 Vacant structures and land. All vacant structures and premises thereof or vacant land shall be maintained in a clean, safe, secure and sanitary condition as provided herein so as not to cause a blighting problem or adversely affect the public health or safety.

(Ord. 79-2016. Passed 8-23-16.)

301.4 Safety and security (added). The owners and managers of all multi-family residential properties shall provide locked security to the interior common areas of all such properties and shall provide a minimal level of safety and security to the properties' tenants. For purposes of this section, multi-family residential properties are defined as those buildings or properties with four or more living units per building accessed from a common entrance and shall be referred to as "property" and/or "properties" in this section 301.4 and all of its subparts. The safety and security required to be provided shall be at minimum the following:

301.4.1 Exterior Property Areas.

301.4.1.1 The owners or managers of all such properties shall make every reasonable and practical effort to remove the ice and snow from areas frequented by the properties' occupants, including but not limited to parking areas, sidewalks and walkways, trash dumpster areas, and the entire exit travel path – the walkway or path from every required exit door to a public way.

(Ord. 94-2019. Passed 10-22-19.)

301.4.1.2 (EDITOR'S NOTE: Former subsection 301.4.1.2 was repealed by Ordinance 128-2022, passed October 25, 2022.)

301.4.2 Interior Property Areas.

301.4.2.1 The owners or managers of all properties shall provide locked security to the interior common areas of all properties. Such common areas, including but not limited to lobbies, corridors, stairways, elevators, mail rooms, and other similar areas shall be accessed only with the use of a key or as approved by the City's code official, an equally-effective electronic means to prevent unauthorized persons from entering the building on the property. Exit doors shall always remain openable from the inside without any keys, tools or special knowledge required to open the door. A City Division of fire lock box shall be provided at the entrance designated by the Division of Fire to every secured building.

301.4.2.2 The owners or managers of all properties shall provide and maintain in good working order the resources for emergency personnel, visitors and delivery personnel to notify each individual living unit of their arrival. The system may be either hard-wired or wireless and shall at the minimum provide a two-way voice intercom connection between the main entrance of the building and each individual apartment unit.

301.4.2.3 The owners or managers of all properties shall ensure that all corridors, stairways, lobby areas, and all other common areas of the building are properly lit whenever the building is occupied. Such areas are properly lit when the intensity of the lighting is not less than 1 foot-candle (11 lux) at the walking surface.

301.4.2.4 The owners or managers of all properties shall ensure that all corridors, stairways, lobby areas, and all other common areas of the building are provided with emergency illumination whenever the building is occupied. Such emergency illumination shall be of an intensity of not less than 1 foot-candle at the source, with no point along the path of egress from the building being less than 0.1 foot-candle at the walking surface. Emergency illumination shall be provided with a backup power source which shall be either an emergency generator or battery backup and that will power all emergency fixtures for a minimum period of not less than ninety minutes.

30 1.4.2.5 The owners or managers of all properties shall ensure that the means of egress elements from the building, which includes the exit access, the exit and the exit discharge as defined in the Ohio Building Code, corridors, stairways, lobbies, sidewalks and all other exit elements of the property shall be maintained at all times in a safe and sanitary manner and in the condition of their original approval by the City. Areas shall be kept completely free of any stored materials, garbage or trash. No furniture, either temporary or permanent, shall be placed in a required exit pathway. Floor and stair coverings shall be noncombustible and shall have a slip-resistant surface and be securely attached to the floor and stair.

(Ord. 94-2019. Passed 10-22-19.)

SECTION 302 EXTERIOR PROPERTY AREAS.

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

302.2 Grading and drainage. All premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon.

Exception: Approved retention areas and reservoirs.

302.3 Sidewalks and Driveways. (amended) All sidewalks, walkways, stairways, driveways, parking areas and other similar areas shall be kept in a proper state of repair and maintained free from hazardous or defective conditions, such as, but not limited to:

1. Any block having a surface crack greater than one-half inch (0.5") in width;
2. Any whole or partial section of adjacent blocks where the edges adjoining each differ by more than one-half inch (0.5") in height;
3. Any block having a transverse slope toward the street greater than one inch (1") per horizontal foot;
4. Any block having a reverse slope away from the street that impounds more than one-half inch (0.5") of water in depth;
5. Any block having a depression that impounds more than (1") of water in depth.

All driveways and drive aprons shall be kept in a safe condition, free from holes, depressions or large cracks. Any driveway or apron in need of repair or constituting a dangerous condition shall be replaced in accordance with Section 1175.03 of the Codified Ordinances.

302.4 Weeds. (amended) All premises and exterior property shall be maintained free from weeds or plant growth in excess of six inches (6") in height. All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds after service of a notice violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

Exception: The Building Commissioner may permit weeds and plant growth in excess of six inches (6") in height to the extent that environmental requirements may warrant such or in cases where the clear cutting of a premises or exterior property is unreasonable.

302.5 Rodent harborage. All structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes which will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

302.6 Exhaust vents. Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

302.7 Accessory structures. All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

302.8 Motor vehicles. (amended) Except as provided for in other regulations, no motor vehicle shall be parked, kept or stored on any premises, in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

Exception: A vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.

302.9 Defacement of property. No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

302.10 Parking Lots (added) All parking lots shall be kept in a clean, sanitary condition, free from scrap paper and miscellaneous debris. The parking lot shall also be kept in safe condition, free from holes, depressions and large surface cracks. If a parking lot surrounds or is used for access to a dumpster or trash receptacle on a multi-family parcel, the parking lot shall be constructed of at least eight inches (8") of reinforced concrete or of an asphalt design approved by the City Engineer. All parking lots needing repair or constituting a dangerous condition shall be brought into compliance with this code and in accordance with Section 1175.03 of the Codified Ordinances.

302.11 (added) Exterior masonry walls and appurtenances shall be repaired with matching brick. If a perfect match cannot be obtained, replacement brick masonry shall be reviewed for suitability by the Architectural Board of Review as required by Chapter 154 of these Codified Ordinances. The tuck-pointing of masonry assemblies such as foundations, porches and stairs, chimneys and chimney caps shall be performed in a neat and workmanship-like manner with materials that match the existing in style, color (including mortar color) and texture.

302.12 General Maintenance. (added) No owner or occupant shall maintain or permit to be maintained a condition of an exterior property area which deteriorates or debases the appearance of the neighborhood; reduces property values in the neighborhood; or creates a fire, safety or health hazard or which is a public nuisance.

SECTION 303 SWIMMING POOLS, SPAS AND HOT TUBS.

303.1 Swimming pools. Swimming pools shall be maintained in a clean and sanitary condition, and in good repair.

303.2 Enclosures. (amended) Private swimming pools, hot tubs and spas, containing water more than 24 inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152 mm) from the gatepost. A cover for a hot tub or spa that can be locked in the closed position shall be considered an adequate safety barrier. No existing pool enclosure shall be removed, replaced or changed in a manner that reduces its effectiveness as a safety barrier.

Exception: Spas or hot tubs with a safety cover that complies with ASTM F 1346 shall be exempt from the provisions of this section.

303.3 Ladders. (added) Private swimming pools entered by a portable ladder or a fixed ladder shall have such ladders removed or locked in an inaccessible position while not in use.

SECTION 304 EXTERIOR STRUCTURE.

304.1 General. The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

304.1.1 Unsafe conditions. (amended) The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the Ohio Building Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Siding and masonry joints including joints between the building envelope and the perimeter of windows, doors and skylights are not maintained, weather resistant or water tight;
5. Structural members that have evidence of deterioration or that are not capable of safely supporting all nominal loads and load effects? 6. Foundation systems that are not firmly supported by footings, are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
7. Exterior walls that are not anchored to supporting and supported elements or are not plumb and free of holes, cracks or breaks and loose or rotting materials, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects;
8. Roofing or roofing components that have defects that admit rain, roof surfaces with inadequate drainage, or any portion of the roof framing that is not in good repair with signs of deterioration, fatigue or without proper anchorage and incapable of supporting all nominal loads and resisting all load effects;

9. Flooring and flooring components with defects that affect serviceability or flooring components that show signs of deterioration or fatigue, are not properly anchored or are incapable of supporting all nominal loads and resisting all load effects;
10. Veneer, cornices, belt courses, corbels, trim, wall facings and similar decorative features not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
11. Overhang extensions or projections including, but not limited to, trash chutes, canopies, marquees, signs, awnings, fire escapes, standpipes and exhaust ducts not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
12. Exterior stairs, decks, porches, balconies and all similar appurtenances attached thereto, including guards and handrails, are not structurally sound, not properly anchored or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects; or
13. Chimneys, cooling towers, smokestacks and similar appurtenances not structurally sound or not properly anchored, or that are anchored with connections not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

304.1.2 Vacant parcels. (added) Swimming pools, hot tubs and spas located on vacant, residentially-zoned parcels shall be completely surrounded by a lockable fence or barrier that is at least forty-eight inches (48") in height above the finished ground level, as measured on the side of the barrier away the swimming pool, hot tub or spa; and also have installed a safety cover that complies with ASTM 1346. Such safety cover shall be installed such that water will not gather on top to form a stagnant puddle, and also have the ability to be locked or securely fastened in the closed position, thereby protecting the public from the effects of stagnant or standing water. Gates and doors in such barriers shall be locked by devices that require the use of a key or other similar device.

304.1.3 Dismantling, removing and backfilling swimming pools. (added) If the code official determines that a swimming pool cannot be maintained in a clean and sanitary condition, and cannot reasonably be brought into a state of good repair, the swimming pool shall be dismantled, removed or completely backfilled with clean and approved material consisting of clay soil, gravelly clay, sandy clay or combination thereof. Before a swimming pool is backfilled, its wiring and water supply, sewer or gas piping shall be removed, properly capped and terminated and inspected by the code official for compliance herewith. Walls and floors of in-ground swimming pools shall also be removed or crushed to a size less than six inches (6") in diameter before being backfilled.

304.2 Protective treatment. (amended) All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted in a manner and color to match the existing. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained in a manner and color to match the existing and shall be weather resistant and water tight. All metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion and all surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

304.3 Premises identification. (amended) Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm). All suites in a multifamily dwelling shall be identified with their unit numbers or letters on the door leading to each individual dwelling unit.

304.4 Structural members. All structural members shall be maintained free from deterioration, and shall be capable of safely supporting the imposed dead and live loads.

304.5 Foundation walls. All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

304.6 Exterior walls. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

304.7 Roofs and drainage. (amended)

- (a) The roof and flashing shall be sound, weather-tight and not have defects that admit rain. Every roof shall have adequate roof drainage. Roof drainage is adequate if equipped with gutters and downspouts that are well-maintained, free from obstructions and prevent dampness or deterioration in the walls or interior portion of the structure. Gutters and downspouts shall be connected to a public storm sewer, or, if approved by the code official, a retention system that satisfies either description herein:
 1. One or more downspout(s) may be diverted into an approved rain barrel or other structural storage container, provided that the overflow from such appurtenances is directed into the public storm sewer system. Rain barrels or other structural storage containers shall be covered at all times and incorporate a drainage system that directs any overflow away from the building's foundation and into the public storm sewer system. The installation of rain barrels or other structural storage containers shall be subject to the review and approval of the Building Commissioner, and shall conform to the standards set forth by the City for such devices.
 2. As an alternative to the requirement of division (a) of this section, that downspouts be connected to the public storm sewer system, one or more downspout(s) may be directed into an approved rain garden. Such rain garden shall be subject to the review and approval of the Building Department and the City Engineer, and shall be constructed in accordance with the latest edition of the Rain Garden Manual for Homeowners. No rain garden shall be constructed until a permit has been obtained as set forth in Section 1325.01.
- (b) This requirement shall be waived for existing appurtenant structures if, in the opinion of the Building Commissioner, the drainage does not cause excessive erosion or water damage or does not create a nuisance on public or private property.

304.8 Decorative features. All cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

304.9 Overhang extensions. All overhang extensions including, but not limited to canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. When required, all exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.9.1 Signs no longer in use. (added) Signs that are no longer in use shall be removed.

304.10 Stairways, decks, porches and balconies. Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

304.11 Chimneys and towers. All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

304.12 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

304.13 Window, skylight and door frames. Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

303.13.1 Glazing. All glazing materials shall be maintained free from cracks and holes.

303.13.2 Openable windows. Every window, other than a fixed window, shall be easily openable and capable of being held in position by window hardware.

304.14 Insect screens. (amended) During the period from May 1 to October 31, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch (16 mesh per 25 mm) and every swinging door shall have a self closing device in good working condition.

Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

304.15 Doors. All exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units, and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

304.16 Basement hatchways. Every basement hatchway shall be maintained to prevent the entrance of rodents, rain and surface drainage water.

304.17 Guards for basement windows. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

304.18 Building security. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupants and property within.

304.18.1 Doors. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). For the purpose of this section, a sliding bolt shall not be considered an acceptable deadbolt lock. Such deadbolt locks shall be installed according to manufacturer's specifications and maintained in good working order.

304.18.2 Windows. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking devices.

304.18.3 Basement hatchways. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

304.19 Gates. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

SECTION 305 INTERIOR STRUCTURE.

305.1 General. The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure which they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

305.1.1 Unsafe conditions. The following conditions shall be determined as unsafe and shall be repaired or replaced to comply with the International Building Code or the International Existing Building Code as required for existing buildings:

1. The nominal strength of any structural member is exceeded by nominal loads, the load effects or the required strength;
2. The anchorage of the floor or roof to walls or columns, and of walls and columns to foundations is not capable of resisting all nominal loads or load effects;
3. Structures or components thereof that have reached their limit state;
4. Structural members are incapable of supporting nominal loads and load effects;
5. Stairs, landings, balconies and all similar walking surfaces, including guards and handrails, are not structurally sound, not properly anchored or are anchored with connections not capable of supporting all nominal loads and resisting all load effects;
6. Foundation systems that are not firmly supported by footings are not plumb and free from open cracks and breaks, are not properly anchored or are not capable of supporting all nominal loads and resisting all load effects.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted when approved by the code official.

305.2 Structural members. Structural. All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

305.3 Interior surfaces. All interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

305.4 Stairs and walking surfaces. Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

305.5 Handrails and guards. Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

305.6 Interior doors. Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

SECTION 306 COMPONENT SERVICABILITY.

306.1 General. The components of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition.

306.1.1 Unsafe conditions. (amended) Where any of the following conditions cause the component or system to be beyond its limit state, the component or system shall be determined as unsafe and shall be repaired or replaced to comply with the Ohio Building Code or other applicable law as required for existing buildings:

1. Soils that have been subjected to any of the following conditions:
 - 1.1. Collapse of footing or foundation system;
 - 1.2. Damage to footing, foundation, concrete or other structural element due to soil expansion;
 - 1.3. Adverse effects to the design strength of footing, foundation, concrete or other structural element due to a chemical reaction from the soil;
 - 1.4. Inadequate soil as determined by a geotechnical investigation;
- 1.5. Where the allowable bearing capacity of the soil is in doubt; or
- 1.6. Adverse effects to the footing, foundation, concrete or other structural element due to the ground water table.

2. Concrete that has been subjected to any of the following conditions:
 - 2.1. Deterioration;
 - 2.2. Ultimate deformation;
 - 2.3. Fractures;
 - 2.4. Fissures;
 - 2.5. Spalling;
 - 2.6. Exposed reinforcement; or
 - 2.7. Detached, dislodged or failing connections.
3. Aluminum that has been subjected to any of the following conditions:
 - 3.1. Deterioration;
 - 3.2. Corrosion;
 - 3.3. Elastic deformation;
 - 3.4. Ultimate deformation;
 - 3.5. Stress or strain cracks;
 - 3.6. Joint fatigue; or
 - 3.7. Detached, dislodged or failing connections.
4. Masonry that has been subjected to any of the following conditions:
 - 4.1. Deterioration;
 - 4.2. Ultimate deformation;
 - 4.3. Fractures in masonry or mortar joints;
 - 4.4. Fissures in masonry or mortar joints;
 - 4.5. Spalling;
 - 4.6. Exposed reinforcement; or
 - 4.7. Detached, dislodged or failing connections.
5. Steel that has been subjected to any of the following conditions:
 - 5.1. Deterioration;
 - 5.2. Elastic deformation;
 - 5.3. Ultimate deformation;
 - 5.4. Metal fatigue; or
 - 5.5. Detached, dislodged or failing connections.
6. Wood that has been subjected to any of the following conditions:
 - 6.1. Ultimate deformation;
 - 6.2. Deterioration;
 - 6.3. Damage from insects, rodents and other vermin;
 - 6.4. Fire damage beyond charring;
 - 6.5. Significant splits and checks;
 - 6.6. Horizontal shear cracks;
 - 6.7. Vertical shear cracks;
 - 6.8. Inadequate support;
 - 6.9. Detached, dislodged or failing connections; or
 - 6.10. Excessive cutting and notching.

Exceptions:

1. Where substantiated otherwise by an approved method.
2. Demolition of unsafe conditions shall be permitted where approved by the code official.

SECTION 307 HANDRAILS AND GUARDRAILS

307.1 General.(amended) Every exterior and interior flight of stairs having more than four risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 15 inches (381 mm) above the floor or grade below shall have guards. Handrails shall not be less than 30 inches (762 mm) high or more than 42 inches (1067 mm) high measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. Guards shall not be less than 30 inches (762 mm) high above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

Exception: Guards shall not be required where exempted by the adopted building code.

SECTION 308 RUBBISH AND GARBAGE.

308.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

308.2 Disposal of rubbish. Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

308.2.1 Rubbish storage facilities. The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

308.2.2 Refrigerators. Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on premises without first removing the doors.

308.3 Disposal of garbage. Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

308.3.1 Garbage facilities. The owner of every dwelling shall supply one of the following: an approved mechanical food waste grinder in each dwelling unit? an approved incinerator unit in the structure available to the occupants in each dwelling unit; or an approved leak proof, covered, outside garbage container.

308.3.2 Containers. (amended) The operator of every establishment producing garbage shall provide, and at all times cause to be utilized, for outside storage of garbage, approved leak proof containers provided with close-fitting covers for the storage of such materials until removed from the premises for disposal.

308.3.3 Outside Storage. (added) All exterior property and premises shall be kept free and clear from outside storage of out-of-use appliances, equipment, motorized vehicles, etc., and discarded or unused building materials.

Exception. Compost piles in compliance with Chapter 1319.

SECTION 309 PEST ELIMINATION.

309.1 Infestation. All structures shall be kept free from insect and rodent infestation. All structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

309.2 Owner. The owner of any structure shall be responsible for pest elimination within the structure prior to renting or leasing the structure.

309.3 Single occupant. The occupant of a one-family dwelling or of a single-tenant nonresidential structure shall be responsible for pest elimination on the premises.

309.4 Multiple occupancy. The owner of a structure containing two or more dwelling units, a multiple occupancy, a rooming house or a nonresidential structure shall be responsible for pest elimination in the public or shared areas of the structure and exterior property. If infestation is caused by failure of an occupant to prevent such infestation in the area occupied, the occupant shall be responsible for pest elimination.

309.5 Occupant. The occupant of any structure shall be responsible for the continued rodent and pest-free condition of the structure.

Exception: Where the infestations are caused by defects in the structure, the owner shall be responsible for extermination pest elimination.

SECTION 401 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS; GENERAL.

401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

401.2 Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner- occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

401.3 Alternative devices. (amended) In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the Ohio Building Code and the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings shall be permitted.

SECTION 403 VENTILATION.

403.1 Habitable spaces. Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in Section 402.1.

Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33m). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

403.2 Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

403.3 Cooking facilities. Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in a rooming unit or dormitory unit.

Exception:

1. Where specifically approved in writing by the code official.
2. Devices such as coffee pots and microwave ovens shall not be considered cooking appliances.

403.4 Process ventilation. Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions.

Exception: Listed and labeled condensing (ductless) clothes dryers.

SECTION 404 OCCUPANCY LIMITATIONS.

404.1 Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

404.1.1 Communication system. (added) All multiple family dwelling shall be equipped with a two-way communication system for all entrances and exits.

404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

404.3 Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

Exceptions:

1. In one- and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one- and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

404.4 Bedroom and living room requirements. Every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.5.

404.4.1 Area for sleeping purposes. Every living room shall contain not less than 120 square feet (11.2 m) and every bedroom occupied by one person shall contain at least 70 square feet (6.5 m) of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 m) of floor area for each occupant thereof.

404.4.2 Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

Exception: Units that contain fewer than two bedrooms.

404.4.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

404.4.4 Prohibited occupancy. Kitchens and non-habitable spaces shall not be used for sleeping purposes.

404.4.5 Other requirements. (amended) Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this code; the plumbing facilities and water-heating facilities requirements of this code; the heating facilities and electrical receptacle requirements of this code; and the smoke detector and emergency escape requirements of this code.

404.4.6 Basement bedrooms. (added) Bedrooms and rooms for sleeping purposes shall be permitted in basements and spaces below grade certified for such provided one of the following criteria are met:

1. There shall be a direct means of egress stairway meeting the requirements of the adopted building code from the basement area or area below finished grade to the exterior of the structure.
2. There shall be a window in the bedroom or room used for sleeping purposes meeting the emergency egress requirements for location, height and area as described in the adopted building.

404.7 Occupancy load requirements for habitable spaces. (added) Every dwelling unit shall contain at least 300 square feet of habitable floor area for the first occupant thereof and at least 80 square feet of habitable floor area for every additional occupant thereof, but in no case shall any dwell unit contain less than 400 square feet of habitable floor area. Additionally, no dwelling unit shall be occupied by more than two persons per each bedroom.

TABLE 404.5 MINIMUM AREA REQUIREMENTS (deleted)

404.8 Food preparation. (amended) All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary manner. There shall be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage.

405.1 Third floor occupancy. (added) All third floor rooms certified for occupancy in a detached single family dwelling shall maintain an exterior stairway meeting the requirements of the adopted building code from such third floor to finished grade.

406.1 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than one occupant shall have a minimum clear floor area of 120 square feet (11.2 m). A unit occupied by not more than two occupants shall have a minimum clear floor area of 220 square feet (20.4 m). A unit occupied by three occupants shall have a minimum clear floor area of
2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a minimum clear working space of 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.
3. The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.
4. The maximum number of occupants shall be three.

SECTION 502 REQUIRED FACILITIES.

502.1 Dwelling units. Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink which shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory.

502.2 Rooming houses. At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

502.3 Hotels. Where private water closets, lavatories and baths are not provided, one water closet, one lavatory and one bathtub or shower having access from a public hallway shall be provided for each ten occupants.

502.4 Employees' facilities. A minimum of one water closet, one lavatory and one drinking facility shall be available to employees.

502.4.1 Drinking facilities. Drinking facilities shall be a drinking fountain, water cooler, bottled water cooler or disposable cups next to a sink or water dispenser. Drinking facilities shall not be located in toilet rooms or bathrooms.

502.5 Public toilet facilities. (amended) Public toilet facilities shall be maintained in a safe, sanitary and working condition in accordance with the Ohio Plumbing Code and the Residential Code of Ohio for One-, Two-, and Three-Family Dwellings. Except for periodic maintenance or cleaning, public access and use shall be provided to the toilet facilities at all times during occupancy of the premises.

SECTION 506 SANITARY DRAINAGE SYSTEM.

506.1 General. All plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

506.2 Maintenance. Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

506.3 Grease interceptors. Grease interceptors and automatic grease removal devices shall be maintained in accordance with this code and the manufacturer's installation instructions. Grease interceptors and automatic grease removal devices shall be regularly serviced and cleaned to prevent the discharge of oil, grease, and other substances harmful or hazardous to the building drainage system, the public sewer, the private sewage disposal system or the sewage treatment plant or processes. Records of maintenance, cleaning and repairs shall be available for inspection by the code official.

SECTION 602 HEATING FACILITIES.

602.1 Facilities required. Heating facilities shall be provided in structures as required by this section.

602.2 Residential occupancies. (amended) Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68F (20C) in all habitable rooms, bathrooms and toilet rooms. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating.

602.3 Heat supply. (amended) Every owner and operator of any building who rents, leases or lets one or more dwelling unit, or sleeping unit, on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 15 to May 31 to maintain a temperature of not less than 68F (20C) in all habitable rooms, bathrooms, and toilet rooms.

602.4 Occupiable work spaces. (amended) Indoor occupiable work spaces shall be supplied with heat during the period from September 15 to May 31 to maintain a temperature of not less than 65F (18C) during the period the spaces are occupied.

Exceptions:

1. Processing, storage and operation areas that require cooling or special temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

602.5 Room temperature measurement. The required room temperatures shall be measured 3 feet (914mm) above the floor near the center of the room and 2 feet (610 mm) inward from the center of each exterior wall.

SECTION 604 ELECTRICAL FACILITIES.

604.1 Facilities required. Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

604.2 Service. (amended) The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling units shall be served by a three-wire, 120/240 volt, and single phase electrical service having a rating of not less than 60 amperes.

604.3 Electrical system hazards. Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

604.3.1 Abatement of electrical hazards associated with water exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to water.

604.3.1.1 Electrical equipment. (amended) Electrical distribution equipment, motor circuits, power equipment, transformers, wire, cable, flexible cords, wiring devices, ground fault circuit interrupters, surge protectors, molded case circuit breakers, low-voltage fuses, luminaires, ballasts, motors and electronic control, signaling and communication equipment that have been exposed to water shall be replaced in accordance with the provisions of the Ohio Building Code.

Exception: The following equipment shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement:

1. Enclosed switches, rated a maximum of 600 volts or less;
2. Busway, rated a maximum of 600 volts;
3. Panelboards, rated a maximum of 600 volts;
4. Switchboards, rated a maximum of 600 volts;
5. Fire pump controllers, rated a maximum of 600 volts;
6. Manual and magnetic motor controllers;
7. Motor control centers;
8. Alternating current high-voltage circuit breakers;
9. Low-voltage power circuit breakers;
10. Protective relays, meters and current transformers;
11. Low- and medium-voltage switchgear;
12. Liquid-filled transformers;
13. Cast-resin transformers;
14. Wire or cable that is suitable for wet locations and whose ends have not been exposed to water;
15. Wire or cable, not containing fillers, that is suitable for wet locations and whose ends have not been exposed to water;
16. Luminaires that are listed as submersible;
17. Motors;
18. Electronic control, signaling and communication equipment.

604.3.2 Abatement of electrical hazards associated with fire exposure. The provisions of this section shall govern the repair and replacement of electrical systems and equipment that have been exposed to fire.

604.3.2.1 Electrical equipment. (amended) Electrical switches, receptacles and fixtures, including furnace, water heating, security system and power distribution circuits, that have been exposed to fire, shall be replaced in accordance with the provisions of the Ohio Building Code.

Exception: Electrical switches, receptacles and fixtures that shall be allowed to be repaired where an inspection report from the equipment manufacturer or approved manufacturer's representative indicates that the equipment has not sustained damage that requires replacement.

SECTION 605 ELECTRICAL EQUIPMENT.

605.1 Installation. All electrical equipment, wiring and appliances shall be properly installed and maintained in a safe and approved manner.

605.2 Receptacles. (amended) Every habitable space in a dwelling shall contain at least two separate and remote receptacle outlets. Every laundry area shall contain at least one grounded- type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain at least one receptacle. Any new, altered, modified, repaired or replaced bathroom, kitchen, basement, garage or outdoor receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

605.3 Luminaires. Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain at least one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

605.4 Wiring. Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

SECTION 606 ELEVATORS, ESCALATORS AND DUMBWAITERS.

606.1 General. Elevators, dumbwaiters and escalators shall be maintained in compliance with ASME A17.1. The most current certificate of inspection shall be on display at all times within the elevator or attached to the escalator or dumbwaiter; be available for public inspection in the office of the building operator or be posted in a publicly conspicuous location approved by the code official. The inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by this Codified Ordinances.

606.2 Elevators. In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

Exception: Buildings equipped with only one elevator shall be permitted to have the elevator temporarily out of service for testing or servicing.

SECTION 704 FIRE PROTECTION SYSTEMS.

704.1 General. All systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be maintained in an operable condition at all times in accordance with the Ohio Fire Code.

704.1.1 Automatic sprinkler systems. Inspection, testing and maintenance of automatic sprinkler systems shall be in accordance with NFPA 25.

704.1.2 Fire department connection. Where the fire department connection is not visible to approaching fire apparatus, the fire department connection shall be indicated by an approved sign mounted on the street front or on the side of the building. Such sign shall have the letters "FDC" not less than 6 inches (152 mm) high and words in letters not less than 2 inches (51 mm) high or an arrow to indicate the location. Such signs shall be subject to the approval of the fire code official.

704.2 Single-and multiple-station smoke alarms. Single-and multiple-station smoke alarms shall be installed in existing Groups I-1 and R occupancies in accordance with Sections 704.2.1.1 through 704.2.1.4.

Interconnection and power sources shall be in accordance with Sections 704.2.2 and 704.2.3.

704.2.1 Where required. Existing Group I-1 and R occupancies shall be provided with single-station smoke alarms in accordance with Sections 704.2.1.1 through 704.2.1.4. Interconnection and power sources shall be in accordance with Sections 704.2.2 and 704.2.3.

Exceptions:

1. Where the code that was in effect at the time of construction required smoke alarms and smoke alarms complying with those requirements are already provided.
2. Where smoke alarms have been installed in occupancies and dwellings that were not required to have them at the time of construction, additional smoke alarms shall not be required provided that the existing smoke alarms comply with requirements that were in effect at the time of installation.
3. Where smoke detectors connected to a fire alarm system have been installed as a substitute for smoke alarms.

704.2.1.1 Group R-1. Single- or multiple-station smoke alarms shall be installed in all of the following locations in Group R-1:

1. In sleeping areas.
2. In every room in the path of the means of egress from the sleeping area to the door leading from the sleeping unit.
3. In each story within the sleeping unit, including basements. For sleeping units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.2.1.2 Groups R-2, R-3, R-4 and I-1. Single- or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms.
2. In each room used for sleeping purposes.
3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

704.2.1.3 Installation near cooking appliances. Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 704.2.1.1 or 704.2.1.2.

1. Ionization smoke alarms shall not be installed less than 20 feet (6096 mm) horizontally from a permanently installed cooking appliance.
2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance.
3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

704.2.1.4 Installation near bathrooms. Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.2.1.1 or 704.2.1.2.

704.2.2 Interconnection. Where more than one smoke alarm is required to be installed within an individual dwelling unit or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed.

Exceptions:

1. Interconnection is not required in buildings which are not undergoing alterations, repairs, or construction of any kind.
2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available which could provide access for interconnection without the removal of interior finishes.

704.2.3 Power source. Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be permanent and without a disconnecting switch other than as required for overcurrent protection.

Exceptions:

1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place.
2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source.
3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

704.2.4 Smoke detection system. (amended) Smoke detectors listed in accordance with UL 268 and provided as part of the building's fire alarm system shall be an acceptable alternative to single- and multiple-station smoke alarms and shall comply with the following:

1. The fire alarm system shall comply with all applicable requirements in the Ohio Fire Code.
2. Activation of a smoke detector in a dwelling or sleeping unit shall initiate alarm notification in the dwelling or sleeping unit in accordance with the Ohio Fire Code.
3. Activation of a smoke detector in a dwelling or sleeping unit shall not activate alarm notification appliances outside of the dwelling or sleeping unit, provided that a supervisory signal is generated and monitored in accordance with the Ohio Fire Code. (Ord. 79-2016. Passed 8-23-16.)

1309.99 PENALTY.

(a) Whoever violates or fails to comply with any of the provisions of this Chapter is guilty of a misdemeanor of the first degree and shall be fined or imprisoned or both for each offence in accordance with Section 501.99 of the General Offenses Code. Unless otherwise provided, a separate offence shall be deemed committed each day during or on which a violation or noncompliance occurs or continues.

(b) The application of the penalty provided in subsection (a) shall not be deemed to prevent the enforced removal of prohibited conditions of the application of any other equitable remedy.

(Ord. 27-2007. Passed 5-8-07.)

CHAPTER 1313

Fences

1313.01 Definitions.

1313.02 Permitted fences.

1313.03 Similar fences.

1313.04 Corner or through lot.

1313.05 Permit; fee.

1313.06 Prohibited fences.

1313.07 Construction and maintenance.

1313.99 Penalty.

CROSS REFERENCES

Power to regulate fences, billboards and signs - see Ohio R.C. 715.27

Electrical and barbed wire fences - see GEN. OFF. 521.07

Swimming pool fences - see BLDG. 1341.05

1313.01 DEFINITIONS.

(a) "Privacy fence" means a fence constructed of wood, PVC or vinyl and designed to generally inhibit public view, constructed of a palisade design with a row of pickets or solid panels vertically attached on one or both sides to the supporting horizontal structure and on vertical posts, as necessary. Permitted privacy fences include:

- (1) "Board-on-board" means a fence with upright pickets alternating on each side of the horizontal supporting structure. The pickets are spaced apart one-half (1 /2) the width of the picket.
- (2) "Upright picket" means a fence with upright pickets constructed on one said of the horizontal supporting structure spaced no less than one-half (1 /2) inch apart.
- (3) "Stockade fence" means a simple or decorative fence constructed with wood, metal or vinyl boards, planks or panels that has edges placed tightly against one another, providing partial or total protection from public view.
- (b) "Open ornamental fence" means a fence of architectural design, constructed for a decorative effect or as a landscape accent. Permitted open ornamental fences include:
 - (1) "Post and rail or split fence" means a fence constructed of not more than three (3) narrow members placed horizontally between upright supporting posts.
 - (2) "Traditional picket fence" means a fence with upright pickets constructed on one side of the horizontal supporting structure spaced apart a distance equal to the width of the picket.
- (c) "Chain link fence" means a metal fence, consisting of loops of minimum nine (9) gauge wire, interconnected in a series of joined links.
- (d) "Temporary snow fence" means a fence made from narrow vertical wood strips fastened with horizontal bands of twisted wire, or from extruded sheets, which is normally used in the winter to control the drifting of snow.

(Ord. 21-2021. Passed 3-9-21.)

1313.02 PERMITTED FENCES.

Only the following fences shall be permitted:

- (a) **Privacy Fences.** Privacy fences, not more than six (6) feet in height, shall be permitted only in rear yards, or in side yards where there is an exit from the house or garage. A privacy fence shall be permitted no closer than three (3) inches from the rear property line and rear side property line.
- (b) **Open Ornamental Fences.** Open ornamental fences shall be permitted as follows:
 - (1) **Front yards.** Open ornamental fences may be erected in front yards parallel to the building line to a height not exceeding three (3) feet; provided, however, that rail or split rail fences may be erected in front yards parallel to one foot from the common property line and three (3) feet from the street right of way line.
 - (2) **Rear and side yards.** Open ornamental fences may be erected in rear yards and in side yards where there is an exit door from the house or garage, parallel to and six (6) inches from the common property line to a height not more than six feet.
 - (3) **Patio enclosure fence.** A privacy fence is permitted around the perimeter of an outdoor patio or eating area in a residential district to provide privacy of the occupants of the patio provided that is shall not be closer than three (3) inches from the adjoining property.
- (c) **Chain Link Fences.** Chain link fences shall be permitted only in rear yards, or in side yards where there is an exit door from the house or garage. Such fences may be erected three (3) inches from the common property line to a height not more than six (6) feet above the natural grade, except where swimming pool enclosure requirements shall be applicable.
- (d) **Temporary Snow Fences.** A temporary snow fence is permitted during the months of November through March. No snow fence shall be erected or installed closer than twenty (20) feet from a driveway of an abutting property. A snow fence shall not exceed four (4) feet in height and shall not be located so as to impair vision of motorists from a road or street into a driveway.
- (e) The Planning Commission has the authority to determine the height, design, and materials of fences located on lots used by medical marijuana entities without the requirement of the applicant for a fence permit seeking a variance from the provisions of this section.
- (f) Any fence that can be construed to have a finished and an unfinished side, or on which the supporting posts and/or rails are visible from only one side of the fence creating a less desirable appearance, shall have the finished side of the fence facing outward toward the abutting property. All landscaping and vegetation of the portion of property located in between a fence and the property line shall be maintained in good condition by the owner of the parcel with the fence regardless of the width or size of the area in question. (Ord. 21-2021. Passed 3-9-21.)

1313.03 SIMILAR FENCES.

The Architectural Review Board or the Planning Commission may approve other fences which are similar in character and design to one or more of the above permitted fences. If such other fences are not approved by the Architectural Review Board, the Building Commissioner shall deny the fence permit application and advise the applicant of the procedure for an appeal to the Zoning Board of Appeals.

(Ord. 23-2006. Passed 3-14-06.)

1313.04 CORNER OR THROUGH LOT.

Where a rear or side yard abuts a street, fences otherwise permitted in side or rear yards shall not extend into required yards provided however, that this provision shall not prohibit permitted rail or split rail fences erected in such side or rear yards parallel to and not nearer than one foot to the side or rear property line, at a height not more than three feet above the natural grade.

(Ord. 124-88. Passed 12-27-88.)

1313.05 PERMIT; FEE.

Any fences which may be permitted shall require the issuance of a building permit by the Building Inspector after the same has been approved by the Inspector. The fee for such permit shall be the fee set forth in Section

1325.02 of this Code.
(Ord. 94-2008. Passed 11-25-08.)

1313.06 PROHIBITED FENCES.
Barbed wire and electrified fences are hereby prohibited.
(Ord. 2-90. Passed 1-9-90.)

1313.07 CONSTRUCTION AND MAINTENANCE.
(a) Fences shall be constructed in a workman-like manner, in a straight line, where applicable, and shall be plumb and erect. Fence posts shall be placed at a minimum depth in the ground of three (3) feet, or deeper where the design or location of the fence will incur unusual wind or other loads. Only the property disturbed by the erection and location of a fence shall be the property of the owner of said fence.
(b) Such permitted fences shall be maintained in good condition, be structurally sound and attractively finished at . all times. Any grounds between such fences and property lines shall be well maintained at all times with the grass in any such area not exceeding five inches. Any such fences shall be designed, constructed and finished so that the supporting members thereof shall face the property of the owner of the fence.
(Ord. 21-2021. Passed 3-9-21.)

1313.99 PENALTY.
Whoever violates any provision of this section is guilty of a misdemeanor of the first degree. Each day that such violation continues shall constitute a separate offense.
(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1317

Garbage and Rubbish Disposal Systems

1317.01 Garbage and rubbish disposals mandatory.

1317.02 Deposit required.

1317.99 Penalty.

CROSS REFERENCES

Littering and deposit of garbage - see GEN. OFF. 517.08
Garbage and rubbish collection - see S. & P. S. Ch. 951
Permit fees - see BLDG. 1325.04 (c)

1317.01 GARBAGE AND RUBBISH DISPOSALS MANDATORY.
No residence or building designed and equipped for storing or sheltering food or foodstuff for human consumption which are to be sold either at retail at stores, clubs, restaurants, schools or other food establishments or at wholesale, nor buildings where foods for human consumption are prepared, sold, handled, stored or served in any manner shall be constructed hereafter unless equipped with an appropriate type of system or apparatus for the disposal of garbage and rubbish or of garbage alone. Such system or apparatus shall not be of a type that utilizes in any manner in its operation any sewer system, septic tank or filter bed located within the City, and it shall not, when in use, be of a type that emits noxious odors or excessive smoke.
Such system or apparatus and the manner of installation thereof must conform to specifications and standards prepared by the Building Inspector, who shall promulgate and file with the Clerk specifications and standards which shall provide for safe and sanitary methods of installations and a system or apparatus which disposes of garbage or rubbish or both in a safe and sanitary manner.

(Ord. 356. Passed 7-7-52.)

1317.02 DEPOSIT REQUIRED.
Any person, when applying for a permit to erect or construct any residence or other building described in Section 1317.01 , shall deposit with the Building Inspector, the sum of one hundred dollars (\$100.00) as a bond for the faithful compliance with the provisions of Section 1317.01 , and upon compliance therewith, at any time within one year from the date of such deposit, shall receive a refund of ninety-five dollars (\$95.00) of the amount so deposited; or, any person when applying for permits to erect or construct ten or more residences or other buildings as described in Section 1317.01 , shall pay a fee of ten dollars (\$10.00) for each building for which a permit is requested and shall file a satisfactory surety bond of not less than one hundred dollars (\$100.00) for each building permit requested with the Building Inspector.

(Ord. 24-78. Passed 2-14-78.)

1317.99 PENALTY.
Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1319

Compost Piles

1319.01 Compost file defined.

1319.02 Ingredients.

1319.03 Formation.

1319.04 Enclosure.

1319.05 Location.

1319.06 Removal.

1319.99 Penalty.

1319.01 COMPOST PILE DEFINED.
As used in this chapter, "compost pile" means any outdoor pile of organic waste matter permitted to decompose.

(Ord. 78-94. Passed 9-13-94.)

1319.02 INGREDIENTS.
(a) Successful composting requires four things:
(1) Organic matter: such as leaves, grass clippings, garden plants (no weeds) kitchen produce scraps and shredded paper. Browns (carbon) such as eggshells, nut shells, sawdust, yard trimmings, i.e. leaves, not weeds, used potting soil, fine untreated wood chips, shredded newspaper, cardboard, unbleached paper towels. Greens (nitrogen) such as uncooked or cooked fruits and vegetables (full or peels). Acceptable matter also includes bread and grains, coffee grounds and unbleached filters, grass clippings, paper tea bags, hair and fur, chicken, rabbit, cow, llama/alpaca, horse manures.
(2) Soil organisms: such as bacteria, fungi and other decomposers.
(3) Water: if pile becomes too dry, add enough water to make it damp, but not wet.
(4) Oxygen: turn your pile at least every two or three days to let oxygen into the middle of the pile so the organisms can do their work in decomposing.

(b) A compost pile shall not consist of any metals, glass, dairy products (such as butter, milk, sour cream and yogurt), eggs, fats, grease, lard or oils, greasy or oily food, meat or seafood scraps or bones, pet waste (dog or cat feces, soiled cat litter), soiled diapers, plastic, stickers from produce, black walnut tree leaves or twigs, yard trimmings treated with chemical pesticides or other chemicals, coal or charcoal ash, fire starter logs, treated or painted wood.

(Ord. 96-2022. Passed 8-23-22.)

1319.03 FORMATION.
The ideal size for a composting bin is one cubic yard (3 'x 3' x 3'). Multiple bins or confined piles are recommended for different stages of the process, but not necessary. Layers of the brown and green matter can be layered or mixed together. No compost bin or pile shall be higher than five (5) feet above ground level or cover an area of greater than 100 square feet.
(Ord. 96-2022. Passed 8-23-22.)

1319.04 ENCLOSURE.

All compost piles above ground level grade shall be contained.
(Ord. 78-94. Passed 9-13-94.)

1319.05 LOCATION.

All compost piles in the City shall be at least five feet from the back property line of the rear yard and no closer than fifteen feet from any adjoining property line. In the case of irregularly shaped or exceptionally small lots, the Building Commissioner may permit special exceptions from this section provided he receives written consent from the affected adjoining property owner.

(Ord. 78-94. Passed 9-13-94.)

1319.06 REMOVAL.
Any compost pile in the City which is found to be in violation of the regulations contained in this chapter by the City is determined to be a nuisance affecting the public health, safety and welfare and shall be removed completely within seven days after receipt of written notice from the City to the property owner or person lawfully in possession of the property upon which the compost pile is located. Failure to remove a compost pile pursuant to a notice given in this section shall be deemed a violation of this section.
(Ord. 78-94. Passed 9-13-94.)

1319.99 PENALTY.
Whoever violates this section is guilty of a misdemeanor of the first degree for each offense. Each day that such violation continues shall constitute a separate offense.
(Ord. 31-2018. Passed 4-10-18.)

CHAPTER 1321

Grading and Landscaping

1321.01 Intent.

1321.02 Approval of plans by City Engineer.

1321.03 Proper rough and final grading.

1321.04 Inspection of rough and final grade.

1321.05 Fee to cover inspections of rough and final grades.

1321.06 Certification as an alternate to inspection by City Engineer.

1321.07 Installation of final landscaping.

1321.08 Approval of landscaping plans.

1321.09 Deposit to cover review, approval and inspection of final grade.

1321.10 Prohibition against disturbance of approved grades.

1321.99 Penalty.

CROSS REFERENCES

Changing established grade - see Ohio R.C. 727.07

Permit fees - see S. & P.S. 903.05 , 905.04 ; BLDG. 1325.02

1321.01 INTENT.

The intent of this chapter is to establish procedures and safeguards to ensure that the grades for all buildings, structures, driveways and roads, as established by the engineer for the lot owner, builder or developer, shall be in conformity with the improvement plans for the development, and in conformity with the topography of the adjacent land, and will allow proper drainage of surface waters, and allow the construction of sewers at reasonable depths.

(Ord. 132-89. Passed 2-13-90.)

1321.02 APPROVAL OF PLANS BY CITY ENGINEER.

All site plans, grading plans or improvement plans submitted with applications for building permits shall be subject to the approval of the City Engineer to determine that the plans conform to the approved improvements plans for the development, and that proper provisions have been made to permit drainage of surface waters during and after the construction period.

(Ord. 132-89. Passed 2-13-90.)

1321.03 PROPER ROUGH AND FINAL GRADING.

(a) The developer or builder of any parcel, lot, structure, driveway or road within the City shall properly rough grade the lot or land so that positive drainage is maintained in conformity with the approved grading plan, during and after the construction period. For the purposes of this chapter, "rough grade" means the grading and leveling of the property, after backfilling of the below-grade foundation walls, but prior to any landscaping or grass planting. "Rough grade" also means the elevation approximately two to three inches below the finish grade in planting areas, and finish grade minus depth of paving in areas to receive paving.

(b) The developer or builder of any parcel, lot, or structure within the City shall install the final grade upon the lot, parcel or land being developed or upon which a structure is being erected. The "finished grade" or "final grade" means the elevation of the finished surface of the ground on all areas of the lot and adjoining the building, walks and drives after the normal settlement of the rough grade and the placement and the final grading of the topsoil.

(Ord. 11-2015. Passed 2-10-15.)

1321.04 INSPECTION OF ROUGH AND FINAL GRADE.

The applicant for a building permit shall make arrangements with the Building Department for the following grading inspections prior to the issuance of an occupancy permit:

- (a) Immediately after excavation of the basement, and before backfilling, the City Engineer shall inspect the construction site and verify that the elevations for the top of footings conform to the elevations shown on the approved grading plan. If the elevations do not conform, the City Engineer shall advise the Building Inspector, who shall instruct the applicant to stop further construction until the elevations are corrected, or a revised grading plan is approved by the City Engineer.
- (b) After backfilling and rough grading, the City Engineer shall again inspect the construction site and verify that the rough grading conforms to the approved grading plan. If the rough grading does not conform, the City Engineer shall advise the Building Inspector, who may at their discretion, either instruct the applicant to stop further construction until the rough grades are corrected, or require that a revised grading plan be approved by the City Engineer.
- (c) After any required final adjustments to the rough grade, the removal of all construction debris and rock/stones, and the placement of a minimum of 2-inches of topsoil the City Engineer shall again inspect the construction site. At that time the City Engineer shall verify that the final grading conforms to the approved grading plan and shall inspect the seeding and the covering with mulch of the graded areas and the installation of any trees required by the approved subdivision plot plan. NOTE: The requirements of this section are in addition to the placement of grass or seed for the purposes of erosion control or rough grade stabilization required by the terms of Chapter 1195 of the Codified Ordinances in regards to Storm Water Management.
- (d) For good cause shown the Building Inspector or the City Engineer may waive any of the above required inspections, however that waiver shall be in writing and a copy shall be preserved in the files of the Building Inspector.
- (e) Notice shall be given to the property owner, if the lot is owned by other than the builder, of the grading and landscaping requirements of this chapter, and the builder shall provide to the property owner copies of all approved grading plans and required inspections.

In the event the builder is the owner of the lot, they shall be required to inform any subsequent purchaser of the grading requirements of this chapter, and to provide the purchaser with copies of the approved grading plan and all required inspections.

(Ord. 11-2015. Passed 2-10-15.)

1321.05 FEE TO COVER INSPECTIONS OF ROUGH AND FINAL GRADES.

The applicant for a building permit shall pay a grade permit fee to the Building Department as required in Chapter 1325 to cover the cost and expense of the City Engineer's professional fees for review and approval of the grading plan and subsequent inspections and the cost to the Building Department of processing the application. Fees due in any amount over and above the amount charged for the inspection of grades shall be deducted from the contractor's construction bond. (Ord. 11-2015. Passed 2-10-15.)

1321.06 CERTIFICATION AS AN ALTERNATE TO INSPECTION BY CITY ENGINEER.

With the prior approval of the Building Inspector, as an alternate to inspection by the City Engineer, the applicant for a building permit may arrange to have the inspections required by Section 1321.04 done by the applicant's engineer or surveyor at the applicant's expense. Under this alternate procedure, the applicant's engineer or surveyor shall inspect the construction at the times stipulated in Section 1321.04(a) and (b), and certify with their seal and signature, on a copy of the approved grading plan, that the grades inspected are in conformance with the approved plan. Upon receipt of the certified inspection report, the City Engineer shall advise the Building Inspector of their approval or rejection.

(Ord. 132-89. Passed 2-13-90.)

1321.07 INSTALLATION OF FINAL LANDSCAPING.

The property owner may arrange for the installation of additional landscaping after the date of issuance of the occupancy permit. However, said additional landscape installation shall be supplementary and shall not impact the installation of topsoil and seed which is required prior to the approval of the final grade.

(Ord. 11-2015. Passed 2-10-15.)

1321.08 APPROVAL OF LANDSCAPING PLANS.

The property owner shall be responsible for the preparation of landscaping plans in accordance with the approved grading plan.

- (a) For other than single-family homes, in addition to the requirements of Chapter 1177 , Walls and Landscaping, the final landscaping plans shall be subject to the approval of the City Landscape Architect, for landscaping, and of the City Engineer to ensure that the plans are in conformance with the approved grading plans for the project.
- (b) For single-family homes the landscaping plans shall be approved by the Building Inspector or City Engineer only for conformance to the approved grading plan. The landscaping plan may be superimposed on the grading plan.

(Ord. 132-89. Passed 2- 13-90.)

1321.09 DEPOSIT TO COVER REVIEW, APPROVAL AND INSPECTION OF FINAL GRADE.

- (a) For other than single-family homes, the owner shall deposit with the Building Department the sum of three hundred dollars (\$300.00) to cover the cost and expense of the City Landscape Architect and the City Engineer to approve and inspect the landscaping and final grading.
- (b) For single-family homes, no deposit shall be required for the inspection and approval of the landscaping and final grading.
- (c) The cost and expenses shall be paid from such deposit upon itemized statements rendered by the City Engineer and/or City Landscape Architect. In case such expenditures exceed such deposit, the excess shall be borne by the applicant. In case the deposit exceeds such expenditures, the balance will be refunded to the applicant within a reasonable time after the final inspections.
- (d) For good cause shown the Building Inspector may waive the above deposits and/or inspections, however, that waiver shall be in writing and a copy shall be preserved in the files of the Building Department. (Ord. 11-2015. Passed 2-10-15.)

1321.10 PROHIBITION AGAINST DISTURBANCE OF APPROVED GRADES.

No builder, property owner, landscaper or their agents shall change the grade or fill any swale or ditch, after inspection and approval of the rough grades, or finish grades, by the City Engineer.

(Ord. 132-89. Passed 2-13-90.)

1321.99 PENALTY.

- (a) Whoever violates a provision of this chapter is guilty of a misdemeanor of the first degree. Each day that such violation continues shall constitute a separate offense.
- (b) Where the defendant is other than a natural person or persons, subsection (a) shall apply to any agent, superintendent, officer, member or partner who shall alone or with others have charge, care or control of the premises.
- (c) The imposition of any penalty shall not preclude the Director of Law from instituting an appropriate action or proceeding in a court of competent jurisdiction to restrain, correct or abate a violation or to require compliance with the provisions of this chapter.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1325

Permits and Fees

- 1325.01** Permits required.
- 1325.02** Schedule of plan approval fees.
- 1325.03** Fees for zoning permits.
- 1325.04** Fees for building permits.
- 1325.05** Fees for miscellaneous permits.
- 1325.06** Fees for plumbing, water, sewer and fuel gas work.
- 1325.07** Fees for electrical work.
- 1325.08** Fees for HVAC work.
- 1325.09** Fees for fire protection systems work.
- 1325.10** Garage sale license fee.
- 1325.11** Ohio Board of Building Standards assessment.
- 1325.12** Cash deposit for additional professional services.
- 1325.13** Topographic map necessary for building permit.
- 1325.14** Senior citizen exemption.
- 1325.15** Inspection fees.
- 1325.16** Contractor's insurance and cash bond deposit.
- 1325.99** Penalty.

CROSS REFERENCES

Fees for plan approval - see Ohio R.C. 715.26(B), 715.261
Grade permit fees - see S. & P.S. 903.05, 905.04
Fence permit fee - see BLDG. 1313.04
Obstruction permit and fees - see BLDG. 1329.01
Swimming pool permit fees - see BLDG. 1341.03
Trailer permit and fees - see BLDG. 1345.02, 1345.03

1325.01 PERMIT REQUIRED.

(a) No structure shall be constructed, erected, added to, altered, repaired, moved, demolished or razed or excavation made or begun or any site preparation or work began within the City of Richmond Heights except after issuance of a permit therefor by the Municipality and the provisions of such permit shall be complied with.

(b) Such permit must be obtained and the appropriate fee(s) paid within forty-five days after the application and plans are filed with the Division of Building, Zoning and Housing.

(c) The Commissioner of Building, Zoning and Housing shall examine or cause to be examined every application for a permit and shall issue no permit until the plans, statements and other documents are found to be in conformity with all Building and Planning and Zoning Codes, standards, rules and regulations or any other ordinances applicable thereto.
(Ord. 98-2018. Passed 2-12-19.)

1325.02 SCHEDULE OF PLAN APPROVAL FEES.

Applicants for plan approvals (permits) required by the Building Code shall pay the following fees to the Commissioner of Building, Zoning and Housing. Refer to Section 1325.12 for Professional Service Fees.

(a) Examination of Plans by City Architect and City Landscape Architect	Residential	Non-Residential
(1) For construction of new one, two and three family dwelling structures: Exception: Dwelling structures within Planned Unit Residential Developments	\$100.00	
(2) For construction of additions to and/or exterior alterations to one, two and three family dwelling structures Per dwelling structure Exception: Open decks	\$50.00	
(3) Landscape plans for new one, two and three family dwelling structures Per dwelling structure	\$40.00	
(4) Landscape plans for additions to one, two and three family dwelling structures Per dwelling structure	\$25.00	
(5) Landscape plans for all other buildings based on estimated cost of construction: Cost to \$100,000.00 Cost over \$100,000.00 per hr.	\$100.00	\$200.00 \$500.00

(b) Examination of Plans by Architectural Review Board	Residential	Non-Residential
(1) Construction of new buildings Per building	\$100.00	\$150.00
(2) Construction of additions; construction of exterior alterations to building and structures Per building	\$50.00	\$100.00
(3) New construction of; addition to; exterior alteration to; appurtenant buildings and structures		\$100.00
(4) Signs, and screening of refuse storage and pick-up facilities		\$100.00
(5) All other plans required to receive approval of the Architectural Review Board		\$100.00

(c) Examination of Plans by Zoning Board of Appeals	Residential	Non-Residential
(1) Residential (R-1, R-2 and R-3 Districts)	\$125.00	\$200.00
(2) Other, administrative review (if required)	\$40.00	\$50.00

(d) Examination of Plans by Planning Commission	Residential	Non-Residential
(1) Site Plan Application with new infrastructure	\$2,200.00	\$2,500.00
(2) Site Plan Application without new infrastructure	\$700.00	\$800.00
(3) Zoning Amendment	\$1,200.00	\$1,400.00
(4) Lot Split/Consolidation	\$700.00	\$800.00
(5) Conditional Zoning Application	\$500.00	\$600.00
(6) Residential Subdivision Application	\$2,400.00	

(e) Examination of Construction Documents by Plans Examiner Certified by the Ohio Board of Building Standards	Residential	Non-Residential
(1) Non-residential plans examination fee per hour		\$100.00
(2) Residential plans examination fee per hour	\$75.00	

(f) Preparation of an Adjudication Order by the Chief Building Officials for an Appeals Hearing	Residential	Non-Residential
(1) Base Fee	\$100.00	\$150.00
* Plus any fees charged to the City by the Plans Examiner Professional Service Fee may be required	\$100.00	\$150.00

(g) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fee as indicated above, the applicant is charged a fee of triple the amount of the fee indicated in this section	\$150.00	\$150.00
(2) Re-inspection of same item	\$50.00	\$50.00
(3) Inspection call and appearance of inspector on property and work not ready 2 nd offense, inspection call, work not ready	\$100.00	\$100.00
(4) Work covered without inspection	\$50.00	\$100.00

(Ord. 98-2018. Passed 2-12-19.)

1325.03 FEES FOR ZONING PERMITS.

The fees in this section are not subject to the assessment set forth in Section 1325.11. All permits are non-refundable.

(a) Driveway Apron	Residential	Non-Residential
(1) New	\$25.00	\$50.00
(2) Addition (Base Fee) * Plus per each 100 sq. ft. or fraction thereof exceeding 200 sq. ft.	\$15.00 \$2.00	\$30.00 \$4.00
(3) Repair (Base Fee) * Plus per each 100 sq. ft. or fraction thereof exceeding 200 sq. ft.	\$15.00 \$2.00	\$20.00 \$4.00

(b) Construction Dumpster	Residential	Non-Residential
(1) Base fee * Initial permit good for 30 days	\$25.00	\$50.00
(2) Renewal fee * Permit must be renewed every 30 days	\$15.00	\$25.00

(c) Construction Trailer	Residential	Non-Residential
(1) Per each sq. ft. of gross floor area all stories	\$0.45	\$0.60
Minimum	\$25.00	\$100.00

(d) Curb Cutting	Residential	Non-Residential
(1) New	\$100.00	\$150.00

(e) Driveway	Residential	Non-Residential
(1) New	\$60.00	\$85.00
(2) Addition (Base Fee) * Plus per each 100 sq. ft. or fraction thereof exceeding 200 sq. ft.	\$20.00 \$2.00	\$35.00 \$4.00
(3) Repair (Base Fee) * Plus per each 100 sq. ft. or fraction thereof exceeding 200 sq. ft.	\$30.00 \$2.00	\$50.00 \$4.00
(4) Resurface asphalt driveway	\$50.00	\$75.00

Note: See Section 1325.06(C) for cost to replace/repair existing sewer in conjunction with any driveway work

(f) Fence	Residential	Non-Residential
(1) Base Fee	\$50.00	\$70.00

(g) Moving of Buildings	Residential	Non-Residential
(1) On rollers on a public street or portion thereof	\$500.00	\$1,000.00
(2) On carryall(s) on a public street or portion thereof	\$250.00	\$500.00
(3) Without traversing a public street or portion thereof	\$100.00	\$200.00
* Plus a cash deposit of \$5000.00 to be used to pay the cost of any damage to Public/private property by reason of moving	\$5,000.00	\$7,000.00
* Note: In addition to the fees in this division, supervision, inspection and/or use of police for traffic control will be charged to the applicant for the permit. Said charges will be estimated and a deposit shall be submitted to cover the estimated costs prior to issuance of a permit.	TBD at discretion of Building Commissioner	TBD at discretion of Building Commissioner

Note: See Section 1325.06(C) for cost to replace/repair existing sewer in conjunction with any driveway work

(h) Parking Lots	Residential	Non-Residential
(1) Construction of, or Additions to * Per each 50 spaces or fraction thereof * Plus lot striping		\$200.00
(2) Lot resurface * Plus lot striping		\$150.00
(3) Lot striping * Plus plan review		\$100.00

(i) Patio	Residential	Non-Residential
(1) New	\$50.00	\$100.00
(2) Addition (Base Fee) * Plus per each 100 sq. ft. or fraction thereof exceeding 200 sq. ft.	\$10.00 \$2.00	\$20.00 \$4.00
(3) Repair (Base Fee) * Plus per each 100 sq. ft. or fraction thereof exceeding 200 sq. ft.	\$10.00 \$2.00	\$20.00 \$4.00

(j) Secondary, Accessory & Appurtenance Structures of Buildings Less Than 200 sq.ft.	Residential	Non-Residential
(1) Base fee	\$50.00	\$70.00

(k) Sidewalk	Residential	Non-Residential
(1) Public (per block)	\$7.00	\$14.00
(2) Service walk (Base Fee) * Plus per each 100 sq. ft. or fraction thereof exceeding 200 sq. ft.	\$7.00 \$2.00	\$14.00 \$4.00

(l) Rain Garden, Pervious Patio and Driveway Installation	Residential	Non-Residential
(1) City Engineer review and inspection fee Fee per hour - applicant will be required to fill out a Professional Services Fee Application	\$100.00	\$150.00

(M) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fees as indicated above, the applicant for a permit shall be charged a fee of triple the amount of the fee indicated in this section	-	-
(2) Re-inspection of the same item	\$50.00	\$50.00
(3) Inspection call and appearance of inspector on property and work not ready. 2 nd offense, inspection call, work not ready	\$100.00	\$100.00
(4) Work covered without inspection	\$50.00	\$100.00

(Ord. 98-2018. Passed 2-12-19.)

1325.04 FEES FOR BUILDING PERMITS.

The fees in this section are subject to the assessment as set forth in Section 1325.11. All permit fees are non-refundable.

(a) Residential Dwelling Structures	Residential	Non-Residential
(1) New dwelling unit Base fee * Plus per each 100 sq. ft. or fraction thereof of gross floor area including basement and attached garage exceeding 2,000 sq. ft.	\$1,500.00 \$20.00	

(2) House Grade by City Engineer	\$1,000.00	
(3) Additions to dwelling units		
Base fee	\$200.00	
* Plus per each 100 sq. ft. or fraction thereof of gross floor area including basement and attached garage	\$10.00	
(4) Alterations to dwelling units (Interior and Exterior) includes rehabilitation, damage repair and fire damage		
Base Fee	\$150.00	
* Plus per each 100 sq. ft. or fraction thereof of gross floor area including basement and attached garage	\$5.00	
* Plus additional repair fees for roofing, windows, exterior wall covering	See Repairs #5	
(5) Repair of dwelling units:		
A. Repair of structure	\$50.00	
B. Roofing	\$50.00	
C. Windows replacement	\$50.00	
D. Exterior wall covering, siding	\$50.00	
E. Gutters and Downspouts	\$50.00	
(6) Secondary, accessory and appurtenant structures of buildings greater than 200 sq. ft.	\$100.00	
Base fee	\$6.00	
* Plus per each 50 sq. ft. or fraction thereof of gross floor area		
(7) Exterior decks		
Base Fee	\$50.00	
* Plus per each 100 sq. ft. of gross floor area or fraction thereof exceeding 200 sq. ft.	\$8.00	
(8) Demolition		
A. Principal Structure	\$200.00	
B. Accessory buildings and structures	\$75.00	
C. Swimming pools, in ground	\$125.00	
* Plus a cash deposit for principal structures only in the amount of \$2,000.00 to be used to pay the cost of damage to public/private property by reason of the demolition or the cost of topsoil, seed and straw if not installed by the demolition contractor	\$2,000.00	
(9) Additional Residential Permits		
A. Garages	\$100.00	
B. Storage Sheds	\$50.00	
C. Foundation waterproofing	\$100.00	
D. Driveway Culvert (Includes engineer's plan review)	\$50.00	
E. Roof replacement and repairs (qualifies for senior citizen exemption)	\$75.00	
F. Exterior Siding	\$75.00	
G. Gutters and Downspouts	\$50.00	
H. Window and Doors	\$75.00	
(10) Residential occupancy permit	\$50.00	

(b) Special Inspection	Residential	Non-Residential
(1) Special Inspection at hourly rate of \$100.00		
A. Additional fees may be charged, as determined by the Building Commissioner, for special costs incurred by the City in the plan review and inspection process including the cost of services performed by the City Engineer at the rates set forth in the City Engineer's contract with the City or by City ordinance	\$100.00	\$150.00
(c) Non-Residential Buildings or Structures	Residential	Non-Residential
(1) New building or structure		\$2,000.00
Plus \$20.00 per 100 sq. ft.		\$20.00
Minimum		
(2) Additions to buildings or structures in excess of 2000 sq. ft.		\$2,000.00
Plus \$20.00 per 100 sq. ft.		\$20.00
Minimum		
(3) Alterations or repairs to buildings or structures, less than 2500 sq. ft.		\$250.00
Plus \$10.00 per 100 sq. ft.		\$10.00
Minimum		
(4) Alterations or repairs to buildings or structures, over 2500 sq. ft.		\$250.00
Plus \$2.00 per 100 sq. ft.		\$2.00
Minimum		
(5) Repairs to buildings or structures		\$75.00
A. Repair of building or structure up to 200 sq. ft.		\$75.00
B. Roofing per area 200 sq. ft.		\$75.00
C. Windows replacement		\$75.00
D. Exterior wall covering		\$75.00
(6) Secondary, accessory and appurtenance structures of buildings greater than 120 sq. ft.		\$30.00
Base fee		\$9.00
* Plus per each 50 sq. ft. or fraction thereof of gross floor area		
(7) Demolition of buildings or structures		\$0.10
Per sq. ft. of gross floor area on all stories		\$150.00
Minimum		
(8) Dumpster Enclosure		\$75.00
(9) Garages		\$125.00
(10) Storage Shed		\$75.00
(11) Culvert		\$75.00
(12) Foundation Waterproofing		\$100.00
(13) Non-Residential Occupancy Permit		\$75.00
(14) Additional fees may be charged, as determined by the Building Commissioner, for special costs incurred by the City in the plan review and inspection process, including the cost of services performed by the City Engineer at the rates set forth in the City Engineer's contract with the City or by City ordinance.		
(15) Additional Non-Residential Permits		
A. Garages		\$100.00
B. Storage Sheds		\$50.00
C. Foundation waterproofing		\$150.00
D. Driveway Culvert (includes engineer's plan review)		\$100.00

E. Roof replacement and repairs (qualifies for senior citizen exemption up to 3000 sq. ft. 3000 - 10,000 sq. ft.		\$200.00 \$600.00
F. Exterior Siding		\$125.00
G. Gutters and downspouts		\$75.00
H. Window and Doors		\$200.00

(d) Special Inspection	Residential	Non-Residential
(1) Special Inspection at hourly rate of \$100.00	\$100.00	\$150.00
(2) Additional fees may be charged, as determined by the Building Commissioner, for special costs incurred by the City in the plan review and inspection process, including the cost of services performed by the City Engineer at the rates set forth in the City Engineer's contract with the City or by City ordinance		

(e) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fee as indicated above, the applicant for a permit shall be charged a fee of triple the amount of the fee indicated in this section	--	--
(2) Re-inspection of same item	\$50.00	\$50.00
(3) Inspection call and appearance of inspector on property and work not ready. 2 nd offense, inspection call, work not ready	\$50.00 \$100.00	\$50.00 \$100.00
(4) Work covered without inspection (Ord. 98-2018, Passed 2-12-19.)	\$50.00	\$100.00

1325.05 FEES FOR MISCELLANEOUS PERMITS.

The fees in this section are subject to the assessment as set forth in Section 1325.11. All permits are non-refundable.

(a) Antenna or Satellite Dish	Residential	Non-Residential
(1) One meter or less	No charge	No charge
(2) Larger than one meter in diameter	\$70.00	\$100.00

(b) Lawn Sprinkler Systems	Residential	Non-Residential
(1) Base fee Note: The above fee is only for the installation of a lawn sprinkler system with a lawn or yard area. A separate and additional plumbing permit shall be obtained to install the required backflow device and to connect the lawn sprinkler system to the potable water system. Only registered plumbing contractors may obtain a plumbing permit. An electrical permit is also required for low voltage controllers and/or valves. Only registered electrical contractors may obtain an electrical permit.	\$30.00	\$70.00
(2) Fees for any one lawn sprinkler system including plumbing and/or electrical fees shall not exceed	\$100.00	\$125.00

(c) Lot Clearing; Grading and/or Filling of Lots	Residential	Non-Residential
(1) For work that is not part of another permit issued herein	\$120.00	\$150.00

(d) Signs	Residential	Non-Residential
(1) Architectural Review Board fee		\$100.00
(2) New Sign Per Face * Plus per sq. ft.	\$50.00 \$2.00	\$75.00 \$2.00
(3) Relocated; altered size; altered advertising copy Per face	\$50.00	\$75.00
(4) Restored or repaired with no change in size, location or advertising copy		

Note: An electrical permit may also be required for electric signs

(e) Swimming Pools	Residential	Non-Residential
(1) In ground *May include an additional Electric Permit	\$150.00	\$250.00
(2) Above ground	\$75.00	

Note: Above fees are for general trades permit only. Additional permit(s) may also be required: i.e., electric, plumbing, HVAC

(f) Tents and Membrane Structures	Residential	Non-Residential
(1) Over 200 sq. ft.	\$25.00	\$25.00
(2) Canopies over 400 sq. ft.	\$50.00	\$100.00

Note: Additional fees are required for temporary lighting and exit signage.

(g) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fees as indicated above, the applicant for a permit shall be charged a fee of triple the amount of the fee indicated in this section	\$150.00	\$150.00
(2) Re-inspection of same item	\$50.00	\$50.00
(3) Inspection call and appearance of inspector on property and work not ready	\$100.00	\$100.00
(4) Work covered without inspection	\$50.00	\$100.00

(h) Special Inspection	Residential	Non-Residential
(1) Special inspection at hourly rate of \$100.00	\$100.00	\$100.00
(2) Additional fees may be charged, as determined by the Building Commissioner, for special costs incurred by the City in the plan review and inspection process, including the cost of services performed by the City Engineer at the rates set forth in the City Engineer's contract with the City or by City ordinance.		

(i) Demolition or Removal of Building/Structure	Residential	Non-Residential
(1) 1, 2 and 3-family dwellings or accessory structures (basement/cellar areas)* * (Plus a cash deposit [for principal structures only] in the amount of \$2,000.00 to be used to pay the cost of damage to public/private property by reason of the demolition or the cost of topsoil, seed and straw if not installed by the demolition contractor)	\$200.00	
(2) Buildings or structures regulated by the Ohio Building Code: Multifamily residential, commercial, industrial demolition: A. 5,000 to 100,000 square feet: \$5,000.00 plus \$0.15 per square foot B. 100,001 to 250,000 square feet: \$10,000.00 plus \$0.10 per square foot C. 250,001 to 1,000,000 square feet: \$14,000.00 plus \$0.05 per square foot * Plus a cash deposit [for principal structures only] in the amount of \$2,000.00 per 10,000 sf of floor space to be used to pay the cost of damage to public/private property by reason of the demolition or the cost of topsoil, seed and straw if not installed by the demolition contractor. See Section 1349.03 of this Code for requirements to post a bond or cash deposit for completion of demolitions.)		\$5,000.00 \$10,000.00 \$14,000.00

(Ord. 98-2018. Passed 2-12-19.)

1325.06 FEES FOR PLUMBING, WATER, SEWER AND FUEL GAS WORK.

The fees in this section are subject to the assessment set forth in Section 1325.11. All permits are non-refundable.

(a) New Construction of: Addition to; Alteration to; Plumbing, Water Service and Sewer Systems	Residential	Non-Residential
(1) Base fee for any one system or any combination of systems Plus:	\$45.00	\$60.00
* Per each plumbing fixture	\$5.00	\$6.00
* Per each plumbing appliance	\$3.50	\$3.50
* Per each new water connection/disconnection to a lateral, main or branch of a main	\$25.00	\$35.00
* Per each new sewer connection/disconnection to a lateral, main or branch of a main	\$50.00	\$60.00
(2) Hot Water Tank Replacement, per unit (qualifies for senior citizen discount) * Installation of an Expansion Tank is required.	\$50.00	\$75.00

(b) New Construction of; Addition to; Alteration to; Fuel Gas Systems	Residential	Non-Residential
(1) Base fee Plus:	\$30.00	\$40.00
* Per each appliance opening	\$5.00	\$7.00

(c) Repair of Plumbing; Water; Sewer; Fuel Gas Systems	Residential	Non-Residential
(1) Per building or structure	\$75.00	\$100.00
(2) Storm sewer system that is part of a driveway repair; storm sewer system that is part of a garage slab repair; storm sewer system that is part of a foundation repair	\$50.00	\$75.00

(d) Special Inspection	Residential	Non-Residential
(1) Special Inspection at hourly rate of \$100.00	\$100.00	\$150.00
(2) Additional fees may be charged, as determined by the Building Commissioner, for special costs incurred by the City in the plan review and inspection process, including the cost of services performed by the City Engineer at the rates set forth in the City Engineer's contract with the City or by City ordinance.		

(e) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fee as indicated above, the applicant for a permit shall be charged a fee of triple the amount of the fee indicated in this section.	--	--
(2) Re-inspection of same item	\$50.00	\$50.00
(3) Inspection call and appearance of inspector on property and work not ready. 2 nd offense, inspection call, work not ready	\$100.00	\$100.00
(4) Work covered without inspection	\$50.00	\$50.00

(Ord. 98-2018. Passed 2-12-19.)

1325.07 FEES FOR ELECTRICAL WORK.

The fees in this section are subject to the assessment set forth in Section 1325.11. All permits are non-refundable.

(a) Residential Dwelling Structures	Residential	Non-Residential
(1) New electrical systems Per each dwelling unit Additional fees	\$130.00 Exempt	
(2) Addition to electrical systems Base fee for each dwelling unit affected * Plus additional fees	\$35.00	
(3) Alterations to electrical systems (rehabilitation, damage repair and fire damage) Base fee for each dwelling unit affected * Plus per each 100 sq. ft. or fraction thereof of gross floor area	\$35.00 \$5.00	
(4) New construction of; addition to; alteration to; electrical system of appurtenant building or structure Base fee * Plus additional fees	\$35.00 TBD at the discretion of Building Commissioner	
(5) Repair of electrical systems Per building or structure Additional fees	\$35.00 TBD at the discretion of Building Commissioner	
(6) Security, Communication and Sound System wiring	\$50.00	

(b) Non-Residential Dwelling Structures	Residential	Non-Residential

(1) New electrical systems Base Fee * Plus per each 100 sq. ft. or fraction thereof of gross floor area		\$120.00 \$4.00
(2) Addition to electrical systems Base fee * Plus per each 100 sq. ft. or fraction thereof of gross floor area		\$120.00 \$4.00
(3) Alterations to electrical systems Base Fee * Plus additional fees in Section (C)		\$120.00 TBD
(4) Repair of electrical systems Per building or structure Additional fees		\$100.00 Exempt
(5) Security, Communication and Sound System Wiring		\$125.00

(c) Additional Fees	Residential	Non-Residential
Each switch	\$0.50	\$0.50
Each lighting outlet of 110/240 volts	\$0.50	\$0.50
Each lighting fixture of 110/240 volts	\$0.50	\$0.50
Each receptacle of 110/40 volts other than lighting	\$0.50	\$0.50
Each receptacle of greater than 240 volts and/or 1,000 watts	\$5.00	\$5.00
Each fixture greater than 1,000 watts	\$5.00	\$5.00
Each lighting outlet; each receptacle and/or outlet; each fixture of less than 100 volts	\$0.50	\$0.50
Each mast/meter base	\$30.00	\$50.00
Each main panel of 100 volts or greater	\$30.00	\$50.00
Each sub panel of 110 volts or greater	\$15.00	\$15.00
Each panel/ sub panel of less than 110 volts	\$15.00	\$15.00
Each generator Note: Additional fuel gas permit may be required	\$30.00	\$40.00
Temporary lighting, receptacle and/or outlet installation	\$30.00	\$40.00
Temporary lighting and exit signage for tent structures	\$30.00	\$40.00
Electric sign		\$45.00
Each new power bus duct Per foot or fraction thereof of length		\$0.50
Each new motor Less than one horsepower One to ten horsepower More than ten horsepower	No charge \$5.00 \$10.00	No charge \$10.00 \$20.00
Underground service wiring	\$25.00	\$50.00
Optical fiber cable system; communication system and similar systems Base fee per system * Plus per each 1,000 sq. ft. or fraction thereof of gross area exceeding 5,000 sq. ft. system	\$40.00 \$20.00	\$50.00 \$30.00
Co-generation systems and associated equipment	\$100.00	\$100.00
Parking lot lighting per pole		\$20.00

(d) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fee as indicated above, the applicant for a permit shall be charged a fee of triple the amount of the fee indicated in this section.	--	--
(2) Re-inspection of same item	\$50.00	\$50.00
(3) Inspection call and appearance of inspector on property and work not ready 2 nd offense, inspection call, work not ready.	\$100.00	\$100.00
(4) Work covered without inspection (Ord. 98-2018. Passed 2-12-19.)	\$50.00	\$50.00

1325.08 FEES FOR HVAC WORK.

The fees in this section are subject to the assessment set forth in Section 1325.11. All permits are non-refundable.

(a) Residential Dwelling Structures	Residential	Non-Residential
(1) New heating, ventilating, air conditioning systems Per each dwelling unit: Heating only Air conditioning only Any combination of systems	\$80.00 \$100.00 \$150.00	
(2) Addition to heating, ventilating, air conditioning systems Per each dwelling unit affected: Heating only; ventilating only; air conditioning only Any combination of systems Per each appurtenant building or structure	\$80.00 \$150.00 \$35.00	
(3) Alterations to heating, ventilating, air conditioning systems Per each dwelling unit affected: Heating only; ventilating only; air conditioning only Any combination of systems Base fee for each dwelling unit affected	\$40.00 \$90.00 \$35.00	
(4) Repair of heating, ventilating, air conditioning systems	\$50.00	

(b) Non-Residential Structures	Residential	Non-Residential
(1) New heating, ventilating, air conditioning systems Base fee * Plus per each 100 sq. ft. or fraction thereof of gross floor area		\$200.00 \$4.00
(2) Addition to heating, ventilating, air conditioning systems, per unit Base fee * Plus per each 100 sq. ft. or fraction thereof of gross floor area		\$150.00 \$4.00
(3) Alterations to heating, ventilating, air conditioning systems, per unit Base fee * Plus per each 100 sq. ft. or fraction thereof of gross floor area		\$150.00 \$4.00
(4) Repair of heating, ventilating, air conditioning systems Per system		\$70.00

(c) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fee as indicated above, the applicant for a permit shall be charged a fee of triple the amount of the fee indicated in this section.	--	--
(2) Re-inspection of same item	\$50.00	\$50.00
(3) Inspection call and appearance of inspector on property and work not ready 2 nd offense, inspection call, work not ready.	\$100.00	\$100.00
(4) Work covered without inspection (Ord. 98-2018. Passed 2-12-19.)	\$50.00	\$50.00

1325.09 FEES FOR FIRE PROTECTION SYSTEMS WORK.

The fees in this section are subject to the assessment set forth in Section 1325.11. All permits are non-refundable.

(a) Fire Suppression Systems	Residential	Non-Residential
(1) Sprinkler System Wet/Dry New Commercial * Plus \$2.00 per device	\$50.00 \$2.00	\$200.00 \$2.00
(2) Sprinkler System Wet/Dry Per system alteration per system. * Plus per device	\$25.00 \$2.00	\$50.00 \$2.00
(3) Sprinkler System Water Pump New Commercial		\$50.00 per unit
(4) Clean Agent or Specialty Suppression System, per system. New Commercial * Plus per device		\$200.00 \$2.00
(5) Specialty Suppression System alteration, per system. * Plus per device		\$50.00 \$2.00

(b) Standpipe System	Residential	Non-Residential
(1) Standpipe System/Wall Hydrants, per system. New		\$200.00
(2) Standpipe System/Wall Hydrants, per system. Alteration		\$200.00

(c) Fire Alarm System	Residential	Non-Residential
(1) New Fire Alarm System New Commercial * Plus per device greater than 5 devices	\$50.00 \$2.00	\$100.00 \$2.00
(2) Fire Alarm System Alteration * Plus per device greater than 5 devices	\$25.00 \$2.00	\$50.00 \$2.00

(d) Fire Protection Equipment	Residential	Non-Residential
(1) Testing/Repair/Install/Alteration Contractor Registration	\$100.00	\$100.00

(e) Above Ground Flammable Liquid Storage Tank	Residential	Non-Residential
(1) Above Ground Flammable Liquid Storage Tank Commercial, 500 to 1,100 gallons Residential/Commercial, greater than 1,100 gallons		\$100.00 State Permit

(f) Emergency Radio Amplification System	Residential	Non-Residential
(1) Emergency Radio Amplification System		\$200.00

(g) Smoke Evacuation System	Residential	Non-Residential
(1) Smoke Evacuation System		\$200.00

(h) Open Burn/Bon Fire	Residential	Non-Residential
(1) Open burn/bon fire Non-residential	\$25.00	\$50.00

(i) Additional Penalty Fees	Residential	Non-Residential
(1) Where work is begun without first obtaining a permit and paying the fee as indicated above, the applicant for a permit shall be charged a fee of triple the amount of the fee indicated in this section	--	--
(2) Re-inspection of same item		\$50.00
(3) Inspection call and appearance of interior on property and work not ready 2 nd offense, inspection call, work not ready		\$100.00
(4) Work covered without inspection (Ord. 98-2018. Passed 2-12-19.)		\$50.00

1325.10 GARAGE SALE LICENSE FEE.

The fees in this section are subject to the assessment as set forth in Section 1325.11. All permits are non-refundable.

(a) Garage Sale	Residential	Non-Residential
(1) Garage Sale (Ord. 98-2018. Passed 2-12-19.)	\$10.00	

1325.11 OHIO BOARD OF BUILDING STANDARDS ASSESSMENT.

(a) The Commissioner of Building, Zoning and Housing shall collect and remit on behalf of the Board of Building Standards an assessment equal to three percent (3%) of the prescribed building permit fees on nonresidential structures as required by state law.

(b) The Commissioner of Building, Zoning and Housing shall collect and remit on behalf of the Board of Building Standards an assessment equal to one percent (1%) of the prescribed building permit fees on residential structures as required by state law.
(Ord. 98-2018. Passed 2-12-19.)

1325.12 CASH DEPOSIT FOR ADDITIONAL PROFESSIONAL SERVICES.

(a) In addition to any other fees or deposits required by other sections of these Codified Ordinances, the Building Commissioner shall charge and the Director of Finance shall collect a deposit in the amount of two percent (2%) of the City Engineer's estimate of the cost of the construction which is the subject of the building permit or other application but not less than one thousand dollars (\$1,000) unless the City Engineer approves, in their sole discretion, a lesser amount, to reimburse the City for expenses incurred for additional or supplemental engineering, legal, landscape architecture, or other professional services rendered as a result of the application for a building permit, the review of preliminary and final site development plans, land subdivisions, miscellaneous lot splits and consolidations, and/or rezoning applications.

(b) Charges for the professional services of the City Engineer, Director of Law, planning consultants, Landscape Architect, or their designees shall be at the rates set forth in their contracts or ordinances with the City.

(c) In the event that the monies deposited by an applicant as required in subsection (a) hereof are not sufficient to reimburse the City as provided in subsection (a), then the applicant shall be required to deposit additional monies in series of one thousand dollars (\$1,000) as requested by the City, up to the total amount for said reimbursement.

(d) Any sums not so charged against such deposit as required in subsection (a) and (b) hereof shall be refunded to the applicant no later than sixty days from the completion of the construction, the granting or refusal of

the permit, the approval of the preliminary and final site development plans, subdivision or lot split or consolidation, or the granting or refusal of the rezoning application.
(e) In addition to all other remedies provided by these Codified Ordinances or by law, the City may issue a stop work order or rescind any permits or approvals for violations of this section. (Ord. 98-2018. Passed 2-12-19.)

1325.13 TOPOGRAPHIC MAP NECESSARY FOR BUILDING PERMIT.

All persons making application for a building permit to the City shall submit therewith a topographic map of the lot or parcel to be imposed showing existing and proposed elevation. The scale of such map shall be one inch equal to ten feet.
(Ord. 98-2018. Passed 2-12-19.)

1325.14 SENIOR CITIZEN EXEMPTION.

Residents obtaining status as a senior citizen (i.e., sixty years of age or older) shall be eligible to obtain a permit for a hot water tank replacement at no charge upon submitting proof of age and ownership of the real property to the Commissioner of Building, Zoning and Housing at the time of making application for a permit. (Ord. 98-2018. Passed 2-12-19.)

1325.15 INSPECTION FEES.

The fee for inspection services rendered by a full-time City Inspector on any type of improvements including subdivision improvements performed in the City including but not limited to inspections of sanitary sewers, water or storm sewer improvements, gas lines, underground telephone conduit, paving and sidewalk construction shall be at the prevailing rate as established by the City Engineer and approved by Council.
(Ord. 98-2018. Passed 2-12-19.)

1325.16 CONTRACTOR'S INSURANCE AND CASH BOND DEPOSIT.

(a) Contractor's Insurance and Contractor's Cash Bond Deposit. Before any building permit shall be issued the applicant shall deposit with the Commissioner of Building, Zoning and Housing an insurance policy, issued by a company authorized to write insurance in all of the State of Ohio, designating the City as the insured therein, by the terms of which the City is saved harmless from any and all claims for bodily injury within the limits of one hundred thousand dollars (\$100,000) for each person and three hundred thousand dollars (\$300,000) for each accident and for property damage claims in the amount of fifty thousand dollars (\$50,000) for each accident arising or growing out of the street opening or removal of the surface of any sidewalk or opening in any sidewalk or the prosecution of the work for which the permit is obtained or in any manner arising or growing out of the work necessary or incident to the issuance of the permit or that may be occasioned by reason of any opening or anything else done pursuant to a permit.

(b) Contractor's Bond Deposit. Prior to the issuance of any building permit, a contractor's bond deposit in the form of a cash surety bond or certified cashier's check shall be deposited with the Commissioner of Building, Zoning and Housing as follows:

- (1) Residential (one, two, three family residential)
 - A. Additions and alterations
 1. Less than 200 square feet of gross floor area (GFA) \$200.00
 2. More than 200 square feet but less than 500 square feet of GFA 500.00
 3. More than 500 square feet of GFA 1,000.00
 - B. New construction 2,500.00
- (2) Other than one, two and three family residential
 - A. Two percent (2%) of the cost of the project but not less than 2,500.00

Such deposit shall be a guarantee that the applicant will repair or replace any damage or destruction to any publicly-accessible sidewalk, curb, street or tree lawn; the construction and maintenance of the temporary drive; the proper site grading; the installation and completion of the final grade including the installation of topsoil and seed and the covering of such with mulch; the cleaning of the premises and tree lawn of all dirt, debris, refuse, rubbish and material and the cleaning of the public streets, catch basins and/or sewers of the accumulation of any mud, filth or debris which may have been accumulated there as a result of the delivery of material, supplies and other things to such premises; and for the completion of sidewalk, lot pins and compliance in all respects to the applicable building and zoning codes of the City.

If the provisions of the Building and Planning and Zoning Codes and the orders of the Commissioner of Building, Zoning and Housing pertaining thereto are complied with, the deposit shall be refunded as soon after final inspection of the permitted work, and of the final grade and

installation of grass seed, as applicable, and as soon as such refund can be conveniently made, upon the request of the applicant. If the applicant does not request the refund within ninety (90) days of the satisfactory final inspection, the Division of Building, Zoning and Housing may serve written notice to the applicant by regular U.S. Mail at the last mailing address provided by the applicant to the Division to obtain the refund. If the applicant does not respond to the Division to obtain the refund within one (1) year of the mailing of the notice by the Division, the deposit shall be forfeited to the City and the funds shall be transferred to the City's General Fund.

(c) Use of Contractor's Bond Deposit. An order to correct any condition or remove any substance shall be complied with within the time period as supplied by law, the Commissioner of Building, Zoning and Housing shall cause the same to be done at the expense of the permit holder and the Bond Fund shall be subjected to the payment of the expense thereof. In addition, any charges incurred over and above the fee set forth in this chapter for the inspection of the footer grade, rough grade and final grade due to the contractor's failure to comply with approved plans shall be deducted from the contractor's bond deposit. If such deposits are insufficient to fully pay for such expenses, then the permit holder shall be liable for the additional amount in excess of the Bond Fund, which coverage shall be collected by the Director of Law in a court of competent jurisdiction.

The deposit shall be subject to payment of all unpaid inspection and re-inspection charges set forth in this chapter. (Ord. 22-2023. Passed 3-14-23.)

1325.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. Each day that such violations or such work continues in violation of these provisions shall constitute a separate offense.
(Ord. 98-2018. Passed 2-12-19.)

CHAPTER 1329

Protection of Property During Building Operations

1329.01 Obstruction permit; deposits; fees.

1329.02 Cash deposit for additional professional services.

CROSS REFERENCES

Injury or destruction of trees - see Ohio R.C. 2907.44
Repair of sidewalks - see GEN. OFF. 517.05 , 517.06
Restoration of curb after cutting - see S. & P. S. 901.08
Driveway culvert changes - see S. & P. S. 905.04

1329.01 OBSTRUCTION PERMIT; DEPOSITS; FEES.

Before proceeding with the construction, enlargement, alteration, repair or removal of any building or other structure, when it is necessary or desired to cross any curb, tree lawn or sidewalk, the owner shall construct and maintain a plank driveway or such other temporary driveway as may be required by and with the approval of the Building Inspector, across and over the curb, tree lawns or sidewalk, so that the same shall not be injured or damaged.

Before the driveway is constructed, and at the time of securing a permit for the construction, enlargement, alteration, repair or removal of any building or other structure, the owner or his agent shall deposit with the Building Inspector the sum of three hundred dollars (\$300.00) in the case of a single or two-family dwelling house, the sum of five hundred dollars (\$500.00) in the case of a commercial or industrial building, and the sum of twenty-five dollars (\$25.00) per dwelling unit, but not more than five hundred dollars (\$500.00) per building, in the case of an apartment building of any kind, which sum shall be paid into the Treasury of the City, as a guarantee that the driveway will be constructed and maintained, and that all refuse, rubbish and material deposited or allowed to remain upon the site of such building or any other public or private real estate within the City in the course of such work, will be removed, and that if any curb, tree lawn or sidewalk, either at such building site or elsewhere within the City is disturbed or broken in the course of such work, they will be repaired at the cost and expense of the owner. Upon failure to perform any of the things so guaranteed to the satisfaction of the Building Inspector, the Building Inspector shall have such work performed and direct the Finance Director to pay the cost and expense thereof out of such fund so deposited, and in the event the sum so deposited shall not be sufficient to pay such cost and expense, the owner shall be liable to the City for any balance. In the event that, in the course of such construction, mud, dirt, waste materials, rubbish or other debris are deposited on any dedicated or undedicated street or other public property and are not removed therefrom, within two hours after written notice to remove the same has been given by the Division of Police to the permit holder, his contractor, subcontractor, agent or employee, then the City may cause such substances to be removed and the cost of such removal shall be deducted from such cash deposit.

In the event that during the course of construction the deductions made by the City from the cash deposit, by reason of repairing any damage or removal of any substance, bring the amount of the cash or deposit to less than the original deposit amount, then the Building Inspector may demand that the permit holder replenish the deficiency in the amount of the cash deposit so that it shall again be in the original amount. Upon failure of the permit holder to replenish the funds within two days after such demand in writing by the Building Inspector, the latter may revoke the permit and may stop construction until such time as the permit holder has complied with the demand.

In the event that the thing so guaranteed shall be performed to the reasonable approval of the Building Inspector, he shall deduct from the deposit a fee of twenty dollars (\$20.00) for the performance of the work required by this chapter and shall direct the Director of Finance to return the balance of the deposit to the owner, subject to the other provisions of this chapter. Any part of the deposit remaining after the completion by the Building Inspector as above provided of any of the things so guaranteed, shall be returned to the owner by the Finance Director upon written request of the Building Inspector.

All replacements of curb or sidewalk shall be of the same material, dimensions and quality as the originals and notice shall be given to the Building Inspector before such replacements are installed. The Building Inspector may order any replacements removed which do not comply with the requirements and have the proper replacements made at the expense of the owner. If the Building Inspector shall have reason to believe that the cost and expense of performing all of the things so guaranteed will not exceed fifty dollars (\$50.00), he may require that the deposit shall be fifty dollars (\$50.00) instead of the original amount hereinabove mentioned. If no such deposit is requested by the Building Inspector, he shall require such owner to deposit a fee of twenty dollars (\$20.00) for the purposes hereinabove set forth, with all of the requirements of this chapter.

On the completion of the work, the owner or his agent shall notify the Building Inspector to make an inspection of the premises to determine whether the deposit shall be refunded. The Building Inspector shall make such inspection promptly. If, due to the neglect of the owner, agent or contractor requesting the inspection, it becomes necessary to make more than one inspection before authorizing refund of the deposit, a fee of five dollars (\$5.00) shall be charged for each inspection after the first. The Finance Director shall make all proper deductions and refund any balances of any deposits or collect any deficiencies upon written report or request of the Building Inspector.

(Ord. 26-78. Passed 2-14-78.)

1329.02 CASH DEPOSIT FOR ADDITIONAL PROFESSIONAL SERVICES.

(a) In addition to any other fees or deposits required by other sections of these Codified Ordinances, the Building Commissioner or Director of Finance shall charge and collect a deposit in the amount of five hundred dollars (\$500.00) to reimburse the City for expenses incurred for additional or supplemental engineering, legal or other professional services rendered as a result of the application for a building permit, the review of preliminary and final site development plans, and/or a rezoning application.

(b) Charges for the professional services of the Engineer, Law Director and Regional Planning Commission shall be the rates set forth in their contracts with the City.

(c) In the event that the moneys deposited by an applicant as required in subsection (a) hereof are not sufficient to reimburse the City as provided in subsection (a), then the applicant shall be required to deposit additional moneys in series of five hundred dollars (\$500.00) as requested by the City.

(d) Any sums not so charged against such deposit as required in subsection (a) and (b) hereof shall be refunded to the applicant no later than sixty days from the completion of the construction, the granting or refusal of the special use permit, the approval of the preliminary and final site development plans or the granting or refusal of the rezoning application.
(Ord. 49-86. Passed 5-27-86.)

CHAPTER 1333

Removal of Debris

1333.01 Notice served to owner.

1333.02 Persons serving and returning notices.

1333.03 Failure to comply with notice.

1333.04 Dumpsters required on building lots during construction.

1333.99 Penalty.

CROSS REFERENCES

Power to collect and dispose - see Ohio R.C. 715.43, 717.01

Power to contract for removal - see Ohio R.C. 3707.43
Garbage and rubbish dumping - see GEN. OFF. 517.08 , S. & P.S. 951.02

1333.01 NOTICE SERVED TO OWNER.

Notwithstanding the penalty provided in Section 1333.99 when the Building Commissioner ascertains that debris, rubble, excess soil from excavations or other materials affecting the public health, safety and welfare are left to remain on any lots or lands within the City, he shall cause written notice to be served upon the owner, lessee, agent or tenant having charge of any lots or lands within the Municipality that such debris, rubble, soil or other materials dangerous to the public health, safety and welfare are situated on such lots or lands and that they must be removed within ten days after the service of the notice. If the owner or other person having charge of the lands is a nonresident whose address is known, the notice shall be sent to his address by registered mail. If the address of the owner is not known, it shall be sufficient to publish the notice once in a newspaper of general circulation in the Municipality.

(Ord. 50-90. Passed 5-10-90.)

1333.02 PERSONS SERVING AND RETURNING NOTICES.

Any police officer or other person designated by the Building Commissioner may make service and return of the notice provided for in Section 1333.01 .

(Ord. 50-90. Passed 5-10-90.)

1333.03 FAILURE TO COMPLY WITH NOTICE.

(a) If the owner, lessee, agent or tenant having charge of the lands mentioned in Section 1333.01 fails to comply with the notice, the Building Commissioner shall thereupon cause the debris, rubble, soil or other materials to be removed and he may employ the necessary labor to carry this out. The Building Commissioner shall report all the expenses to Council.

(b) Upon the receipt of the statement of expenses incurred, Council shall make written return to the County Auditor of Cuyahoga County of its action under the preceding sections hereof with a statement of the charges for their services, the amount paid for the performing of the labor and a proper description of the premises for the purpose of making the same a lien upon the lands and to be collected as other taxes and returned to the Municipality with the General Fund.

(Ord. 50-90. Passed 5-10-90.)

1333.04 DUMPSTERS REQUIRED ON BUILDING LOTS DURING CONSTRUCTION.

(a) On individual building lots, which are not in a new residential subdivision, it shall be the responsibility of the building contractor to provide a suitable dumpster or dumpsters to hold all debris, rubble, and other materials hazardous to the public health, welfare and safety for removal from all building lots during construction of the building from the start of construction until the construction is completed. Failure of the contractor to do so shall be considered a violation of this chapter.

(b) In new subdivisions which are under construction, it shall be the responsibility of the developer of the subdivision to provide sufficient dumpsters on the site, as approved by the Building Commissioner, for the use of the contractors building homes in the development, and to make appropriate arrangements for the cost and disposition of the dumpsters with the contractors.

(c) The Building Commissioner shall have the authority to approve other means to contain and dispose of building materials, rubble and debris, in lieu of dumpsters, if the intent and purpose of this section is satisfied.

(Ord. 71-91. Passed 6-11-91.)

1333.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. Each day's violation shall constitute a separate offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1335

Contractor Registration, Procedure, Suspension and Revocation

1335.01 Contractor registration required.

1335.02 Owner-occupant exemption.

1335.03 Public utilities exemption. (Repealed)

1335.04 Qualification of applicants.

1335.05 Application and letters of reference.

1335.06 Evidence of insurance required.

1335.07 Expiration and renewal of registration.

1335.08 Contractor registration nontransferable.

1335.09 Contractor registration issuance.

1335.10 Contractor registration suspension by Building Commissioner.

1335.11 Suspension hearing, enforcement and appeal.

1335.12 Contractor registration revocation by Architectural Review Board.

1335.13 Revocation hearing, enforcement and appeal.

1335.99 Penalty.

CROSS REFERENCES

Power to license - see Ohio R.C. 715.27

1335.01 CONTRACTOR REGISTRATION REQUIRED.

(a) No person shall engage in, advertise for, submit bids on, contract for or represent himself as being in the general building, electrical, heating, ventilating, air conditioning, plumbing or fire equipment business or trade within the City of Richmond Heights without first obtaining a contractor registration herein.
(General building shall include, but not be limited to, concrete, asphalt, masonry, excavator, lot clearing, trenching, carpentry, drywall, roofing, siding and landscaping contractors.)

(b) No person shall commence, complete or substantially complete, the erection, construction, alteration or repair of a building or structure without first obtaining a contractor registration.

(c) Any contract made or bid submitted by any person not licensed as required herein shall be null and void and no action may be maintained and no compensation or other consideration shall be paid thereon.

(d) No person shall engage in the business or trade of servicing any fire protective equipment or other equipment pertaining to life or fire safety without first obtaining a contractor registration. "Other equipment" includes cooking exhaust systems.

(Ord. 119-96. Passed 12-10-96.)

1335.02 OWNER-OCCUPANT EXEMPTION.

(a) No license shall be required for a bona fide owner and occupant of a single- family dwelling who personally or with casual assistance performs work upon the premises occupied or to be occupied by the owner.

(b) The owner shall furnish a signed affidavit stating he is the owner and occupant of the single-family dwelling and shall personally perform the work upon the premises for which a permit is required.

(c) "Casual assistance", as used herein, means any work, aid or direction that is not of a technical nature.

(d) All work performed by an owner shall be done in compliance with the provisions of the Building Code and the laws of the State of Ohio.

(e) All work performed by an owner shall be pursuant to a permit issued as provided in Chapter 1325 .

(Ord. 27-95. Passed 3-14-95.)

1335.03 PUBLIC UTILITIES EXEMPTION.

EDITOR'S NOTE: Former Section 1335.03 was repealed by Ordinance 130-2007.

1335.04 QUALIFICATION OF APPLICANTS.

(a) Contractor registrations shall be provided only to applicants at least eighteen years of age.

(b) Applicants who wish to register as electrical, heating, ventilating and air conditioning and plumbing contractors shall submit a copy of a Certificate as issued by the State of Ohio, Department of Industrial Relations, Construction Industry Examining Board to perform work as an electrical, heating, ventilating and air conditioning and plumbing contractor. Applicants who wish to register as a fire suppression system or fire detection system contractor shall submit a copy of the Certificate as issued by the State of Ohio, Department of Commerce, Division of State Fire Marshal, to perform work as a fire suppression system or fire detection system contractor.

(c) Applicants who wish to be registered as a general building contractor performing general building work shall submit a copy of a license from a City or County issuing such licenses.

(d) Applicants shall be of good moral character. Factors to be considered in determining good moral character are the history of compliance or violation of this or other building codes, criminal convictions, and dishonest practices in the conduct of a business, trade or profession.

(Ord. 119-96. Passed 12-10-96.)

1335.05 APPLICATION AND LETTERS OF REFERENCE.

The Building Department shall prepare and furnish to an applicant forms on which the application shall be made. The application shall be accompanied by at least three letters of reference from persons who are acquainted with the applicant's experience or training in the business or trade in which he seeks to be registered. The letters shall be from contractors registered in the trade in which the application is being made, inspectors in the trade in which the application is being made or from registered architects or engineers in that field. All letters shall be on original letterhead.

(Ord. 27-95. Passed 3-14-95.)

1335.06 EVIDENCE OF INSURANCE REQUIRED.

Each applicant for a contractor registration shall furnish a Certificate of Issuance for bodily injury in the amount of one hundred thousand dollars (\$100,000), three hundred thousand dollars (\$300,000) and for property damage in the amount of fifty thousand dollars (\$50,000). The City of Richmond Heights shall be listed as Additionally Insured on the Certificate.

(Ord. 27-95. Passed 3-14-95.)

1335.07 EXPIRATION AND RENEWAL OF REGISTRATION.

All contractor registrations shall expire at 12:00 midnight, December 31 of each year, and no permits shall be granted until the license has been secured for the ensuing year. Renewals may be made for the ensuing year upon payment of a fee and completion of applications and submission of Certificate of Insurance if not renewed on or before December 31 of each year.

(Ord. 27-95. Passed 3-14-95.)

1335.08 CONTRACTOR REGISTRATION NON-TRANSFERABLE.

Contractor registrations are not transferable and may not be altered, erased, defaced or reproduced.

(Ord. 27-95. Passed 3-14-95.)

1335.09 CONTRACTOR REGISTRATION ISSUANCE.

Contractor registrations shall be issued by the Building Commissioner upon approval of the application and payment of all fees.

(Ord. 27-95. Passed 3-14-95.)

1335.10 CONTRACTOR REGISTRATION SUSPENSION BY BUILDING COMMISSIONER.

The Building Commissioner may suspend, for a specified period of time not to exceed six months, any license or the renewal of any license for good cause including, but not limited to, the following:

- (a) Misrepresentation of a material fact in obtaining a license or the renewal thereof.
- (b) Use of a license in obtaining a permit for another.
- (c) Failure to secure the permits, inspections or approvals required by this Building Code.
- (d) Workmanship or work not in conformity with the permit issued thereof.
- (e) Conviction of a felony by the licensee, provided suspension is deemed necessary in the public interest.
- (f) Violation of any provision of this Building Code.
- (g) Dishonest or unfair practices in the conduct of a business or practice of a trade.
- (h) Consumer fraud violations.

(Ord. 27-95. Passed 3-14-95.)

1335.11 SUSPENSION HEARING, ENFORCEMENT AND APPEAL.

- (a) No license shall be suspended without notice and opportunity for hearing by the registrant. The Building Commissioner shall conduct the hearing.
- (b) Whenever a license is suspended, the Building Commissioner shall enforce suspension by notification by certified mail sent to the registrant who shall surrender the license to the Building Commissioner for the duration of the suspension period.
- (c) Whenever a license is suspended, no work shall be performed by the registrant authorized by the license except work necessary to correct a violation of the Building Code specified in the notice of suspension. Corrections shall be made within three working days of the effective date of suspension. Any suspension may be continued until all corrections have been made.

(Ord. 27-95. Passed 3-14-95.)

1335.12 CONTRACTOR REGISTRATION REVOCATION BY ARCHITECTURAL REVIEW BOARD.

The Architectural Review Board may revoke a license for good cause including, but not limited to, the following:

- (a) Misrepresentation of a material fact in obtaining a license or the renewal thereof.
- (b) Use of a license in obtaining a permit for another.
- (c) Failure to secure the permits, inspections or approvals required by this Building Code.
- (d) Workmanship or work in conformity with the permit issued therefor.
- (e) Conviction of a felony by the licensee, provided revocation is deemed necessary in the public interest.
- (f) Suspension of a license three times within a five-year period.
- (g) Dishonest or unfair practices in the conduct of a business or practice of a trade.
- (h) Consumer fraud violations.

(Ord. 27-95. Passed 3-14-95.)

1335.13 REVOCATION HEARING, ENFORCEMENT AND APPEAL.

- (a) No contractor registration shall be revoked without notice and public hearing before the Architectural Review Board. The licensee may appear with or without counsel. The Architectural Review Board may revoke only for good cause upon a preponderance of the evidence.
- (b) Whenever a contractor registration is revoked, the Building Commissioner shall enforce the revocation by notification by certified mail to the licensee who shall surrender the license to the Building Commissioner immediately. Any person whose license has been revoked may not reapply for a contractor registration until three years after the date of revocation.

(Ord. 27-95. Passed 3-14-95.)

1335.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree. Each day a violation continues or occurs shall constitute a separate offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1341

Swimming Pools and Spas

1341.01 Definitions.

1341.02 Approval.

1341.03 Permit fees.

1341.04 Plans for family swimming pools.

1341.05 Design and construction requirements.

1341.99 Penalty; offenses.

CROSS REFERENCES

Electrical and barbed wire fences - see GEN. OFF. 517.07

Peace disturbance - see GEN. OFF. 509.02

1341.01 DEFINITIONS.

The following definitions shall apply to this chapter.

- (a) "Family swimming pool" means an artificial body of water either above ground or in ground with a controlled water supply, over twenty four (24) inches in depth on a lot used for the purpose of a one family dwelling located in a R-1 or R-2 Single Family District, R-3 Planned Development District or used within legal non- conformity as a single family dwelling located upon a single lot in any other district, for use by the owner, occupants, family members and friends without payment of a fee for use. This shall include hot tubs and spas and other like bodies of water.
- (b) "Public and private swimming pool" means an artificial body of water either above ground or in ground with a controlled water supply, over twenty four (24) inches in depth used by persons as part of a membership, through a club or association, including homeowners and like associations or within RMF-1 Multiple Family District, Low Rise and RMF-2 Multiple Family District, High Rise. This shall include hot tubs and spas and other like bodies of water.
- (c) "Building Commissioner" shall mean the Commissioner of Building, Housing and Zoning of the City of Richmond Heights or his authorized representatives.

(Ord. 29-2007. Passed 5-8-07.)

1341.02 APPROVAL.

- (a) Before work is commenced on the construction of a family, private or public swimming pool, or on any alteration, addition, remodeling or other improvement thereto, an application for a permit to construct and the plans and specifications and any pertinent explanatory data hereinafter required shall be submitted to the Building Commissioner for review and approval.
- (b) Public and private swimming pools are subject to site plan review by the Planning Commission and City Council. Permitted use requirements as set forth in the Zoning Code for the zoning district shall apply.

(Ord. 29-2007. Passed 5-8-07.)

1341.03 PERMIT FEES.

The fee for a permit to construct a swimming pool shall be as provided in Section 1325.02.

(Ord. 29-2007. Passed 5-8-07.)

1341.04 PLANS FOR FAMILY SWIMMING POOLS.

Plans and specifications required to be submitted in connection with an application for a permit to construct a swimming pool or any alteration, addition, remodeling or other improvements thereto shall comply with the following requirements, and shall include the following information, as well as such other data as may be requested by the Building Commissioner.

- (a) Family swimming pools.
 - (1) A site plan identifying the size and location of the swimming pool on the lot and setbacks to property lines and structures on the same lot.
 - (2) A written narrative identifying materials and method of construction including electrical installations.
 - (3) The type, design and location of the enclosing fence or barrier.
 - (4) The Building Commissioner may require an engineered site plan in cases that modify the topography.
- (b) Public and private swimming pools.
 - (1) A site plan prepared in conformity with Section 1123.07(q).
 - (2) Construction documents prepared and certified by an Ohio registered architect or engineer.

(Ord. 29-2007. Passed 5-8-07.)

1341.05 DESIGN AND CONSTRUCTION REQUIREMENTS.

(a) Family swimming pools shall be constructed and maintained in conformity with the following requirements:

- (1) Location: A family swimming pool and its appurtenances such as a deck or landing, pump, filter, etc., shall be constructed in the rear yard and located no closer than ten (10) feet to any side or rear property line, and no closer than ten (10) feet to the dwelling area on the same lot and no closer than twenty (20) feet to a dwelling area on an adjacent lot.
 - (2) Enclosures: Family swimming pools, hot tubs and spas, containing water more than twenty-four (24) inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least forty-eight (48) inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self- closing and self-latching. Where the self-latching device is less than fifty- four (54) inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six (6) inches (152 mm) from the gatepost. A cover for a hot tub or spa that can be locked in the closed position shall be considered an adequate safety barrier. Family swimming pools entered by a portable ladder or a fixed ladder shall have such ladders removed or locked in an inaccessible position while not in use.
- (b) Public and private swimming pools shall be constructed and maintained in conformity with the following requirements:
- (1) Location:
 - a. A private swimming pool and its appurtenances such as a deck or landing, pump, filter, etc., shall be constructed in the rear yard and located no closer than fifty (50) feet to any side or rear property line when adjacent to a single family residential district; and no closer than twenty-five (25) feet to any side or rear property line when adjacent to other zoning districts.
 - b. A public swimming pool and its appurtenances such as a deck or landing, pump, filter, etc., shall be constructed behind the building setback line as established for the district and located no closer than fifty (50) feet to any side or rear property line when adjacent to a single family residential district; and no closer than twenty-five (25) feet to any side or rear property line when adjacent to other zoning districts.
 - (2) Enclosures: Public and private swimming pools, hot tubs and spas, containing water more than twenty-four (24) inches (610 mm) in depth shall be completely surrounded by a fence or barrier at least forty-eight (48) inches (1219 mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and doors in such barriers shall be self-closing and self-latching. Where the self-latching is less than fifty-four (54) inches (1372 mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of six (6) inches (152 mm) from the gatepost.

- (3) **Screening.** Public and private swimming pools shall be provided with screening in the form of a solid unpierced masonry wall or a landscaped buffer, to provide users privacy and to protect adjacent properties from any adverse effects resulting from the use of a public or private swimming pool. Such screening shall be reviewed by the Planning Commission. In the event that the screening is comprised of landscaping, a plan prepared and certified by an Ohio Registered Landscape Architect shall be submitted for review by the City's Landscape Architect and the Planning Commission.
- (Ord. 29-2007. Passed 5-8-07.)

1341.99 PENALTY; OFFENSES.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree, and every day of violation shall be considered as a separate offense.

(Ord. 29-2007. Passed 5-8-07.)

CHAPTER 1345

Trailers

1345.01 Definition.

1345.02 Permit required; prohibition.

1345.03 Permit fee; time limit.

1345.99 Penalty.

CROSS REFERENCES

Defined - see Ohio R. C. 4501.01(I), (K)
State license plate fee - see Ohio R. C. 4503.04(c)
Tax levy on house trailers - see Ohio R. C. 4503.06 et seq.

1345.01 DEFINITION.

"Trailer", as used in this chapter, means a trailer, house car, camp car or any vehicle or structure mounted on wheels or capable of being propelled from place to place, either by its own power or power supplied by some vehicle attached thereto, and being used for living and sleeping quarters.

(Ord. 30-61. Passed 11-21-61.)

1345.02 PERMIT REQUIRED; PROHIBITION.

- (a) No person shall park, place, keep or live in a trailer in any residential district in the City for a period exceeding twenty-four hours unless a permit therefor is obtained from the Chief of Police.
- (b) No person shall park, place, keep or live in a trailer in any zoning district of the City other than a residential district, except as hereinafter set forth. The prohibition contained herein shall not apply to a person parking a trailer upon a duly designated parking lot for a business concern or establishment during regular business hours, for the purpose of permitting the operator or occupants of such trailer to transact business at such establishment. No such trailer shall remain so parked for a period of time in excess of thirty minutes prior to the opening of the business establishment or after the closing of the business establishment.
- (c) Notwithstanding subsection (b) hereof, Council may authorize the parking of trailers for bona fide business purposes on commercially zoned property under such conditions and for such length of time as Council determines is not detrimental to the public health, safety or welfare.

(Ord. 22-77. Passed 3-8-77.)

1345.03 PERMIT FEE; TIME LIMIT.

The fee for the permit shall be one dollar (\$1.00) per day and no permit shall be issued for a period exceeding three days.

(Ord. 30-61. Passed 11-21-61.)

1345.99 PENALTY.

Whoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1347

Regulation of Dish-Type, Satellite Signal-Receiving Earth Stations

1347.01 Definition.

1347.02 Permit required.

1347.03 Application for permit; plans.

1347.04 Location of satellite dish "earth station".

1347.05 "Earth station" support structures.

1347.06 Size.

1347.07 Height.

1347.08 Aesthetics.

1347.09 Appeal from decision of Building Commissioner.

1347.10 Permit fee.

1347.99 Penalty.

CROSS REFERENCES

Unauthorized cable television connection - see Ohio R. C. 4933.42

1347.01 DEFINITION.

"Earth station", for the purposes of this chapter, means a dish-type satellite signal- receiving earth station designed and intended for the reception of television signals transmitted to earth from a satellite.

(Ord. 82-84. Passed 10-23-84.)

1347.02 PERMIT REQUIRED.

No person, firm or corporation shall erect a satellite dish "earth station" in the City without first obtaining a permit to do so, and no installation or erection shall commence before a permit is issued in accordance with Section 1347.03 .

(Ord. 82-84. Passed 10-23-84.)

1347.03 APPLICATION FOR PERMIT; PLANS.

(a) The owner of any lot, premises or parcel of land within the Municipality who desires to construct or erect a satellite dish "earth station" at such location shall apply to the Building Commissioner for the permit referred to in Section 1347.02 . An application for any permit submitted by any part-owner, occupant or renter shall be accompanied with a signed written consent of the owner of the property upon which the earth station is to be located.

(b) The Building Commissioner shall issue such permit, provided the applicant submits a written application upon forms provided by the Building Department along with a plot plan of the lot, premises or parcel of land, showing the exact location of the proposed "earth station" and the location of all buildings on the subject lot; a description of the kind of "earth station" dish proposed; and three complete sets of construction plans, specifications and elevations of the proposed location with sufficient details to show the method of assembly and construction. Each set of plans and specifications shall show the complete name and address of the subject property owner and the complete name and address of the person who prepared the plans and specifications. The application shall indicate the owner or owners of subject property, the occupant of subject premises and the contractor or other person who will be permitted to construct or erect the proposed satellite dish "earth station" and who shall be a construction contractor pursuant to the regulations of the City.

(Ord. 82-84. Passed 10-23-84.)

1347.04 LOCATION OF SATELLITE DISH "EARTH STATION".

- (a) No "earth station" shall be erected in any front or side yard or within twenty feet of any lot line.
- (b) No "earth station" shall be erected on the roof top of any residential building.
- (c) No "earth station" shall be linked to receivers which are not located on the same lot or premises as the "earth station" in any R-1, R-2 and R-3 zoning districts.

(Ord. 82-84. Passed 10-23-84.)

1347.05 "EARTH STATION" SUPPORT STRUCTURES.

- (a) Only metal support, galvanized construction, or equal thereto, shall be allowed.
- (b) Only a concrete base or caissons, depending on soil conditions, shall be employed in line with grade.
- (c) The structure shall be designed to withstand wind force of up to eight-five miles per hour in a manner conforming with good engineering practices.
- (d) Any driving motor shall be limited to 110V maximum power design and shall be encased in protective guards.
- (e) All underground electrical wiring must be encased in rigid conduit with eighteen inch cover. Any overhead wiring must also meet the approval of the Electrical Inspector.
- (f) The "earth station" must be bonded to an eight-foot grounding rod.
- (g) If guy lines are to be used, they must be confined within a screened area.
- (h) Plans must meet all engineering practices and conform to the Building Code of the City.

(Ord. 82-84. Passed 10-23-84.)

1347.06 SIZE.

- (a) The maximum diameter of any "earth station" shall not exceed twelve feet in any R-1, R-2 and R-3 zoning district.
- (b) The maximum diameter of any "earth station" in any commercial, industrial or business district or for use in connection with schools, church building, hospital, apartment building or multiple unit dwelling complex shall not exceed five meters.

(Ord. 82-84. Passed 10-23-84.)

1347.07 HEIGHT.

The maximum height of any "earth station" structure shall not exceed fifteen feet from natural grade level in any R-1, R-2 or R-3 zoning district and shall not exceed twenty-three feet in any other zoning district.

(Ord. 82-84. Passed 10-23-84.)

1347.08 AESTHETICS.

- (a) Vision-impairing screening, a minimum of five feet in height, shall be erected around the base of the structure so as to protect the safety, welfare and rights of all property owners. The location and type of screening shall first be approved by the Architectural Board of Review prior to the issuance of any permit by the Building Commissioner.
- (b) No lettering, numerals, symbols, pictorial signs or designs shall be permitted on any surface of the earth station.

(Ord. 82-84. Passed 10-23-84.)

1347.09 APPEAL FROM DECISION OF BUILDING COMMISSIONER.

Appeals from the decisions of the Building Commissioner may be made to the Board of Zoning Appeals, in conformity with Section 1185.04 of the Planning and Zoning Code.

(Ord. 82-84. Passed 10-23-84.)

1347.10 PERMIT FEE.

The fee for a satellite dish "earth station" is hereby established at thirty-five dollars (\$35.00) and shall be paid at the time the application for a permit is filed.

(Ord. 82-84. Passed 10-23-84.)

1347.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1349

Demolition of Structures

1349.01 Removal of structures; remediation.

1349.02 Grading and landscaping.

CROSS REFERENCES

Removal of debris - see BLDG. Ch. 1333

1349.01 REMOVAL OF STRUCTURES; REMEDIATION.

On any property on which the principal structure or all dwelling units have been (i) fully demolished, raised or otherwise removed from the premises or (ii) partially demolished, raised or otherwise removed so that occupancy is not permitted under the City Building Code or other applicable regulations, the contractor or property owner shall do the following, unless a permit or application for a permit for redevelopment of the property has been obtained or is pending with the City:

- Remove all lumber, rubble, and other building or structural material and debris from the premises and deposit the same in a manner that does not violate any local, state or federal rules or regulations;
- Remove all foundations, slabs, concrete, paving, patios, and other impervious surfaces from the premises, except that all public sidewalks shall remain. If public sidewalks have been damaged during demolition of the structures, the sidewalks shall be repaired or replaced to the satisfaction of the Building Commissioner;
- Fill all basements, trenches and other depressions to grade with clean fill material as approved by the Building Commissioner; and
- Completely remove or demolish all structures on the premises, including, but not limited to, garages, sheds, and all accessory buildings.

(Ord. 99-2012. Passed 12-11-12.)

1349.02 GRADING AND LANDSCAPING.

Any property on which the principal structure or all dwelling units have been demolished, raised or otherwise removed from the premises shall be appropriately landscaped, unless a permit or application for a permit for redevelopment of the property has been obtained or is pending with the City. For purposes of this Section 1349.02, "appropriately landscaped" shall consist of the following, as approved by the Building Commissioner: grading sufficient to prevent water run-off onto adjacent properties and rights-of-way, the placement of two inches of topsoil on all disturbed areas, and grass. All such grading shall be completed within seven (7) days of completion of the demolition, raising or removal of the principal structure or dwelling. All such landscaping shall be completed within thirty (30) days of completion of the demolition, raising or removal of the principal structure or dwelling, except that if such completion of the demolition, raising or removal of the principal structure or dwelling occurs between November 1 and March 30, the landscaping shall be completed by the immediately following April 30.

(Ord. 99-2012. Passed 12-11-12.)

CHAPTER 1351

Multiple-Family Residential Exterior Doors

1351.01 Exterior door requirements for multiple-family residential buildings.

1351.99 Penalty.

1351.01 EXTERIOR DOOR REQUIREMENTS FOR MULTIPLE-FAMILY RESIDENTIAL BUILDINGS.

All exterior entry and exit doors in a multiple-family residential building shall be subject to the following requirements:

- Exterior entry and exit doors shall be self-closing and self-locking.
- Exterior entry and exit doors shall be capable of being opened from the inside without the use of a key, and without special knowledge or effort.
- Exterior entry and exit doors shall comply with Chapter 1301 and Chapter 1501 of these Codified Ordinances.
- All locks on exterior entry and exit doors, all self-locking and self-closing exterior entry and exit doors, and all electromagnetic and electrical control systems, such as buzzers, bells or intercom systems, shall be maintained in good and operable condition at all times.
- Exterior entry and exit doors shall not be held in an open or unclosed position at any time.
- An entry or exit door of an individual dwelling unit is not subject to this chapter.

(Ord. 32-2018. Passed 3-27-18.)

1351.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. Each day's violation shall constitute a separate offense.

(Ord. 32-2018. Passed 3-27-18.)

CHAPTER 1353

Outdoor Lighting

1353.01 Intent and purpose.

1353.02 Exemptions.

1353.03 Definitions.

1353.04 Outdoor lighting general design requirements.

1353.05 Illumination levels and height restrictions.

1353.06 Nonconformities.

1353.07 Approvals.

1353.08 Maintenance, continuance and removal.

1353.01 INTENT AND PURPOSE.

(a) Outdoor lighting shall be designed to be energy efficient, provide the minimum lighting necessary to ensure adequate safety, night vision, and comfort, and shall not create or cause excessive glare on adjacent properties and public street rights of way.

(b) Parcels nonresidential business and multi-family residential buildings, including outparcels, shall be required to provide safe, convenient, and efficient outdoor lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site. The lighting and lighting fixtures shall be integrated and designed so as to enhance the visual impact of the developed property on the community and/or should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes on-site lighting needs without intrusion on adjoining properties or shining directly into the public right-of-way. (Ord. 128-2022. Passed 10-25-22.)

1353.02 EXEMPTIONS.

(a) The following activities are exempt from the requirements of this chapter: temporary outdoor lights used exclusively for temporary events, such as evening recreational activities, concerts, plays or other outdoor events that are open to the public for a limited period of time, provided that the event or function meets all other applicable Municipal code requirements. Such lighting shall be located at least fifty (50) feet from any adjoining residential district or use and designed to the maximum extent possible to avoid intrusion on adjoining property.

(b) Outdoor lighting that is exempt from this chapter as set forth in this section shall only be illuminated while the activity takes place and during high traffic periods immediately before and after the event. (Ord. 128-2022. Passed 10-25-22.)

1353.03 DEFINITIONS.

(a) **ARCHITECTURAL LIGHTING:** Luminaires provided to enhance features of the architectural design of a structure.

(b) **FIXTURE:** The assembly that houses the lamp or lamps; and can include all, or some of the following parts: a housing, a mounting bracket or pole socket, a lamp holder, a ballast, a reflector, or mirror, and/or a refractor or lens.

(c) **FOOT-CANDLES (fc):** A quantitative unit measuring the amount of light (illumination) falling onto a given point, one footcandle equals one lumen per square foot.

(d) **GLARE:** The effect produced by a light source within the visual field that is sufficiently brighter than the level to which the eyes are adapted, to cause annoyance, discomfort, or loss of visual performance and ability.

(e) **HEIGHT OF LUMINAIRE:** The height of a luminaire shall be the vertical distance from the ground directly below the centerline of the luminaire to the lowest direct light emitting part of the luminaire.

(f) **HIGH LEVEL ACTIVITY PARKING LOTS:** These are parking lots in which most of the parking spaces will be occupied by customer vehicles after 6:00 p.m.

(g) **LAMP:** The component of a luminaire that produces the actual light.

(h) **LOW ACTIVITY LEVEL PARKING LOTS:** These are parking lots in which most of the parking spaces will be occupied by employee vehicles, with very few parking spaces occupied by customer vehicles after 6:00 p.m.

(i) **LUMEN:** A quantitative unit used to identify the amount of light emitted by a light source. A lamp is generally rated in lumens.

(j) **LUMINAIRE:** A complete lighting system and includes a lamp or lamps and a fixture.

(k) **MAINTAINED FOOT-CANDLES:** Illuminance of lighting fixtures adjusted for a maintenance factor accounting for dirt buildup and lamp output depreciation. The maintenance factor used in the design process to account for this depreciation cannot be lower than 0.72 for high pressure sodium and 0.64 for metal halide and mercury vapor.

(l) **MEDIUM ACTIVITY LEVEL PARKING LOTS:** These are parking lots in which most of the parking spaces will be occupied by employee vehicles, but with significant parking spaces occupied by customer vehicles after 6:00 p.m.

(m) **OUTDOOR LIGHTING:** The nighttime illumination of an outside area or object by any manmade device located outdoors that produces light by any means.

(Ord. 128-2022. Passed 10-25-22.)

1353.04 OUTDOOR LIGHTING GENERAL DESIGN REQUIREMENTS.

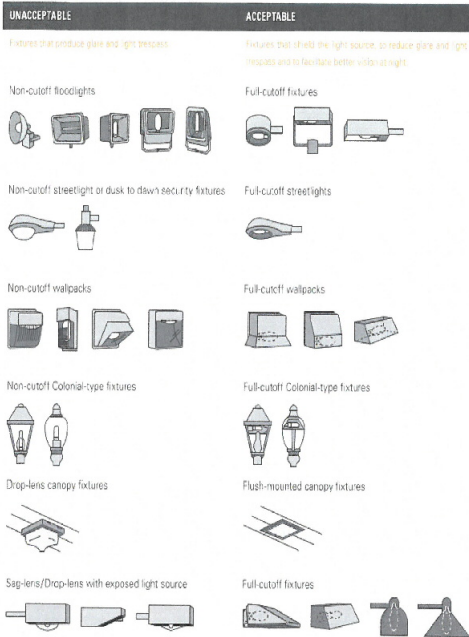
(a) Lighting shall be used to provide safety while accenting key architectural elements and to emphasize landscape features. Light fixtures shall be designed as an integral design element that complements the design of the building and shall be reviewed by the Architectural Board of Review of the Municipality for approval. This can be accomplished through style, material, and/or color. All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:

- Fixture (luminaire):**
 - The light source shall be completely concealed behind an opaque surface and recessed within an opaque housing and shall not be visible from or shine at eye level into any street right-of-way or adjoining properties. Overhead lighting fixtures shall be designed to prevent light from emitting upwards towards the sky.
 - Under canopy lighting fixtures should be completely recessed within the canopy.
- Fixture heights shall be as Listed in Table 1353.1
- Light source (lamp):**
 - LED, fluorescent, metal halide or color corrected high-pressure sodium are preferred. The Municipality's Division of Building, Zoning and Housing or its Architectural Board of Review shall have the authority to approve other lamp types (including light emitting diodes (LEDs) and fiber optics) provided the color emitted is similar to the preferred types. Non-color corrected high pressure sodium lamps are prohibited.
 - The same light source type should be used for the same or similar types of lighting on any one site throughout any development.
- Glare:** Lamps shall be directed, shaded, shielded, or otherwise located to minimize perceived glare on adjacent properties or streets. Accordingly, canopy lighting with refractive drop lenses, tilting fixtures,

floodlights, and wall mounted nonhorizontal fixtures (commonly referred to as wall packs) are specifically prohibited.

- (5) **Controls:** Outdoor Lighting for nonresidential business and multi-family residential properties shall have centralized lighting control systems utilizing time clocks, motion sensors, daylight harvesting controls, and other control system components to manage Outdoor Lighting system wide.
- (6) **Scope:** Outdoor Lighting shall be designed to enhance public safety and security. Accordingly, comprehensive lighting designs are required for every building use type, except non-rental residential uses.
- (7) **Limit Lighting to Periods of Activity:** The use of sensor technologies, timers, or other means to activate lighting during times when it will be needed may be required by the Municipality's Division of Building, Zoning and Housing to conserve energy, provide safety, and promote compatibility between different land uses.
- (8) If existing exterior lighting fixtures are modified, extended, expanded, or added to, the altered portion shall comply with this chapter.
- (9) Expansions, additions, or replacements to exterior lighting installations shall be designed to avoid harsh contrasts in color and/or lighting levels.
- (b) **Examples of Lighting Fixtures.**

- (1) The following images reflect acceptable and unacceptable light fixtures:



(Ord. 128-2022. Passed 10-25-22.)

1353.05 ILLUMINATION LEVELS AND HEIGHT RESTRICTIONS.

- (a) All site lighting shall be designed so that the level of illumination as measured in footcandles (fc) at any one point meets the standards in the table below with minimum and maximum levels measured on the pavement within the lighted area and average level (the overall generalized ambient light level), measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination.

LIGHT LEVEL TABLE 1353.1 (Units in Footcandles)

Type of Lighting	Min.	Avg.	Max.	UNIFORMITY RATIO	Max Height to Light Source
Architectural/Decorative Lighting	0.0	1.0	5.0		
Canopy area lighting	2.0	10.0	15.0		Recessed in canopy
Multi-family parking lot	0.2	1.0	8.0		
Low Activity Parking Lots	0.5		2.0	6:1	25
Medium Activity Parking Lots	1.5		3.0	6:1	25
High Activity Parking Lots	2.5		4.0	4:1	25
Storage area (security lighting)	.02	1.0	10.0		
Non-residential & Multi-family Entrances & Exit Discharges	1.0	5.0	15.0		
Dumpster Enclosures	1.0	5.0	10.0		
Bikeways or parks	0.3	0.4	0.5		12
Landscape	.02	0.8	5.0		ABR Review Required
Public Walkways	1.5	2.0	3.0		ABR Review Required

- (b) **Exception for Gasoline Service Station Canopies:** The average illumination on the pavement area under the canopy and around the fuel pumps shall be between thirty-five (35) and seventy (70) footcandles. The remainder of the gasoline service station pavement shall meet the requirements for high activity level parking lots.

- (c) **Exception for Bank and Credit Union Canopies:** The average illumination on the pavement area under the drive-up canopy and around automated teller machines must meet federal regulations. The remainder of the bank and credit union parking lot pavement shall meet the requirements for high activity level parking lots.

- (d) Architectural lighting shall be permitted as long as it is ground mounted near the building, utilizes seventy (70) watt or smaller lamps, and is approved by the Municipality's Division of Building, Zoning and Housing or its Architectural Board of Review.

- (e) **Lighting at Site Perimeter:**

- (1) The maximum level of illumination at the outer perimeter of the site or project is intended to be 0.2 footcandles or less, but in no instance greater than 0.5 footcandles when abutting a residential zoning district; and 0.5 footcandles or less, but in no instance greater than 1.0 footcandles when abutting all other districts or streets.
- (2) All light fixtures located within fifty (50) feet of any residential use or residential property boundary (excluding multifamily residential uses or properties zoned for multifamily use) shall not exceed fifteen (15) feet in height and shall be mounted in such a manner that the cone of light is contained on-site and does not cross any property line of the site.

- (f) **Parking Lots:**

- (1) All luminaires shall be cut-off luminaires as defined by the latest edition of the Illumination Engineering Society of North America (IESNA Handbook).
- (2) If the design is of a period or architectural style within the overall design of the project, as determined by the Architectural Board of Review, alternatives or supplements to the lighting may be used, provided that:
- A. If the alternatives or supplements to the lighting is not "cut-off" luminaires as defined by IESNA, the maximum initial lumens generated by each fixture shall not exceed two thousand (2,000).
- B. Mounting heights of such alternative luminaires shall not exceed fifteen (15) feet above grade.
- C. All luminaires of a period or architectural style shall be approved by the Architectural Board of Review Board.

- (g) **Walkways, Bikeways, and Parks:**

- (1) Walkways and bikeways shall be illuminated to enhance security in their use.
- (2) Lighting fixtures shall be designed to direct light downward, and light sources shall have an initial output of no more than one thousand (1,000) lumens.

- (h) Garbage dumpsters and recycling bins must have a dedicated light source that are illuminated at levels for walkways.

- (i) **Landscape Lighting:** Trees and shrubs shall not interfere with the distribution of pathway and transitional lighting.

(Ord. 128-2022. Passed 10-25-22.)

1353.06 NONCONFORMITIES.

- (a) All luminaires lawfully in place prior to the effective date of this chapter shall be permitted to remain, provided they are maintained in a manner required by the Municipality's ordinances. However, at the time that a nonconforming fixture is replaced, moved, upgraded, or otherwise changed, the fixture must be brought into compliance with the requirements of this chapter. Any expansion of, or addition to, an existing lighting system must conform to the requirements of this chapter.

- (b) All Luminaires shall be changed if other site-related improvements are proposed on the property which require a building permit.

- (c) Nonconforming luminaires that direct light toward streets or parking lots that cause glare which disrupts the vision of motorists or cyclists shall be either shielded or redirected within one hundred twenty (120) days of notification thereof by the Municipality's Division of Building, Zoning and Housing, so that the luminaires do not cause a potential hazard to motorists or cyclists.

- (d) Luminaire repairs do not trigger the compliance requirements of this chapter, meaning lighting can be maintained or repaired without needing to be updated to the latest standards. Replacing lamps and ballasts in an existing outdoor luminaire or keeping the luminaire housing but adding a lower energy consuming LED retrofit kit is considered a "repair". Repairs do not include wiring alterations or increase in the energy consumption of the component, system or equipment being repaired. Changing wiring or replacing components of a system (such as an entire cobrahead or shoebox luminaire) or similar equipment that is beyond ten percent (10%) of the existing system or equipment is considered an "alteration" and not a "repair".

- (e) Correlated Color Temperature (CCT) shall be applied in a coordinated manner and limited to the range of 2500K to 6000K. Other colored light sources are prohibited except for artistic displays and illuminated signs approved by the Municipality's Division of Building, Zoning and Housing.

- (f) The Color Rendering Index (CRI) shall be minimum of fifty (50) for roadway and street lighting, and sixty-five (65) for parking and area lighting.

(Ord. 128-2022. Passed 10-25-22.)

1353.07 APPROVALS.

- (a) Land uses required herein to provide six (6) or more parking spaces, or one (1) or more loading spaces, shall provide lighting facilities to illuminate all parking spaces, aisles and loading spaces in accordance with the Light Level Table 1353.1 herein and the following requirements:

- (1) **Photometric Plan:** Site plans for off street parking facilities shall be submitted to Municipality's Division of Building, Zoning and Housing for approval and shall contain a photometric plan. The photometric plan shall include all the following information:

- A. Identification of all proposed light fixtures, including those used for site lighting, canopy lighting and exterior building lighting.
- B. Identification of all proposed control equipment, conduit, and wiring, including material, size, and location.
- C. Photometric calculations, showing a grid of individual illumination values as well as a summary of the maximum, minimum and average illumination of the pavement surface in footcandles.
- D. Construction details of the pole, pole foundation, electrical trench with warning tape and pole handhole wiring.
- E. Catalog cut sheets for the proposed light poles, fixtures, and any exterior control equipment.
- (2) **Outdoor Lighting Audit:** For building additions or major renovation projects, in addition to the Photometric Plan, building owners shall submit an Outdoor Lighting Audit of existing lighting systems to the Municipality's Division of Building, Zoning and Housing for approval. The Lighting Audit shall identify each lighting type, as identified in Table 1353.1 herein, used on the site and shall include all the following information and requirements:
 - A. The age, condition, quality, and location of existing lighting fixtures, noting any lens discoloration, lens cracking, paint cracking, or bum marks.
 - B. Model and manufacturer of lighting system to obtain existing photometrics.
 - C. Lamp wattage and ballast type.
 - D. Observe the operational environment of the lighting system, noting the possibility of particulate, moisture, or dirt buildup in or around lighting fixture.
 - E. Observe how the lighting system is controlled and how often it is used.
 - F. Note the perceived color of objects within the space to characterize color quality.
 - G. Measure the physical layout of the existing lighting system noting luminaire height and spacing.
 - H. Use an illuminance meter to measure the light intensity of the existing system during dark sky conditions to determine if the existing design is appropriate for the space. Readings should be taken on the ground and at even intervals to create a "grid" of measurements. These illuminance levels can be compared to the recommended levels for the application.
- I. Based upon the information gathered above, provide a report establishing conclusions about the existing lighting system including:
 - i. Whether the lighting system meets the original or proposed lighting needs of the space and occupants, given the required operations (energy use) and maintenance costs?
 - ii. Calculation of the system efficacy of each type of luminaire. How efficient is each system at delivering light to its intended surface?
 - iii. Calculation of the theoretical system illumination, determined from a rough lumen method or point-to-point calculation. Use lighting design software to determine if the theoretical measurements match the measured illumination values from the site. This will help determine the level of deterioration of the current lighting system, as well as if the system meets the Municipality's code requirements.
 - iv. Calculation of the existing lighting power density and a determination of whether it meets any applicable codes or energy standards.
 - v. The difference in performance characteristics between existing and lighting systems proposed for the project.
- (b) **Design Review and Approval:** In addition to Building Construction Approval, all projects requiring Photometric Plans shall be subject to review and approved by the Municipality's Architectural Board of Review. (Ord. 128-2022. Passed 10-25-22.)

1353.08 MAINTENANCE, CONTINUANCE AND REMOVAL.

- (a) Expended or inoperative lighting bulbs or implements shall be replaced or repaired within ten (10) days after notice has been given by the Municipality's Division of Building, Zoning and Housing to the owner of the parking facility that such bulbs or implements have ceased to be operative.
- (b) All luminaires, lighting equipment and appurtenances, including building mounted luminaires, street and pole lighting, security lighting and all other similar equipment shall be maintained in a clean, safe, and sanitary, condition, in accordance with the conditions established in current and any previous plan approvals by the Building Commissioner, Architectural Board of Review, and Planning Commission and by the Certificate of Business Occupancy. Equipment shall not be disabled or removed without the approval of the Municipality's reviewing authority. (Ord. 128-2022. Passed 10-25-22.)

TITLE FIVE - Housing Code

CHAPTER 1361

Minimum Standards

EDITOR'S NOTE: Former Chapter 1361 was repealed by Ordinance 27-2007, passed May 8, 2007.

TITLE SEVEN - Business Maintenance Code

- Chap. 1361 . Minimum Standards. (Repealed)
- Chap. 1370 . General Provisions and Definitions.
- Chap. 1372 . Administration, Enforcement and Penalty.
- Chap. 1374 . Certificates of Business Occupancy.
- Chap. 1376 . Basic Standards for Business Occupancy.
- Chap. 1378 . Abandoned or Inoperative Gasoline Service Stations.
- Chap. 1380. Registration and Maintenance of Vacant Nonresidential Properties.

CHAPTER 1370

General Provisions and Definitions

- 1370.01 Short title.**
- 1370.02 Purpose.**
- 1370.03 General scope.**
- 1370.04 Definitions.**
- 1370.05 Existing buildings; occupancy and leasing restrictions.**
- 1370.06 Conflict.**
- 1370.07 Separability.**

CROSS REFERENCES

- Property Maintenance Code - see BLDG. Ch. 1309
- Administration, enforcement and penalty - see BLDG. Ch. 1372
- Certificates of business occupancy - see BLDG. Ch. 1374
- Basic standards for business occupancy - see BLDG. Ch. 1376
- Abandoned or inoperative gasoline service stations - see BLDG. Ch. 1378

1370.01 SHORT TITLE.

The provisions of this Title Seven of this Part Thirteen - Building Code shall be known and may be cited and referred to as "The Business Maintenance Code of the City of Richmond Heights" or just "Business Maintenance Code."

(Ord. 78-79. Passed 9-11-79.)

1370.02 PURPOSE.

Within the scope of this Business Maintenance Code, the purpose of this Business Maintenance Code is to establish minimum standards necessary to maintain all structures, other than dwelling structures, safe, sanitary, free from fire and health hazards and beneficial to the public welfare; to establish minimum standards governing the maintenance of structures, other than dwelling structures, in such condition as will not constitute a blighting or deteriorating influence on the neighborhood and the community; to fix responsibilities for owners and occupants of structures with respect to sanitation, repair and maintenance; to authorize the inspection of structures; to establish enforcement procedures; to authorize the vacation or condemnation of unsafe or unfit structures; to provide for the adoption of rules and to fix penalties for violations thereof.

(Ord. 78-79. Passed 9-11-79.)

1370.03 GENERAL SCOPE.

The provisions of this Business Maintenance Code shall be supplementary to all other provisions of City ordinances relating to the construction, use and maintenance of business buildings and structures and shall apply to all buildings or portions thereof which are not used or designed or intended to be used for residential occupancy.

(Ord. 78-79. Passed 9-11-79.)

1370.04 DEFINITIONS.

As used in this Business Maintenance Code:

- (a) "Approved" means approved by the Building Commissioner or his authorized agent pursuant to this Business Maintenance Code, or approved by any other person or board designated by City ordinances to give approval to the matter in question.
- (b) "Basement" means a portion of a building partly or entirely underground, whose ceiling or under part of the floor above is four feet or less above the average finished ground elevation. The "average finished ground elevation" is the mean elevation of the finished grade around all of the exterior of the building.
- (c) "Board" means the Zoning Board of Appeals of the City, as created and existing under the provisions of Chapter 1185 of the Zoning Code.
- (d) "Building" means any structure having a roof supported by or suspended from columns or walls which may serve as a shelter or enclosure for persons, animals, chattels or property of any kind. The term "building" does not include any vehicle, trailer whether with or without wheels, nor any movable device, such as furniture, machinery or equipment.
- (e) "Business" means all uses or occupancies other than residential.
- (f) "Code" means this Business Maintenance Code, as contained in this Title Seven of this Part Thirteen - Building Code.
- (g) "Commissioner of Building" or "Building Commissioner" means the individual designated by the Mayor as being in charge of the Division of Building Engineering and Inspection in the Department of Public Service and Properties.
- (h) "Occupant" means the person who leases or rents a building, structure or any portion thereof. The words tenant and occupant shall be considered synonymous.
- (i) "Operator" means a person who has charge, care or control of a business structure.
- (j) "Owner" means the owner of the premises, or one of the owners of the premises if owned by more than one person, including the holder of title thereto subject to a contract of purchase, a vendee in possession, a mortgagee or receiver in possession, a lessee or joint lessees of the whole thereof, or an agent or any other person, firm, corporation or fiduciary directly in control of the premises.
- (k) "Person" means any person, firm, partnership, association, corporation, company organization or association of persons of any kind.
- (l) "Premises" means a lot, parcel or plot of land, including the buildings or structures thereon.
- (m) "Secondary or appurtenant structure" means a structure, the use of which is incidental or accessory to that of the main building and which is attached to the main building or located on the same premises with it, including retaining walls, fences and exterior walks and steps.
- (n) "Structure" means anything constructed or erected, the use of which requires a fixed location on the ground or attached to something having a fixed location on the ground and includes, but is not limited to, advertising signs, fences, billboards, backstops for tennis courts and pergolas.
- (o) "Supply or supplied" means paid for, furnished, provided by or under the control of the owner or operator.

(Ord. 78-79. Passed 9-11-79.)

1370.05 EXISTING BUILDINGS; OCCUPANCY AND LEASING RESTRICTIONS.

No owner, operator or agent shall occupy, rent or lease, or offer for rental or lease, any business structure or any part thereof which does not comply with the provisions of this Business Maintenance Code.

(Ord. 78-79. Passed 9-11-79.)

1370.06 CONFLICT.

In the event of conflict between any provision of this Business Maintenance Code, including any rules and regulations adopted pursuant to its provisions, and any provision of other City ordinances, including any rules and regulations adopted pursuant to such ordinances, the more restrictive provision shall prevail.

(Ord. 78-79. Passed 9-11-79.)

1370.07 SEPARABILITY.

Sections and subsections of this Business Maintenance Code and the several parts and provisions hereof are declared to be independent sections, subsections, parts and provisions, and the holding of any such section, subsection, part or provision hereof to be unconstitutional, void or ineffective for any cause shall not affect nor render invalid any other section, subsection, part or provision thereof.

(Ord. 78-79. Passed 9-11-79.) 7

CHAPTER 1372

Administration, Enforcement and Penalty

1372.01 Inspections authorized.

1372.02 Right of entry.

1372.03 Notice of violation; legal service; no notice for emergency or same prior violation.

1372.04 Remedies for noncompliance with notice.

1372.05 Cases of emergency; orders of immediate compliance.

1372.06 Placards ordering vacation of premises.

1372.07 Demolition expenses and costs.

1372.08 Rules and regulations by Commissioner.

1372.09 Right of appeal.

1372.10 Appeal powers of Board.

1372.11 Penalty does not preclude other remedial action.

1372.12 Prohibited acts.

1372.99 Penalty.

CROSS REFERENCES

Removal of unsafe structures - see Ohio R.C. 715.26(B), 715.261

Property Maintenance Code - see BLDG. Ch. 1309

General provisions and definitions - see BLDG. Ch. 1370

Certificates of business occupancy - see BLDG. Ch. 1374

Basic standards for business occupancy - see BLDG. Ch. 1376

Abandoned or inoperative gasoline service stations - see BLDG. Ch. 1378

1372.01 INSPECTIONS AUTHORIZED.

The Building Commissioner or his authorized agent is authorized to make or cause to be made inspections of all structures or premises included in the scope of this Business Maintenance Code and all secondary or appurtenant structures to determine whether such structures or premises conform to the provisions of this Code.

(Ord. 78-79. Passed 9-11-79.)

1372.02 RIGHT OF ENTRY.

The Building Commissioner or his authorized agent shall present proper identification to the owner, agent or present occupant of the premises before entering. He shall also obtain and present a proper search warrant if the owner, agent or present occupant requests the same. A request by the owner, agent or present occupant that the Commissioner obtain a search warrant is an exercisable right of the requesting party and shall not constitute failure to cooperate nor shall it constitute a failure to comply with the provisions of this Business Maintenance Code.

(Ord. 78-79. Passed 9-11-79.)

1372.03 NOTICE OF VIOLATION; LEGAL SERVICE; NO NOTICE FOR EMERGENCY OR SAME PRIOR VIOLATION.

(a) Whenever the Building Commissioner or his authorized agent finds any building, structure or premises, or any part thereof, to be in violation of any of the provisions of this Business Maintenance Code, he or his agent shall give or cause to be given or mailed to the owner, agent, occupant or operator of such structure or premises a written notice stating the violation therein. Such notice shall order the owner, agent, occupant or operator, within a stated reasonable time but not less than ten days, to repair, improve or demolish the structure or premises concerned. Such delivery or mailing shall be deemed legal service of notice.

(b) If the person to whom a notice of violation is addressed cannot be found within the County after a reasonable and diligent search, then notice shall be sent by registered mail to the last known address of such person, and a copy of such notice shall be posted in a conspicuous place on the structure or premises to which it relates. No person shall remove or deface such warning notice without written permission of the Commissioner. Such mailing and posting shall be deemed legal service of notice.

(c) Notwithstanding the requirements of notice provided herein, when, in the opinion of the Commissioner, the condition of a structure or premises, or part thereof, constitutes an immediate hazard to human life or health, or when a prior violation notice has been sent to the owner, agent, occupant or operator for the same or a similar violation, then no such notice of violation need be given to the owner, agent, occupant or operator of such building.

(Ord. 78-79. Passed 9-11-79.)

1372.04 REMEDIES FOR NONCOMPLIANCE WITH NOTICE.

(a) Whenever the owner, agent, occupant or operator of a structure or premises, or part thereof, fails, neglects or refuses to comply with any notice of the Building Commissioner, he or his authorized agent shall issue a notice to such owner, agent, occupant or operator ordering the structure or premises, or part thereof, to be vacated, repaired or demolished within such time as shall be stated in such notice, but which shall be not less than ten days, except in cases of emergency, or he may advise the Director of Law of the circumstances and request the Director to institute an appropriate action at law, to compel compliance, or both. Such notice shall be delivered, mailed or posted in the same manner as provided in Section 1372.03 .

(b) Whenever the owner, agent, operator or occupant of a structure or premises, or part thereof, fails, neglects or refuses to comply with a notice to vacate, repair or demolish any building or structure issued by the Commissioner, the Commissioner may enforce the orders of such notice and cause the structure or premises, or part thereof, to be vacated, repaired or demolished in accordance with the provisions of such notice.

(c) Whenever the owner, agent or operator of a structure, or part thereof, fails, neglects or refuses to comply with a notice to vacate, repair or demolish such structure, or a part thereof, or a secondary or appurtenant structure issued in accordance with the provisions of this Business Maintenance Code, and when such structure is determined by Council upon referral of the Commissioner to constitute a public nuisance in that it is dangerous or injurious to the public health, safety or welfare, Council may request the Director to institute legal proceedings or to take such other action as may be necessary to abate the nuisance. The Commissioner shall further give notice informing the owner, agent, occupant or operator of such determination and give notice informing the owner, agent, occupant or operator of such determination and action. Such notice shall be given in the same manner provided for other notices in Section 1372.03 .

(Ord. 78-79. Passed 9-11-79.)

1372.05 CASES OF EMERGENCY; ORDERS OF IMMEDIATE COMPLIANCE.

Whenever, in the opinion of the Building Commissioner, the condition of a structure or premises, or part thereof, constitutes an immediate hazard to human life or health, he shall declare a case of emergency and shall order immediate corrective action or vacation of the structure or premises, or part thereof. Such notice shall be served in the manner provided in Section 1372.03 but shall require immediate compliance.

(Ord. 78-79. Passed 9-11-79.)

1372.06 PLACARDS ORDERING VACATION OF PREMISES.

Whenever the Building Commissioner orders a structure or premises, or part thereof, to be vacated, repaired or demolished, he shall cause to be posted at each entrance to such structure or premises, or part thereof, a placard ordering such vacation, repair or demolition. No person shall deface or remove such placard until the repairs or demolition are completed without first having obtained the written permission of the Commissioner. No person shall enter or use any structure or premises so placarded except for the purpose of making the required repairs or demolishing the structure or premises.

(Ord. 78-79. Passed 9-11-79.)

1372.07 DEMOLITION EXPENSES AND COSTS.

Any expense or cost incurred under the provisions for demolition contained in this Business Maintenance Code shall be paid by the owner of the structure or premises. If expenses and costs of demolition are not paid by the owner of the structure or premises within the thirty days after written notice from the City to do so, the expenses and costs may be recovered by an action at law or may be assessed against the lands of the owner and shall become a lien thereon, and shall be collected in the manner provided by law for assessments.

(Ord. 78-79. Passed 9-11-79.)

1372.08 RULES AND REGULATIONS BY COMMISSIONER.

The Building Commissioner is authorized to adopt such written rules and regulations as may be necessary for the proper interpretation and enforcement of this Business Maintenance Code. Such rules and regulations shall not conflict with or waive any provisions of this Business Maintenance Code or any other City ordinance. Such rules and regulations shall be submitted to Council for approval and no such rules or regulations shall be adopted without such approval.

Such rules and regulations, upon approval of Council, shall be on file with the Commissioner for public examination, and a copy of such rules and regulations shall be posted on the bulletin board of the main entrance of the City Hall for at least five days. Such rules and regulations shall have the force and effect of this Business Maintenance Code and shall continue in effect until revoked by the Commissioner with the approval of the Zoning Board of Appeals or by action of Council.

(Ord. 78-79. Passed 9-11-79.)

1372.09 RIGHT OF APPEAL.

The owner, agent or operator of any structure or premises shall have the right to appeal from any order of or written notice issued by the Building Commissioner or from any notice of a revocation of a certificate of business occupancy within thirty days from the date such notice was given or mailed or order issued, and to appear before the Zoning Board of Appeals at a time and place fixed by the Board, to show cause why he should not comply with such notice. Such appeal shall be in writing. Failure to file a written appeal with the Board within the time prescribed herein shall constitute a waiver of the right to appeal. Except in cases of emergency, as set forth in Section 1372.05 , filing of an appeal from any such notice shall suspend action on enforcement of such notice until the appeal is acted upon by the Board.

(Ord. 78-79. Passed 9-11-79.)

1372.10 APPEAL POWERS OF BOARD.

In addition to the powers and duties granted by Chapter 1185 of these Codified Ordinances, the Zoning Board of Appeals shall have authority to:

- (a) Hear and decide any appeal where it is alleged that there is an error in any order, requirement or determination made by the Building Commissioner in the enforcement of this Business Maintenance Code; and
- (b) Allow or permit variations where there is practical difficulty or unnecessary hardship in the way of carrying out the strict letter of the provisions of this Code, so long as the varying or modification of a requirement of this Code will be in harmony with the general purpose and intent of the Code, and the public health, safety and general welfare will be safeguarded and substantial justice done.

(Ord. 78-79. Passed 9-11-79.)

1372.11 PENALTY DOES NOT PRECLUDE OTHER REMEDIAL ACTION.

The imposition of any penalty provided for in this Business Maintenance Code shall not preclude the Director of Law from instituting an appropriate action or proceeding in a court of proper jurisdiction to prevent an unlawful repair or maintenance, to restrain, correct or abate a violation, to prevent the occupancy of a building, structure or premises, to require compliance with the provisions of this Code or other applicable laws, ordinances, rules or regulations, or the orders or determinations of the Building Commissioner or the Zoning Board of Appeals.

(Ord. 78-79. Passed 9-11-79.)

1372.12 PROHIBITED ACTS.

No person shall violate any of the provisions of this Business Maintenance Code, or any rule or regulation promulgated hereunder, or fail to comply therewith or with any written notice or written order issued hereunder, or interfere with, obstruct or hinder the Building Commissioner or his authorized agents while attempting to make inspections.

(Ord. 78-79. Passed 9-11-79.)

1372.99 PENALTY.

Whoever violates any of the provisions of this Business Maintenance Code is guilty of a misdemeanor of the first degree. Each day such violation occurs or continues shall constitute a separate offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1374

Certificates of Business Occupancy

1374.01 Certificate of business occupancy required.

1374.02 Certificate applications and issuance; contents; terms; revocation.

1374.03 Failure to apply for certificate; renewals; late fee.

1374.04 Posting of certificate.

1374.05 Fees; changes in business occupancy.

CROSS REFERENCES

Certificate of compliance required - see BLDG. 1305.01

Property Maintenance Code - see BLDG. Ch. 1309

General provisions and definitions - see BLDG. Ch. 1370

Administration, enforcement and penalty - see BLDG. Ch. 1372

Basic standards for business occupancy - see BLDG. Ch. 1376

Abandoned or inoperative gasoline service stations - see BLDG. Ch. 1378

1374.01 CERTIFICATE OF BUSINESS OCCUPANCY REQUIRED.

On and after the effective date of this section (Ordinance 78-79, passed September 11, 1979), no person shall occupy any structure used or designed, or intended to be used as a commercial, institutional, etc., building, structure or premises, or any part thereof, unless such person holds a certificate of business occupancy issued by the Building Commissioner for such structure, which certificate has not expired, been revoked or otherwise become null and void.

(Ord. 78-79. Passed 9-11-79.)

1374.02 CERTIFICATE APPLICATIONS AND ISSUANCE; CONTENTS; TERM; REVOCATION.

(a) Applications for a certificate of business occupancy required by the provisions of this Business Maintenance Code shall be made by the prospective occupant in the case of a building containing less than twenty separate business occupants or by the owner of a building containing twenty or more occupants annually by supplying the information and data to determine compliance with applicable laws, ordinances, rules and regulations for the existing use or occupancy or the intended use or occupancy on forms supplied by the Building Commissioner.

(b) The Commissioner may require the submission of an affidavit stating such information and he may cause a general inspection of the structure or premises to be made.

(c) If it is found that a building or other structure is in compliance with the provisions of this Business Maintenance Code and all other laws, ordinances, rules and regulations applicable thereto, the Commissioner shall issue a certificate of business occupancy for such building or structure, which shall contain the following information:

(1) The street address or other identifying characteristics of the building or other structure;

(2) The name and address of the occupant of the building or structure;

(3) The name and address of the owner of the building or structure;

(4) The exact nature and extent of the use or occupancy authorized; and

(5) The period for which such certificate of business occupancy is effective.

Such certificate shall not be valid beyond one year from the date upon which the certificate is issued.

(d) The Commissioner shall have the power to revoke a certificate of business occupancy if any false statement is made by the applicant in connection with the issuance of such certificate, or for noncompliance of a structure or its use with the requirements of this Code, or if the owner, agent or person in charge of a structure refuses to comply with any applicable provision of this Code.

(e) Notwithstanding any other provisions of this chapter, the Commissioner shall issue a qualified certificate of business occupancy for the year 1979, and if the property of the applicant has not been inspected for compliance with this Code prior to December 31, 1979, then the Commissioner shall also issue a qualified certificate of business occupancy for the year 1980.

(Ord. 78-79. Passed 9-11-79.)

1374.03 FAILURE TO APPLY FOR CERTIFICATE; RENEWALS; LATE FEE.

(a) The proposed occupant of a structure to be used for business purposes and which requires a certificate of business occupancy under the provisions of this Business Maintenance Code shall apply for such certificate as soon as practical, but in no event shall any unit of the structure be occupied in whole or in part until such certificate has been issued.

(b) For each calendar year thereafter, the person applying for a required certificate of business occupancy for any unit used for business purposes shall apply for such certificate on or before December 1 of the year preceding the period for which the certificate is issued.

(c) In addition to any other penalties provided for violations of the Business Maintenance Code, any applicant failing to file an application for an original certificate of business occupancy prior to occupancy of any unit of the structure or an annual renewal certificate by December 1 of the year preceding the period for which the certificate is issued shall be charged in addition to the fee required for said certificate a late fee of fifty dollars (\$50.00) for each thirty day period after occupancy for original certificates or after December 1 for renewal certificates or fraction thereof until said application is filed.

(Ord. 21-95. Passed 3-14-95.)

1374.04 POSTING OF CERTIFICATE.

Except as provided in Section 1374.05, the occupant of every structure included in the scope of this Business Maintenance Code shall cause a certificate of business occupancy to be posted conspicuously at all times at the main entrance of such structure. Such certificate shall be provided with a protective covering and shall be securely affixed to the wall.

(Ord. 78-79. Passed 9-11-79.)

1374.05 FEES; CHANGES IN BUSINESS OCCUPANCY.

(a) Fees. An Application for a certificate of occupancy shall be accompanied by a nonrefundable fee determined by the square footage of the business establishment. For businesses of less than 5,000 square feet in gross floor area, the fee shall be fifty dollars (\$50.00). For businesses of 5,000 square feet or more in gross floor area, the fee shall be fifty dollars (\$50.00), plus fifty cents (\$0.50) per 100 square feet of gross floor area.

(b) Multiple Occupancy. The building owner of all multiple occupancy buildings shall notify the Building Commissioner upon any change of occupancy or use within the building.

(Ord. 93-98. Passed 10-27-98.)

(c) Changes; New Certificate of Business Occupancy. If there is a change in the occupancy of any building or portion thereof, the certificate issued under the provisions of this Business Maintenance Code to the former occupant or owner shall become null and void as to the vacated business unit at the time such use is terminated. A new certificate shall be obtained by the new occupant or owner before the new business begins its tenancy or occupancy. Application for a new certificate for any business use shall be made before the new business use begins its tenancy or occupancy. The appropriate fee shall be paid upon application for each new certificate. Such new certificate shall expire on the same date as that of the certificate which it replaces.

(d) Change Approval. Any change in the nature or extent of the use or occupancy specified on the certificate shall render the certificate null and void upon the happening of such change. No such change is permissible under this Code unless such change has been approved by the proper City authorities pursuant to this Code, and unless a new certificate of business occupancy, incorporating such change, has been issued. Any such change, without the approval of the proper City authorities, will subject the owner, occupant, operator or agent to the penalty provided in Section 1372.99.

(Ord. 78-79. Passed 9-11-79.)

CHAPTER 1376

Basic Standards for Business Occupancy

1376.01 Maintenance responsibilities.

1376.02 General maintenance requirements.

1376.03 Maintenance of foundations.

1376.04 Maintenance of roofs, gutters and downspouts.

1376.05 Maintenance of exteriors.

1376.06 Maintenance of interior walls, floors and ceilings.

1376.07 Exterior and interior property areas.

1376.08 Maintenance of plumbing.

1376.09 Electrical facilities required.

1376.10 Maintenance of heating, ventilating and air conditioning facilities.

1376.11 Maintenance of signs.

1376.12 Access and egress.

1376.13 Infestation by pests.

1376.14 Rubbish and garbage disposal.

1376.141 Dumpsters required.

1376.15 Street numbers.

CROSS REFERENCES

Property Maintenance Code - see BLDG. Ch. 1309

General provisions and definitions - see BLDG. Ch. 1370

Administration, enforcement and penalty - see BLDG. Ch. 1372

Certificates of business occupancy - see BLDG. Ch. 1376

Abandoned or inoperative gasoline service stations - see BLDG. Ch. 1378

1376.01 MAINTENANCE RESPONSIBILITIES.

(a) Compliance Required. No owner, operator or agent shall occupy, rent or lease, or offer for rental or lease, any business structure or any part thereof which does not comply with the provisions of this Business Maintenance Code.

(b) Owner. The owner of every building or structure, or his authorized agent, shall be responsible for maintaining in a clean, safe and sanitary condition the shared or common areas of the premises, including all yard areas, walks, driveways and parkway lots.

(c) Occupant. The occupant of any building or structure shall be responsible for maintaining in a clean, safe and sanitary condition that part of the premises which he occupies and controls.

(Ord. 78-79. Passed 9-11-79.)

1376.02 GENERAL MAINTENANCE REQUIREMENTS.

- (a) All structures and all parts thereof, both exterior and interior, shall be maintained in good repair and shall be capable of performing the function for which such structure or part of any feature thereof was designed or intended to be used.
- (b) All equipment and facilities appurtenant to a structure shall be maintained in good and safe working order.
- (Ord. 78-79. Passed 9-11-79.)

1376.03 MAINTENANCE OF FOUNDATIONS.

- (a) All foundations of every structure shall be maintained structurally sound and in good repair.
- (b) All foundations of every structure shall be maintained in such condition as to prevent seepage or leakage of water into the space enclosed within such foundations.
- (c) All openings into the foundations of every structure shall be protected against the entrance of rodents.
- (d) Where parts of structures supported on masonry piers, foundations or footers require substantial repair or replacement due to sagging, settling or failure of such support, the same shall be replaced with a foundation conforming to the provisions of Part Thirteen - Building Code.
- (Ord. 78-79. Passed 9-11-79.)

1376.04 MAINTENANCE OF ROOFS, GUTTERS AND DOWNSPOUTS.

- All roofs of every structure shall be maintained weathertight and shall be equipped with gutters and downspouts maintained in good repair and connected to a public storm sewer or to an approved retention system.
- (Ord. 78-79. Passed 9-11-79.)

1376.05 MAINTENANCE OF EXTERIORS.

- (a) All exterior walls of every structure shall be maintained weathertight and shall be maintained so as to resist decay or deterioration from any cause.
- (b) Any structure or secondary or appurtenant structure whose exterior surface is bare, deteriorated, ramshackle, tumble-down, decaying, disintegrating or in poor repair shall be repaired, replaced or razed as follows:
- (1) All buckled, rotted or decayed walls, doors, windows, porches, floors, steps, railings, soffits, posts, sills, trim and their missing members shall be replaced and put in good condition.
 - (2) All replacements shall match and conform to original design or be replaced completely with a design acceptable to the Building Commissioner and drawings and plans for such replacements reviewed by the Architectural Board of Review as required by Chapter 154 of these Codified Ordinances.
 - (3) All exterior wood or exterior unfinished surfaces, except masonry, shall be sealed and painted, or the surface covered with other approved protective coating or treated to prevent rot and decay, and conform and match the existing paint or surface covering and original design or replacement thereof. All exterior walls and surfaces shall be properly protected against the weather, where such are defective or lack weather protection, including lack of paint or surface covering, or have weathered due to lack of proper protective covering.
- (c) Any structure, including all secondary or appurtenant structures, awnings and signs, whose exterior is deteriorated, decaying, disintegrating or whose surface is weathered with dirt and grime or has been impaired through peeling or flaking of the paint or other protective coating, shall be repaired, repainted, resurfaced or replaced as follows:
- (1) All exterior surfaces shall be replaced or repaired in good condition preparatory to repainting or coating.
 - (2) All bare exterior surfaces which are flaking or crumbling shall be replaced or sealed in a good and workmanlike manner.
 - (3) All new or repaired bare surfaces shall be painted or coated.
- (Ord. 78-79. Passed 9-11-79.)

1376.06 MAINTENANCE OF INTERIOR WALLS, FLOORS AND CEILINGS.

- (a) All interior walls, floors and ceilings of every structure used for business purposes shall be maintained free of holes, large cracks and any loose or deteriorated material, and shall have a sealing coating of paint, wallpaper or other substance located thereon, and maintained in a clean and proper condition.
- (b) The floors of all toilet rooms shall have a cove base at all walls and partitions. Floor surfaces and cove base shall be of nonabsorbent materials with moisture-resistant joints, and shall be kept in a sanitary and clean condition.
- (Ord. 78-79. Passed 9-11-79.)

1376.07 EXTERIOR AND INTERIOR PROPERTY AREAS.

- (a) Exterior Property Areas. No owner, agent or occupant of any premises shall maintain or permit to be maintained at or on the exterior property areas of such premises any condition which deteriorates or debases the appearance of the neighborhood, reduces property values in the neighborhood, creates a fire, safety or health hazard or which is a public nuisance, including, but not limited to, any of the following:
- (1) Broken or dilapidated fences, walls or other structures;
 - (2) Improperly installed or maintained public sidewalks, walks, driveways and driveway aprons, which are in a defective condition in any of the following listed particulars:
 - A. Any block having multiple cracks or any single crack larger than one-half inch wide;
 - B. Adjoining sections of block, or a portion thereof, whose edges differ vertically by one inch or more;
 - C. Blocks having a transverse slope in excess of one inch per horizontal foot toward the street;
 - D. Blocks having a reverse slope that impound water to a depth of one-half inch or more; (Slope toward property.)
 - E. Blocks having depressions that impound water to a depth of one inch or more; or
 - F. Blocks having disintegrated or deteriorated areas.
- It is further provided that every public sidewalk shall be concrete or stone slab.
- (3) Out-of-use or nonusable appliances, dilapidated automobiles or automobile parts; or
 - (4) Rugs, rags or other materials hung on lines or in other places on such premises, which materials are not being used for general household or housekeeping purposes; broken, dilapidated or unusable furniture, mattresses or other household furnishings; plastic materials, paints, miscellaneous coverings and/or any other materials, including those described in this section, placed at or on the premises in such a manner as to be patently unsightly, grotesque or offensive to the senses.
- (b) Exterior Property Areas. Interior property areas of all premises shall be kept free of any debris, object, material or condition which creates a health, accident or fire hazard.
- (c) Parking Lots in Commercial Areas.
- (1) Asphalt or concrete parking lots shall be kept in a safe condition, free from chuck holes, depressions or large cracks.
 - (2) If such parking lots are found to be in need of repair, the Building Commissioner shall cause a written certified notice to be sent to the owner of such property requiring resurfacing for all or any part thereof.
 - (3) The notice shall set forth the amount of time for compliance and shall be determined by the Commissioner considering the extent of repair, cost of repair and prevailing weather conditions, but in no event less than thirty days nor more than ninety days.

(Ord. 78-79. Passed 9-11-79.)

(d) Concrete or Asphalt Driveway Aprons.

- (1) Concrete or asphalt driveway aprons shall be kept in a safe condition, free from chuckholes, depressions or large cracks. Any such driveway aprons which are in need of repair or constitute a dangerous condition to the public using the same, shall be replaced with concrete.
- (2) If such parking lots are found to be in need of repair, the Building Commissioner shall cause a written certified notice to be sent to the owner of such property requiring resurfacing for all or any part thereof.
- (3) The notice shall set forth the amount of time for compliance and shall be determined by the Commissioner considering the extent of repair, cost of repair and prevailing weather conditions, but in no event less than thirty days nor more than ninety days.

(Ord. 66-83. Passed 6-14-83.)

(e) Parking Lot Maintenance.

- (1) Parking lots shall be kept in a clean, sanitary condition, free from scrap paper and miscellaneous debris.
 - (2) Such containers as are required for debris shall be installed.
 - (3) Landscaping shall be kept in good condition and appearance, and grass, weeds and other growth kept to a minimum of six inches.
- (Ord. 78-79. Passed 9-11-79.)

1376.08 MAINTENANCE OF PLUMBING.

- (a) All plumbing fixtures and piping connected thereto in existing buildings, secondary and appurtenant structures shall be maintained in good condition to provide the necessary plumbing and sanitary facilities required.
- (b) All plumbing fixtures shall be so designed and installed as to prevent contamination of the water supply system and shall be connected by means of a properly enclosed system to a public sanitary sewer.
- (Ord. 78-79. Passed 9-11-79.)

1376.09 ELECTRICAL FACILITIES REQUIRED.

- Every business structure and secondary or appurtenant structure shall be provided with approved electrical service, outlets and fixtures, which shall be installed and maintained so as to be free of any potential source of ignition of combustible material or any potential source of electrical hazard. Such facilities shall be approved as being adequate to supply the requirements of lighting, appliances and equipment of the structure concerned.
- (Ord. 78-79. Passed 9-11-79.)

1376.10 MAINTENANCE OF HEATING, VENTILATING AND AIR CONDITIONING FACILITIES.

- All heating, ventilating and air conditioning facilities in existing buildings and secondary and appurtenant structures shall be maintained in good condition to provide reasonable comfort and convenience for the occupants, and such facilities shall be installed and maintained so as to be free from any potential source of fire hazard or danger to the health, welfare and safety of the occupants.
- (Ord. 78-79. Passed 9-11-79.)

1376.11 MAINTENANCE OF SIGNS.

- (a) All signs, both exterior and interior, shall be maintained in a good state of repair, and shall pertain only to the identification of the occupant, merchandise, products or services on the premises.
- (b) Whenever any structure or part thereof becomes vacant, the owner or agent shall cause all signs, which are visible from the exterior, and which no longer apply to the products or services offered on the premises, to be removed within thirty days and to restore the exterior appearance of the building to match the existing facade.
- (Ord. 78-79. Passed 9-11-79.)

1376.12 ACCESS AND EGRESS.

- Every business unit shall be provided with direct and approved means of access and egress to the outside of such business unit, without passing through any part of any other business unit. Every door which is used in connection with such means of access and egress shall be provided with a lock which can be opened from the inside without the use of a key.

(Ord. 78-79. Passed 9-11-79.)

1376.13 INFESTATION BY PESTS.

- All business structures and the premises thereof shall be maintained free of vermin, rodents and other pests, and free of sources of breeding, harborage and infestation by such vermin, rodents and other pests.
- (Ord. 78-79. Passed 9-11-79.)

1376.14 RUBBISH AND GARBAGE DISPOSAL.

- (a) Every occupant of a business unit shall dispose of all his rubbish in a clean and sanitary manner by placing it in approved receptacles, or in other approved rubbish disposal facilities.
- (b) Every occupant of a business unit shall dispose of all his garbage and other organic waste, which might provide food for insects and rodents, in a clean and sanitary manner by placing it in approved nonleakable, nonabsorbent, covered, garbage storage receptacles, or in other approved garbage disposal facilities.
- (c) Every occupant of a business unit shall make the necessary arrangements for the pickup and removal of rubbish and garbage so as not to overload the containers or receptacles.

(Ord. 78-79. Passed 9-11-79.)

1376.141 DUMPSTERS REQUIRED.

(a) All businesses located in the B-1, B-2, OS and Industrial zoning districts, and all multi-family properties shall be equipped for the use and convenience of their tenants with a trash container, commonly known as a "dumpster." Businesses shall include any entity providing services or products of any nature or kind whatsoever to the public, including, but not limited to, professional services, medical and dental services, personal services, entertainment, retail sales, wholesale clubs, grocery stores, convenience stores, outdoor markets, restaurants, bars and any other type of establishment that provides any service or any tangible thing to the public, whether for profit or not for profit. As used in this section, businesses shall not include government-owned facilities.

(b) Dumpsters shall be sized, serviced and emptied per a program and schedule insuring that no overflow of said container('')s) ensues or that it is not necessary to place trash or garbage outside of the dumpster. Trash, garbage, broken or discarded furniture or other household articles shall not be placed in the vicinity of the dumpster enclosure outside of the dumpster. Containers shall not be located in the front yard of any property. Containers shall be located at the rear of the property or in a location that least impacts neighboring parcels. Dumpster containers whose placement abuts an R-1 or R-2 residential zoning district by fifteen (15)-feet or less shall be surrounded by a masonry wall with a steel-framed gate. Dumpsters in other locations shall be surrounded by a masonry wall, wood-framed enclosure, or a chain-link enclosure constructed per subdivisions (b)(2) through (b)(4) of this section. All enclosures shall be eight (8) feet in height and of a size large enough to enclose the container without being easily damaged during servicing. Dumpster enclosures may be sized to enclose all dumpsters servicing the property. Dumpster enclosures and the surrounding area shall be properly illuminated to insure that the residents/tenants can use the area safely. Lighting shall be carefully designed and installed as to not adversely affect neighboring properties. Dumpster enclosures shall be constructed as follows:

- (1) All dumpsters shall be placed on concrete pads of a minimum thickness of six (6)-inches. Concrete shall be sloped sufficiently to permit necessary drainage of rain or
- (2) Masonry walls shall be constructed on three (3) sides of either cement masonry units (cement block) with face-brick attached, or of split-face masonry units of a minimum thickness of eight (8)-inches. Masonry walls shall be placed on an approved foundation. Color and finish of the masonry shall be approved by the Architectural Review Board.
- (3) Wood-framed enclosures shall be constructed using weather-treated six (6) inch by six (6)-inch corner posts and cedar fencing or other materials permitted in Section 1313 of the Codified Ordinances. Unfinished materials shall be stained or painted in a manner approved by the Architectural Review Board.
- (4) Chain link enclosures shall be constructed on three (3) sides using a minimum of four (4)-inch WT40 Galvanized Corner Posts and chain link fabric of nine (9) gage Aluminumized - .40oz aluminum coating - ASTM A-491 - 2" mesh - Salvage Knuckle -Knuckle. Intermediate posts shall be 2 1/2" O.D. Sch. #40 or WT40, set in 12" x 42" cement footings spaced no more than eight (8) feet apart. Top-brace and bottom rails of 1 5/8" O.D. Sch. #40 or WT40 pipe shall be used. Winged slat High Density Polyethylene (HDPE) materials in an approved color by either PEXCO or an approved equal shall be woven in the fence fabric to provide the required screening.
- (5) Gates for all types of enclosures shall be constructed using a two (2)-inch round or square galvanized steel Sch. #40 or WT40 - notched and welded - center brace with two (2) 3/8-inch diagonal truss rods supporting either approved wood or chain link (see subdivision (b)(4) above) finishing materials. The frame shall be supported by a minimum of six (6)-inch schedule #40 galvanized gate posts embedded in poured concrete footings of a minimum size of eighteen (18)-inch diameter by forty-eight (48) inches in depth. Gates shall be provided with galvanized pipe drop-rods mounted on the outside of each gate for securing the gates in an open or closed position. Gates shall be secured closed at all times and opened only to empty the dumpster.
- (6) Dumpster enclosures shall also be constructed with an approved thirty-six (36)-inch wide pedestrian gate or an approved thirty-six (36)-inch wide walk-through opening.
- (7) The approach lane for the servicing/emptying of each trash container shall be constructed in accordance with Chapter 1175 of the Codified Ordinances.
- (c) No owner, operator or occupant of any property or any other responsible party shall violate subdivision (b) of this section. If there is a violation, the violation shall be enforced as follows:
 - (1) The Building Inspector, Director of Public Service, Chief of Police or their authorized designees, are authorized to issue notices and citations to the owner, operator or occupant of any property maintained in violation of this section, or to any other responsible party;
 - (2) The official shall personally deliver the notice of violation or post the notice of violation in a conspicuous location on the property. The notice shall state the time when the notice was issued and shall state the nature of the violation and that the violation must be corrected within the time specified in the notice after its posting.
 - (3) No person who has been issued such a notice shall fail to comply with said notice.
 - (4) Within any three (3)-month period, the first notice of violation will be sent followed by a misdemeanor citation and/or other enforcement action if the violation is not corrected or abated within the time specified in the written notice provided for in subdivision (c)(2) above. Additional violations within any three (3)-month period will be sent a citation without notice.
- (d) Whoever violates this section is guilty of a misdemeanor of the first degree.

(Ord. 3-2021. Passed 1-12-21.)

1376.15 STREET NUMBERS.

Every business structure shall have the correct street number of such business prominently displayed so that it is clearly visible at all times from the street in front of the property. The numbers shall be numerals, not in script, and they must be at least three inches high and in contrasting colors. Such numbers shall be placed in close proximity to the main front entrance to the building, provided the building has only one street number. If individual units within a business structure have more than one street number assigned to such units, then each such unit shall display at the main front entrance to such unit the correct street number assigned to it.

(Ord. 78-79. Passed 9-11-79.)

CHAPTER 1378

Abandoned or Inoperative Gasoline Service Stations

1378.01 Abandoned station declared a nuisance.

1378.02 Notice to abate; action required.

1378.03 Required removal of underground tanks.

1378.04 Failure to abate.

1378.05 Inoperative service stations.

CROSS REFERENCES

Property Maintenance Code - see BLDG. Ch. 1309
General provisions and definitions - see BLDG. Ch. 1370
Administration, enforcement and penalty - see BLDG. Ch. 1372
Certificates of business occupancy - see BLDG. Ch. 1374
Basic standards for business occupancy - see BLDG. Ch. 1376

1378.01 ABANDONED STATION DECLARED A NUISANCE.

Whenever any gasoline service station becomes abandoned, such station shall be presumed to be a nuisance affecting or endangering surrounding property values and to be detrimental to the public health, safety, convenience, comfort, property or general welfare of the City and shall be abated. "Abandoned" means not having been operated as a gasoline service station for at least three consecutive months.

(Ord. 78-79. Passed 9-11-79.)

1378.02 NOTICE TO ABATE; ACTION REQUIRED.

Whenever the Building Commissioner finds any gasoline service station to be abandoned within the meaning of this chapter, he shall give notice to the owner of record of the premises at his last known address to abate such abandoned condition within sixty days by any of the following methods:

- (a) Placing such service station in operation in accordance with this Business Maintenance Code;
- (b) Adapting and using the building for another building use permitted under the Zoning Code, provided the service station pumps, storage tanks and signs are removed; or
- (c) Razing the service station structure and removing the pumps, storage tanks and signs.

(Ord. 78-79. Passed 9-11-79.)

1378.03 REQUIRED REMOVAL OF UNDERGROUND TANKS.

All abandoned underground gasoline or oil storage tanks shall be removed. The removal of underground tanks shall be performed in accordance with accepted safe practice and under the supervision of the Bureau of Fire Prevention of the City. Under no circumstances shall any structure be erected above any abandoned underground tank. When tanks are removed, the Building Commissioner shall supervise the necessary filling and grading of the area.

(Ord. 78-79. Passed 9-11-79.)

1378.04 FAILURE TO ABATE.

Upon the failure, neglect or refusal of any owner to comply with the notice to abate such abandonment, the Building Commissioner shall take such action as may be necessary to abate such nuisance.

(Ord. 78-79. Passed 9-11-79.)

1378.05 INOPERATIVE SERVICE STATIONS.

Inoperative gasoline service stations, which do not come within the definition of "abandoned" as defined herein, shall be maintained in accordance with the provisions of this Business Maintenance Code. The parking of motor vehicles upon the premises shall be prohibited and the owner shall place a sign of at least ten square feet in area in the window of such service station notifying the public of this fact. Notwithstanding any other provisions of this Code, if the Building Commissioner finds that such notice is not complied with by the public, he may order the owner of the premises on which any station is inoperative for more than three months to install fencing or barricades approved by the Commissioner, which will be sufficient to block motor vehicle access to such property.

(Ord. 78-79. Passed 9-11-79.)

CHAPTER 1380

Registration and Maintenance of Vacant Nonresidential Properties

1380.01 Purpose.

1380.02 Definitions.

1380.03 Duties of owner.

1380.04 Vacant building inspection required.

1380.05 Vacant building inspection.

1380.06 Fees.

1380.07 Correction of violations.

1380.08 Certificate of compliance.

1380.09 Liability.

1380.99 Penalty.

1380.01 PURPOSE.

This chapter shall apply to any nonresidential property, as defined below, or a unit of nonresidential property in the Municipality which meets the definition of vacant and unoccupied.

(Ord. 65-2022. Passed 5-24-22.)

1380.02 DEFINITIONS.

- (a) "Nonresidential property" shall be defined as a property with an assigned use classification of commercial, institutional, industrial, or office.
- (b) "Vacant, vacant building, vacancy, and vacant unit of a building" shall be defined for the purposes of this chapter, as a building, or unit of a building, which is not occupied by its owner, lessee or other person in lawful possession, or at which substantially all lawful business operations have ceased.
- (c) "Unoccupied" shall be defined for the purposes of this chapter as a building or unit of a building in which all lawful business operations have ceased.
- (d) "Open foreclosure action" shall be defined for purposes of this chapter as an active legal proceeding in a court of law that bars or extinguishes a mortgagor's right of redeeming a mortgaged estate in real property but does not include a foreclosure for tax delinquency purposes that is brought by the county government.
- (e) "Building Commissioner" shall be defined for purposes of this chapter as the Commissioner of the Municipality's Division of Building, Zoning and Housing.
- (f) "Municipality" shall be defined for purposes of this chapter as the City of Richmond Heights, Ohio.

(Ord. 65-2022. Passed 5-24-22.)

1380.03 DUTIES OF OWNER.

(a) The owner, lessee, or party in control of any vacant building and/or vacant unit of a building, or a party that has filed and is currently maintaining an open foreclosure action regarding a vacant building shall maintain the vacant building and/or vacant unit of a building in compliance with Municipal codes with particular attention to the following:

- (1) Grass and weeds shall be kept at a maximum height of six inches. Shrubbery must be kept trimmed and neat and kept from encroaching on or touching the building.
- (2) All building exteriors shall have adequate weather-tight protection, including paint, siding, and or similar finishes maintained in good condition.
- (3) All buildings and grounds must be secured against trespassers and rodents. This includes maintaining all exterior doors, windows and yard fencing in a good and secured condition. No boards, plywood or similar means or materials may be used to secure windows and doors. Doors, and/or windows that are found to be defective shall be replaced with similar, new doors or window units equipped with locking hardware.

- (4) Property must be properly winterized.
 - (5) Roofs on all buildings shall be in good, weather tight condition with no leakage.
 - (6) Any accumulated trash or debris must be removed from the interior and exterior of the property immediately.
 - (7) Graffiti, tagging or similar markings must be immediately removed or painted over with an exterior grade paint that matches the exterior color of the structure.
 - (8) Property shall be maintained free of nuisance conditions.
 - (9) Compliance with this section does not relieve the owner or agent in control of the property of any obligations set forth in any covenants, conditions, restrictions, homeowners' association rules and regulations and/or codified ordinances or building codes which may apply to the property.
- (b) **Registration Required.**
- (1) The owner, agent, lessee, or party in control of any vacant building and/or vacant unit of a building, or a party that has filed a foreclosure action that is currently pending regarding any vacant building, shall register the building, property and/or vacant unit of a building with the Building Commissioner, and maintain the registration up to date.
 - (2) An application for registration of a vacant building and/or vacant unit of a building shall include all of the following information on forms provided by the Municipality:
 - A. The name of the owner, agent lessee or party in control of the property and/or foreclosing entity submitting the registration application;
 - B. The direct mailing address of the applicant; Post Office boxes are not an acceptable address;
 - C. A contact name, telephone number and e-mail address for the applicant;
 - D. In the case of an applicant whose home or business address is located outside Cuyahoga County, the applicant shall provide the name and mailing address as well as the contact name, telephone number and e-mail address of the person responsible for the security, maintenance, and marketing of the property.
 - E. The fee required by subsection (b)(5) hereof.
 - (3) Registration shall remain valid for twelve months from the date of issuance. The owner, agent, lessee or party in control, or party mortgagee in an open foreclosure action, shall renew the registration upon expiration for as long as the building, property, and/or unit of a building remains vacant.
 - (4) The owner, agent, lessee, party in control, or party in an open foreclosure action of any vacant building property, and/or vacant unit of a building, shall inspect the building, property and/or unit at least one time each month on the interior and exterior of the property to verify that the requirements of this chapter, the Codified Ordinances of the Municipality, and any other applicable laws are being met. A written report of such inspections shall be provided to the Municipality upon request.
 - (5) **Fees:** The annual fee for registering a vacant building, property and/or vacant unit of a building shall be fifteen cents (\$0.15) per square foot of vacant space for the first year the property is vacant, twenty cents (\$0.20) per square foot of vacant space for the second consecutive year the property is vacant, and twenty-five cents (\$0.25) per square foot of vacant space for every consecutive year beyond the second year that the property remains vacant.
- Revenue collected each year from this fee shall be distributed annually as follows: the first one-third of the fee collected shall be appropriated to a proper Municipal account for use by the Division of Building, Zoning and Housing for nuisance abatement purposes.
- (c) **Exemptions:** Waivers exempting compliance with the provisions of this chapter shall be obtained in writing on a form provided by the Municipality under the following circumstances, as long as the property is kept in safe, secure, and habitable condition, including continual compliance with this section:
- (1) **Fire damaged buildings:** so long as clean up, repair or demolition is initiated within ninety days from the date of the fire.
 - (2) The owner, lessee, or party in control of any vacant building and/or vacant unit of a building can produce evidence the vacant building or vacant unit will be reoccupied within ninety days of becoming vacant. Such evidence shall include an application for occupancy filed with the Division of Building, Zoning and Housing by the new user intending to occupy the space.
 - (3) The owner, lessee, or party in control of any vacant building and/or vacant unit of a building can submit a vacant building plan which meets the approval of the Building Commissioner. The plan, at a minimum, must contain information from one of the following two choices:
 - A. If the building is to be demolished, a demolition plan indicating the proposed timeline for demolition which includes starting within thirty days of receiving approval for demolishing the building and reaching completion within one year of submitting said plan.
 - B. If the building is to undergo extensive renovation and/or rehabilitation before being made available to be returned to appropriate occupancy or use. The rehabilitation and/or renovation plan must receive approval from the Building Commissioner and any Municipal boards and commissions as required. The rehabilitation and/or renovation must be complete within twelve months from the time said plan is approved. Any request for an extension must be made in writing and must detail the reasons why the extension is being requested. The extension must be approved by the Building Commissioner. Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, or building codes, and the property must be secured during the rehabilitation and/or renovation.

(Ord. 65-2022. Passed 5-24-22.)

1380.04 VACANT BUILDING INSPECTION REQUIRED.

- (a) The owner, agent, or party in control of any vacant building, or unit of a building, shall apply for and obtain a vacant building inspection from the Building Commissioner prior to selling, transferring, or conveying any interest in or entering into an agreement to sell, transfer or otherwise convey an interest in such property, which includes entering into a lease with an entity to occupy the building or unit of a building. A copy of such completed inspection report shall be provided to the prospective purchaser, transferee, or lessee prior to sale or commencement of a lease.
- (b) An agreement to sell, transfer or otherwise convey an interest in a vacant building, or a lease agreement for a tenant to occupy a vacant unit of a building, shall include a copy of the vacant building inspection report from the Building Commissioner, in order for the prospective purchaser, transferee, or lessee to be aware of all known violations of the Municipal Building, Housing and/or Zoning Codes found as a result of an exterior and interior inspection.
- (c) The owner shall submit to the Building Commissioner a statement signed by the purchaser or transferee, or lessee, acknowledging receipt of the vacant building inspection report, and such statement shall list thereon the date the report was given to the purchaser or transferee, or lessee.

(Ord. 65-2022. Passed 5-24-22.)

1380.05 VACANT BUILDING INSPECTION.

An application for a vacant building inspection required by this chapter shall be made upon forms supplied by the Building Commissioner.

- (a) The Building Commissioner shall cause a general exterior and interior inspection for the vacant building or unit of a building and premises to be made.
- (b) The vacant building inspection report shall contain the following information:
 - (1) The street address or other identifying characteristics of the vacant building or unit of a building;
 - (2) The name and address of the owner(s); lessee or party in control;
 - (3) The authorized use and occupancy of the building or vacant unit of a building;
 - (4) The listing of all known violations of the Building Code existing at the time of such inspection.
- (c) Should the building or unit of a building remain vacant for a period longer than one year from the date of the inspection, a new inspection of the property shall be conducted as outlined above. There shall be a fee of twenty-five dollars (\$25.00) per year for each inspection, after the first year.

(Ord. 65-2022. Passed 5-24-22.)

1380.06 FEES.

- (a) In order to legally occupy a space, a user of the space must file for business occupancy with the Division of Building, Zoning and Housing and pay the business occupancy application fee. In addition, a certificate of compliance will be issued once violations have been corrected and a user is legally occupying the space. The fee for a certificate of compliance shall be two hundred dollars (\$200.00).
- (b) There shall be no fee for one re-inspection requested by the same owner within twelve months from the date of the initial inspection to verify correction of violations stated within the vacant building inspection report. All subsequent re-inspections may be billed at fifty dollars (\$50.00) per inspection.
- (c) In the event of resale of the property within the one-year period, if violations have not been corrected, the vacant building inspection report shall be transferred to any subsequent bona fide purchaser and shall be valid for the remainder of that period.

(Ord. 65-2022. Passed 5-24-22.)

1380.07 CORRECTION OF VIOLATIONS.

Any violations found upon inspection of the premises shall be corrected prior to issuance of the certificate of compliance. A property owner shall have six months from the date of the inspection to correct all violations. Violations that cannot be corrected due to seasonal conditions shall not preclude the issuance of a certificate of compliance; provided that, issuance of such certificate shall be upon written acknowledgment of all violations and agreement to correct all violations within nine months of the inspection date.

- (a) **Appeals.**
 - (1) The Municipal Zoning Board of Appeals shall be the board of appeals for this chapter and its powers and duties and the procedures for appeal shall be as provided in such Municipal ordinance that established and governs the Zoning Board of Appeals.
 - (2) The owner of a vacant building, or vacant unit of a building, shall have the right to appeal from any order of, or written notice issued by, the Building Commissioner within thirty days from the date such notice was given, mailed or issued, and to appear before the Zoning Board of Appeals within sixty days of receipt of the notice appealed from, to show cause why the owner should not comply with such notice. Such appeal must be in writing. Failure to file a written appeal with the Board within the time prescribed herein shall constitute a waiver of the right to appeal. However, filing of an appeal from any such notice shall suspend action on enforcement of such notice until there is a final decision of the appeal by the Board.

(Ord. 65-2022. Passed 5-24-22.)

1380.08 CERTIFICATE OF COMPLIANCE.

- (a) At the request of the owner of property or the owner's agent, a letter or other written document shall be issued by and signed and dated by the Building Commissioner stating that all violations listed on the vacant building inspection report have been completed to the Municipality's satisfaction, and the property is eligible for occupancy. No previously vacant building, or vacant unit of a building, can be occupied until this certificate of compliance is obtained. This certificate of compliance is not in lieu of a business occupancy application. Upon issuance of a certificate of compliance, a user of a building or unit of a building, must still file for and obtain a business occupancy certificate from the Building Commissioner prior to having operations open to the public.
- (b) At the request of the owner of the property or the owner's agent, a letter or other written document shall be issued, signed and dated by the Building Commissioner stating that specific violations listed on the vacant building inspection report have been completed to the Municipality's satisfaction. If the Building Commissioner issues such a letter or written document, it shall contain the specific violation(s) that remain outstanding.

(Ord. 65-2022. Passed 5-24-22.)

1380.09 LIABILITY.

The issuance of a certificate of compliance does not guarantee compliance with the Building, Housing and/or Zoning Codes, and neither the Building Commissioner nor the Commissioner's duly authorized designee(s) accept any liability for noncompliance with those Codes. Such certificate shall be considered by all parties as the Municipality's best effort to make known to the owner, a potential purchaser, or potential tenant, of any violations on a given property at the time the inspection is made.

- (a) The Municipality assumes no liability or responsibility for the failure to report violations that may exist and makes no guarantee whatsoever therefor, since there may be further violations which were not detected which may arise in the future or which may only be determined by a licensed electrician, plumber or other specialist at the expense of the person desiring such an inspection.
- (b) In issuing a vacant building inspection report, the Municipality does not thereby insure, warrant or guarantee to the holder thereof, to the holder's assignees, or any other interested party that such report contains all of the violations of the Codified Ordinances or state or federal law.
- (c) In issuing a certificate of compliance document under the provisions of this chapter, the Municipality does not thereby insure, warrant or guarantee the quality of repair or standard of work completed in the correction of violations listed on a vacant building inspection report. Such document should be construed only as a statement by the Municipality that some or all of the violations listed on the vacant building inspection report have been corrected to the Municipality's satisfaction.

(Ord. 65-2022. Passed 5-24-22.)

1380.99 PENALTY.

Any person who violates any provision of this chapter or of the rules and regulations issued hereunder shall be fined not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000) for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Unpaid registration fees and fines shall be made an assessment on the property enforceable in the same manner as assessments for delinquent property taxes.

(Ord. 65-2022. Passed 5-24-22.)

TITLE NINE- Flood Damage Reduction

- Chap. 1390. General Provisions.
- Chap. 1391. Definitions.
- Chap. 1392. Administration.
- Chap. 1393. Use and Development Standards for Flood Hazard Reduction.
- Chap. 1394. Appeals and Variances.
- Chap. 1395. Enforcement.

CHAPTER 1390

General Provisions

- 1390.01 Constitutional authorization.**
- 1390.02 Findings of fact.**
- 1390.03 Statement of purpose.**
- 1390.04 Methods of reducing flood loss.**

- 1390.05 Lands to which these regulations apply.**
- 1390.06 Basis for establishing the areas of special flood hazard.**
- 1390.07 Abrogation and greater restrictions.**
- 1390.08 Interpretation.**
- 1390.09 Warning and disclaimer of liability.**
- 1390.10 Severability.**

CROSS REFERENCES

Flood control bonds - see Ohio Const. Art. VIII, Sec. 21; Ohio R.C. 129.70 et seq.
 Basis of zoning districts - see Ohio R.C. 713.10
 Ohio Water Commission - see Ohio R.C. 1525.01 et seq.

1390.01 CONSTITUTIONAL 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, the City Council of the City of Richmond Heights, State of Ohio does ordain as follows in this Title IX.
 (Ord. 78-2010. Passed 11-23-10.)

1390.02 FINDINGS OF FACT.

The City of Richmond Heights 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. 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. 78-2010. Passed 11-23-10.)

1390.03 STATEMENT OF PURPOSE.

It is the purpose of these regulations 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 gas and water 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. 78-2010. Passed 11-23-10.)

1390.04 METHODS OF REDUCING FLOOD LOSS.

In order to accomplish its purposes, these regulations include 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. 78-2010. Passed 11-23-10.)

1390.05 LANDS TO WHICH THESE REGULATIONS APPLY.

These regulations shall apply to all areas of special flood hazard within the jurisdiction of the City of Richmond Heights as identified in Section 1390.06, including any additional areas of special flood hazard annexed by the City of Richmond Heights.
 (Ord. 78-2010. Passed 11-23-10.)

1390.06 BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD.

For the purposes of these regulations, the following studies and/or maps are adopted:

- (a) Flood Insurance Study Cuyahoga County, Ohio and Incorporated Areas and Flood Insurance Rate Map Cuyahoga County, Ohio and Incorporated Areas both effective December 3, 2010.
- (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 Richmond Heights as required by Section 1393.03, Subdivisions and Large 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 City Hall at 26789 Highland Road, Richmond Heights, Ohio.
 (Ord. 78-2010. Passed 11-23-10.)

1390.07 ABROGATION AND GREATER RESTRICTIONS.

These regulations are 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. 78-2010. Passed 11-23-10.)

1390.08 INTERPRETATION.

In the interpretation and application of these regulations, 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.
 (Ord. 78-2010. Passed 11-23-10.)

1390.09 WARNING AND DISCLAIMER OF LIABILITY.

The degree of flood protection required by these regulations 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. These regulations do not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damage. These regulations shall not create liability on the part of the City of Richmond Heights, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damage that results from reliance on these regulations or any administrative decision lawfully made thereunder.
 (Ord. 78-2010. Passed 11-23-10.)

1390.10 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. 78-2010. Passed 11-23-10.)

CHAPTER 1391

Definitions

- 1391.01 Definitions generally.**
- 1391.02 Accessory structure.**
- 1391.03 Appeal.**
- 1391.04 Base flood.**
- 1391.05 Base (100-year) flood elevation (BFE).**
- 1391.06 Basement.**
- 1391.07 Development.**
- 1391.08 Enclosure below the lowest floor.**
- 1391.09 Executive Order 11988 (floodplain management).**
- 1391.10 Federal Emergency Management Agency (FEMA).**
- 1391.11 Fill.**
- 1391.12 Flood or flooding.**
- 1391.13 Flood Hazard Boundary Map (FHBM).**
- 1391.14 Flood Insurance Rate Map (FIRM).**
- 1391.15 Flood Insurance Risk Zones.**
- 1391.16 Flood Insurance Study (FIS).**
- 1391.17 Flood Protection Elevation.**
- 1391.18 Floodway.**
- 1391.19 Freeboard.**
- 1391.20 Historic structure.**
- 1391.21 Hydrologic and hydraulic engineering analysis.**
- 1391.22 Letter of Map Change (LOMC).**
- 1391.23 Lowest floor.**
- 1391.24 Manufactured home.**
- 1391.25 Manufactured home park.**
- 1391.26 National Flood Insurance Program (NFIP).**
- 1391.27 New construction.**
- 1391.28 Person.**
- 1391.29 Recreational vehicle.**

1391.30 Registered professional architect.
1391.31 Registered professional engineer.
1391.32 Registered professional surveyor.
1391.33 Special Flood Hazard Area.
1391.34 Start of construction.
1391.35 Structure.
1391.36 Substantial damage.
1391.37 Substantial improvement.
1391.38 Variance.
1391.39 Violation.

CROSS REFERENCES

General Code definitions - see ADM. 101.02
Planning and zoning definitions - see P. & Z. Ch. 1123

1391.01 DEFINITIONS GENERALLY.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted so as to give them the meaning they have in common usage and to give these regulations the most reasonable application.
(Ord. 78-2010. Passed 11-23-10.)

1391.02 ACCESSORY STRUCTURE.

A structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal structure.
(Ord. 78-2010. Passed 11-23-10.)

1391.03 APPEAL.

A request for review of the floodplain administrator's interpretation of any provision of these regulations or a request for a variance.
(Ord. 78-2010. Passed 11-23-10.)

1391.04 BASE FLOOD.

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. (Ord. 78-2010. Passed 11-23-10.)

1391.05 BASE (100-YEAR) FLOOD ELEVATION (BFE).

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).
(Ord. 78-2010. Passed 11-23-10.)

1391.06 BASEMENT.

Any area of the building having its floor subgrade (below ground level) on all sides.
(Ord. 78-2010. Passed 11-23-10.)

1391.07 DEVELOPMENT.

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.
(Ord. 78-2010. Passed 11-23-10.)

1391.08 ENCLOSURE BELOW THE LOWEST FLOOR.

See "Lowest Floor."
(Ord. 78-2010. Passed 11-23-10.)

1391.09 EXECUTIVE ORDER 11988 (FLOODPLAIN MANAGEMENT).

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.
(Ord. 78-2010. Passed 11-23-10.)

1391.10 FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA).

The agency with the overall responsibility for administering the National Flood Insurance Program. (Ord. 78-2010. Passed 11-23-10.)

1391.11 FILL.

A deposit of earth material placed by artificial means.
(Ord. 78-2010. Passed 11-23-10.)

1391.12 FLOOD OR FLOODING.

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.
(Ord. 78-2010. Passed 11-23-10.)

1391.13 FLOOD HAZARD BOUNDARY MAP (FHB).

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. (Ord. 78-2010. Passed 11-23-10.)

1391.14 FLOOD INSURANCE RATE MAP (FIRM).

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 hazard.
(Ord. 78-2010. Passed 11-23-10.)

1391.15 FLOOD INSURANCE RISK ZONES.

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:
- (d) 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.
- (e) 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.
- (f) 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.
- (g) 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.
- (h) Zone C and Zone X (unshaded):
Areas determined to be outside the 500-year floodplain.
(Ord. 78-2010. Passed 11-23-10.)

1391.16 FLOOD INSURANCE STUDY (FIS).

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. (Ord. 78-2010. Passed 11-23-10.)

1391.17 FLOOD PROTECTION ELEVATION.

The Flood Protection Elevation, or FPE, is 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. (Ord. 78-2010. Passed 11-23-10.)

1391.18 FLOODWAY.

(a) A floodway is 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.
(b) 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.
(Ord. 78-2010. Passed 11-23-10.)

1391.19 FREEBOARD.

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.
(Ord. 78-2010. Passed 11-23-10.)

1391.20 HISTORIC STRUCTURE.

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.
(Ord. 78-2010. Passed 11-23-10.)

1391.21 HYDROLOGIC AND HYDRAULIC ENGINEERING ANALYSIS.

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. (Ord. 78-2010. Passed 11-23-10.)

1391.22 LETTER OF MAP CHANGE (LOMC).

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.

(Ord. 78-2010. Passed 11-23-10.)

1391.23 LOWEST FLOOR.

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 these regulations for enclosures below the lowest floor.

(Ord. 78-2010. Passed 11-23-10.)

1391.24 MANUFACTURED HOME.

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 Chapter 3733 of the Ohio Revised Code.

(Ord. 78-2010. Passed 11-23-10.)

1391.25 MANUFACTURED HOME PARK.

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.

(Ord. 78-2010. Passed 11-23-10.)

1391.26 NATIONAL FLOOD INSURANCE PROGRAM (NFIP).

The NFIP is a 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.

(Ord. 78-2010. Passed 11-23-10.)

1391.27 NEW CONSTRUCTION.

Structures for which the "start of construction" commenced on or after the initial effective date of the City of Richmond Heights Flood Insurance Rate Map, January 4, 1985, and includes any subsequent improvements to such structures.

(Ord. 78-2010. Passed 11-23-10.)

1391.28 PERSON.

Includes 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 Revised Code Section 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.

(Ord. 78-2010. Passed 11-23-10.)

1391.29 RECREATIONAL VEHICLE.

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.

(Ord. 78-2010. Passed 11-23-10.)

1391.30 REGISTERED PROFESSIONAL ARCHITECT.

A person registered to engage in the practice of architecture under the provisions of sections 4703.01 to 4703.19 of the Revised Code.

(Ord. 78-2010. Passed 11-23-10.)

1391.31 REGISTERED PROFESSIONAL ENGINEER.

A person registered as a professional engineer under Chapter 4733 of the Revised Code.

(Ord. 78-2010. Passed 11-23-10.)

1391.32 REGISTERED PROFESSIONAL SURVEYOR.

A person registered as a professional surveyor under Chapter 4733 of the Revised Code.

(Ord. 78-2010. Passed 11-23-10.)

1391.33 SPECIAL FLOOD HAZARD AREA.

Also known as "Areas of Special Flood Hazard", it is 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.

(Ord. 78-2010. Passed 11-23-10.)

1391.34 START OF CONSTRUCTION.

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.

(Ord. 78-2010. Passed 11-23-10.)

1391.35 STRUCTURE.

A walled and roofed building, manufactured home, or gas or liquid storage tank that is principally above ground. (Ord. 78-2010. Passed 11-23-10.)

1391.36 SUBSTANTIAL DAMAGE.

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.

(Ord. 78-2010. Passed 11-23-10.)

1391.37 SUBSTANTIAL IMPROVEMENT.

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent 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."

(Ord. 78-2010. Passed 11-23-10.)

1391.38 VARIANCE.

A grant of relief from the standards of these regulations consistent with the variance conditions herein. (Ord. 78-2010. Passed 11-23-10.)

1391.39 VIOLATION.

The failure of a structure or other development to be fully compliant with these regulations.

(Ord. 78-2010. Passed 11-23-10.)

CHAPTER 1392

Administration

1392.01 Designation of the Floodplain Administrator.

1392.02 Duties and responsibilities of the Floodplain Administrator.

1392.03 Floodplain development permits.

1392.04 Application required.

1392.05 Review and approval of a floodplain development permit application.

1392.06 Inspections.

1392.07 Post-construction certifications required.

1392.08 Revoking a floodplain development permit.

1392.09 Exemption from filing a development permit.

- 1392.10 Map maintenance activities.**
1392.11 Data use and flood map interpretation.
1392.12 Substantial damage determination.

CROSS REFERENCES

Basis of zoning districts - see Ohio R.C. 713.10
Marking flood areas - see Ohio R.C. 1521.14
Conservancy districts - see Ohio R.C. 6101.04

1392.01 DESIGNATION OF THE FLOODPLAIN ADMINISTRATOR.

The Building Commissioner is hereby appointed to administer and implement these regulations and is referred to herein as the Floodplain Administrator.
(Ord. 78-2010. Passed 11-23-10.)

1392.02 DUTIES AND RESPONSIBILITIES OF THE FLOODPLAIN ADMINISTRATOR.

The duties and responsibilities of the Floodplain Administrator shall include but are not limited to:

- (a) Evaluate applications for permits to develop in special flood hazard areas.
- (b) Interpret actual floodplain boundaries in the field and provide flood hazard and flood protection elevation information.
- (c) 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.
- (d) Inspect buildings and lands to determine whether any violations of these regulations have been committed.
- (e) 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.
- (f) Enforce the provisions of these regulations.
- (g) Provide information, testimony, or other evidence as needed during variance hearings.
- (h) Coordinate map maintenance activities and FEMA follow-up.
- (i) 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. 78-2010. Passed 11-23-10.)

1392.03 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 1390.06, 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.

(Ord. 78-2010. Passed 11-23-10.)

1392.04 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:

- (a) 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 foregoing.
- (b) Elevation of the existing, natural ground where structures are proposed.
- (c) Elevation of the lowest floor, including basement, of all proposed structures.
- (d) Such other material and information as may be requested by the Floodplain Administrator to determine conformance with, and provide enforcement of these regulations.
- (e) 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:
 - (1) Floodproofing certification for non-residential floodproofed structure as required in Section 1393.05.
 - (2) Certification that fully enclosed areas below the lowest floor of a structure not meeting the design requirements of Section 1393.04(e) are designed to automatically equalize hydrostatic flood forces.
 - (3) 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 1393.09(c).
 - (4) 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 1393.09(b).
 - (5) A hydrologic and hydraulic engineering analysis showing impact of any development on flood heights in an identified floodway as required by Section 1393.09(a).
- (f) Generation of base flood elevation(s) for subdivision and large-scale developments as required by Section 1393.03.
- (f) A floodplain development permit application fee set by the schedule of fees adopted by the City of Richmond Heights.

(Ord. 78-2010. Passed 11-23-10.)

1392.05 REVIEW AND APPROVAL OF A FLOODPLAIN DEVELOPMENT PERMIT APPLICATION.

(a) Review.

- (1) 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 1392.04 has been received by the Floodplain Administrator.
 - (2) The Floodplain Administrator shall review all floodplain development permit 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.
- (b) **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 conditioned 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.

(Ord. 78-2010. Passed 11-23-10.)

1392.06 INSPECTIONS.

The Floodplain Administrator shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions.

(Ord. 78-2010. Passed 11-23-10.)

1392.07 POST-CONSTRUCTION CERTIFICATIONS REQUIRED.

The following as-built certifications are required after a floodplain development permit has been issued:

- (a) 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.
- (b) For all development activities subject to the standards of Section 1392.10(a), a Letter of Map Revision.

(Ord. 78-2010. Passed 11-23-10.)

1392.08 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 Chapter 1394 of these regulations.

(Ord. 78-2010. Passed 11-23-10.)

1392.09 EXEMPTION FROM FILING A DEVELOPMENT PERMIT.

An application for a floodplain development permit shall not be required for:

- (a) Maintenance work such as roofing, painting, and basement sealing, or for small nonstructural development activities (except for filling and grading) valued at less than \$5,000.
 - (b) 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.
 - (c) Major utility facilities permitted by the Ohio Power Siting Board under Section 4906 of the Ohio Revised Code.
 - (d) Hazardous waste disposal facilities permitted by the Hazardous Waste Siting Board under Section 3734 of the Ohio Revised Code.
 - (e) 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.

(Ord. 78-2010. Passed 11-23-10.)

1392.10 MAP MAINTENANCE ACTIVITIES.

To meet National Flood Insurance Program minimum requirements to have flood data reviewed and approved by FEMA, and to ensure that City of Richmond Heights flood maps, studies and other data identified in Section 1390.06 accurately represent flooding conditions so appropriate floodplain management criteria are based on current data, the following map maintenance activities are identified:

(a) Requirement to Submit New Technical Data.

- (1) 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:
 - A. Floodway encroachments that increase or decrease base flood elevations or alter floodway boundaries;
 - B. 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;
 - C. Alteration of watercourses that result in a relocation or elimination of the special flood hazard area, including the placement of culverts; and
 - D. Subdivision or large scale development proposals requiring the establishment of base flood elevations in accordance with Section 1393.03.
 - (2) It is the responsibility of the applicant to have technical data, required in accordance with Section 1392.10(a), 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.
 - (3) The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for:
 - A. Proposed floodway encroachments that increase the base flood elevation; and
 - B. 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.
 - (4) 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 1392.10(a)(1).
- (b) **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 Richmond Heights, and may be

submitted at any time.

- (c) Annexation/Detachment. Upon occurrence, the Floodplain Administrator shall notify FEMA in writing whenever the boundaries of the City of Richmond Heights 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 Richmond Heights Flood Insurance Rate Map accurately represent the City of Richmond Heights boundaries, include within such notification a copy of a map of the City of Richmond Heights suitable for reproduction, clearly showing the new corporate limits or the new area for which the City of Richmond Heights has assumed or relinquished floodplain management regulatory authority.

(Ord. 78-2010. Passed 11-23-10.)

1392.11 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:

- (a) 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.
- (b) 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.
- (c) When Preliminary Flood Insurance Rate Maps and/or Flood Insurance Study have been provided by FEMA:
- (1) 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.
- (2) 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.
- (d) The Floodplain Administrator shall make interpretations, where needed, as to the exact location of the flood boundaries and areas of special flood hazard in the field. A person contesting the determination of the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in Chapter 1394, Appeals and Variances.
- (e) 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. (Ord. 78-2010. Passed 11-23-10.)

1392.12 SUBSTANTIAL DAMAGE DETERMINATIONS.

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.
- 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. 78-2010. Passed 11-23-10.)

CHAPTER 1393

Use and Development Standards for

Flood Hazard Reduction

1393.01 Use regulations.

1393.02 Water and wastewater systems.

1393.03 Subdivisions and large developments.

1393.04 Residential structures.

1393.05 Nonresidential structures.

1393.06 Accessory structures.

1393.07 Recreational vehicles.

1393.08 Above ground gas or liquid storage tanks.

1393.09 Assurance of flood carrying capacity.

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 1390.06 or 1392.11(a):

1393.01 USE REGULATIONS.

(a) Permitted Uses. All uses not otherwise prohibited in this section or any other applicable land use regulation adopted by the City of Richmond Heights are allowed provided they meet the provisions of these regulations.

(b) Prohibited Uses.

- (1) Private water supply systems in all special flood hazard areas identified by FEMA, permitted under Section 3701 of the Ohio Revised Code.
- (2) Infectious waste treatment facilities in all special flood hazard areas, permitted under Section 3734 of the Ohio Revised Code.

(Ord. 78-2010. Passed 11-23-10.)

1393.02 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 floodwaters into the systems;
- (b) New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,
- (c) On-site waste disposal systems shall be located to avoid impairment to or contamination from them during flooding.

(Ord. 78-2010. Passed 11-23-10.)

1393.03 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 1392.10(a)(1)D. when a hydrologic and hydraulic analysis is completed that generates base flood elevations as required by Section 1393.03(d).

(Ord. 78-2010. Passed 11-23-10.)

1393.04 RESIDENTIAL STRUCTURES.

(a) 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 (1393.04(a)) and construction materials resistant to flood damage (1393.04(b)) are satisfied.

(b) New construction and substantial improvements shall be constructed with methods and materials resistant to flood damage.

(c) 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.

(d) 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.

(e) 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:

- (1) Be used only for the parking of vehicles, building access, or storage; and
- (2) 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
- (3) 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.

(f) 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.

(g) 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 1393.04.

(h) 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. (Ord. 78-2010. Passed 11-23-10.)

1393.05 NONRESIDENTIAL STRUCTURES.

(a) New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall meet the requirements of Section 1393.04(a)-(c) and (e)-(h).

(b) 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:

- (1) 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;
- (2) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and,
- (3) 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 1393.05(b)(1) and (2).

(c) 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.

(Ord. 78-2010. Passed 11-23-10.)

1393.06 ACCESSORY STRUCTURES.

Relief to the elevation or dry floodproofing standards may be granted for accessory structures containing no more than 600 square feet. Such structures must meet the following standards:

- (a) They shall not be used for human habitation;
- (b) They shall be constructed of flood resistant materials;
- (c) They shall be constructed and placed on the lot to offer the minimum resistance to the flow of floodwaters;

- (d) They shall be firmly anchored to prevent flotation;
- (e) Service facilities such as electrical and heating equipment shall be elevated or floodproofed to or above the level of the flood protection elevation; and
- (f) They shall meet the opening requirements of Section 1393.04(e)(3);
(Ord. 78-2010. Passed 11-23-10.)

1393.07 RECREATIONAL VEHICLES.

Recreational vehicles must meet at least one of the following standards:

- (a) They shall not be located on sites in special flood hazard areas for more than 180 days, or
- (b) They must be fully licensed and ready for highway use, or
- (c) They must meet all standards of Section 1393.04.
(Ord. 78-2010. Passed 11-23-10.)

1393.08 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.

(Ord. 78-2010. Passed 11-23-10.)

1393.09 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:

- (a) Development in Floodways.
 - (1) 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
 - (2) Development in floodway areas causing increases in the base flood elevation may be permitted provided all of the following are completed by the applicant:
 - A. Meet the requirements to submit technical data in Section 1392.10(a);
 - B. An evaluation of alternatives, which would not result in increased base flood elevations and an explanation why these alternatives are not feasible;
 - C. Certification that no structures are located in areas that would be impacted by the increased base flood elevation;
 - D. 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
 - E. Concurrence of the Mayor of the City of Richmond Heights and the Chief Executive Officer of any other communities impacted by the proposed actions.
- (b) Development in Riverine Areas with Base Flood Elevations but No Floodways.
 - (1) 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
 - (2) 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:
 - A. 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;
 - B. Section 1393.09(a)(2)A. and C. - E.
- (c) 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:
 - (1) 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.
 - (2) 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.
 - (3) 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 Richmond Heights specifying the maintenance responsibilities. If an agreement is required, it shall be made a condition of the floodplain development permit.
 - (4) The applicant shall meet the requirements to submit technical data in Section 1392.10(a)(1)C. when an alteration of a watercourse results in the relocation or elimination of the special flood hazard area, including the placement of culverts.

(Ord. 78-2010. Passed 11-23-10.)

CHAPTER 1394

Appeals and Variances

1394.01 Appeals Board established.

1394.02 Powers and duties.

1394.03 Appeals.

1394.04 Variances.

1394.05 Procedure at hearings.

1394.06 Appeal to the Court.

1394.01 APPEALS BOARD ESTABLISHED.

- (a) The City of Richmond Heights Zoning Board of Appeals is hereby appointed to serve as the Appeals Board for these regulations as established by the City Charter and Codified Ordinances.
- (b) Records of the Appeals Board shall be kept and filed in City Hall at 26789 Highland Road, Richmond Heights, Ohio.
(Ord. 78-2010. Passed 11-23-10.)

1394.02 POWERS AND DUTIES.

- (a) 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 these regulations.
- (b) Authorize variances in accordance with Section 1394.04 of these regulations.
(Ord. 78-2010. Passed 11-23-10.)

1394.03 APPEALS.

- (a) 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 20 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.

- (b) 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.
(Ord. 78-2010. Passed 11-23-10.)

1394.04 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.

(a) Application for a Variance.

- (1) 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.
- (2) 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.
- (3) All applications for variance shall be accompanied by a variance application fee set forth in the schedule of fees adopted by the City of Richmond Heights.
- (b) 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:
 - (1) The danger that materials may be swept onto other lands to the injury of others.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
 - (4) The importance of the services provided by the proposed facility to the community.
 - (5) The availability of alternative locations for the proposed use that are not subject to flooding or erosion damage.
 - (6) The necessity to the facility of a waterfront location, where applicable.
 - (7) The compatibility of the proposed use with existing and anticipated development.
 - (8) The relationship of the proposed use to the comprehensive plan and floodplain management program for that area.
 - (9) The safety of access to the property in times of flood for ordinary and emergency vehicles.
 - (10) 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.
 - (11) 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.
- (c) Variances shall only be issued upon:
 - (1) A showing of good and sufficient cause.
 - (2) 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.
 - (3) 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.
 - (4) A determination that the structure or other development is protected by methods to minimize flood damages.
 - (5) 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.

(d) Other Conditions for Variances.

- (1) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (2) 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 1394.04(b)(1) to (11) have been fully considered. As the lot size increases beyond one-half acre, the technical justification required for issuing the variance increases.
- (3) 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.

(Ord. 78-2010. Passed 11-23-10.)

1394.05 PROCEDURE AT HEARINGS.

- (a) All testimony shall be given under oath.
- (b) A complete record of the proceedings shall be kept, except confidential deliberations of the Board, but including all documents presented and a verbatim record of the testimony of all witnesses.
- (c) The applicant shall proceed first to present evidence and testimony in support of the appeal or variance.
- (d) The administrator may present evidence or testimony in opposition to the appeal or variance.
- (e) All witnesses shall be subject to cross-examination by the adverse party or their counsel.
- (f) Evidence that is not admitted may be proffered and shall become part of the record for appeal.
- (g) The Board shall issue subpoenas upon written request for the attendance of witnesses. A reasonable deposit to cover the cost of issuance and service shall be collected in advance.
- (h) The Board shall prepare conclusions of fact supporting its decision. The decision may be announced at the conclusion of the hearing and thereafter issued in writing or the decision may be issued in writing within a reasonable time after the hearing.

(Ord. 78-2010. Passed 11-23-10.)

1394.06 APPEAL TO THE COURT.

Those aggrieved by the final decision of the Appeals Board may appeal such decision to the Cuyahoga County Court of Common Pleas, as provided in Chapter 2506 of the Ohio Revised Code. (Ord. 78-2010. Passed 11-23-10.)

CHAPTER 1395

Enforcement

1395.01 Compliance required.

1395.02 Notice of violation.

1395.03 Penalty.

1395.01 COMPLIANCE REQUIRED.

- (a) 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 use within the jurisdiction of these regulations, unless specifically exempted from filing for a development permit as stated in Section 1392.09.
- (b) Failure to obtain a floodplain development permit shall be a violation of these regulations and shall be punishable in accordance with Section 1395.03.
- (c) 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 1395.03.

(Ord. 78-2010. Passed 11-23-10.)

1395.02 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:

- (a) Be put in writing on an appropriate form;
- (b) 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;
- (c) Specify a reasonable time for performance;
- (d) Advise the owner, operator, or occupant of the right to appeal;
- (e) 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. 78-2010. Passed 11-23-10.)

1395.03 PENALTY.

Violation of the provisions of this Title IX or failure to comply with any of its requirements shall constitute a misdemeanor of the first degree. Any person who violates this Title IX or fails to comply with any of its requirements (including violations of conditions of and safeguards established in connection with conditions) shall upon conviction thereof be fined or imprisoned as provided by the laws of the City. 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 violations.

(Ord. 78-2010. Passed 11-23-10.)

**CODIFIED ORDINANCES OF RICHMOND HEIGHTS
PART FIFTEEN - FIRE PREVENTION CODE**

Chap. 1501. Administrative.
Chap. 1503. Plan Review and Permits.
Chap. 1505. General Requirements and Precautions Against Fire.
Chap. 1507. Storage.
Chap. 1509. Means of Egress.
Chap. 1511. Fire Suppression Equipment.
Chap. 1513. Alarm System Requirements.
Chap. 1515. Fire Lanes.
Chap. 1519. Fireworks.

CHAPTER 1501

Administrative

1501.01 Title.

1501.02 Purpose and intent of Code.

1501.03 Definitions.

1501.04 Establishment of the position of Fire Safety Inspector in Division of Building, Zoning and Housing.

1501.05 Duties of the Bureau.

1501.06 Establishment of the Fire Prevention Code.

1501.07 Application of the Fire Prevention Code.

1501.08 Enforcement of the Fire Prevention Code.

1501.09 Inspection fees.

1501.10 Compliance with Fire Prevention Code; penalty.

1501.11 Conflict with other codes.

1501.12 Variances.

1501.13 Appeals.

1501.14 Separability.

1501.15 File confidentiality and reproduction.

1501.01 TITLE.

The rules as set forth herein shall be known as the "Fire Prevention Code" and may be hereinafter referred to as the "Fire Prevention Code" or the "Code."

(Ord. 43-97. Passed 5-27-97.)

1501.02 PURPOSE AND INTENT OF CODE.

The purpose and intent of this Code is to prescribe minimum requirements and controls to safeguard life, property, or public welfare from the hazards of fire and explosion, arising from the storage, handling or use of substances, materials or devices; from conditions hazardous to life, property or public welfare in the use or occupancy of buildings, structures, sheds, tents, lots or premises; and to safeguard firefighters during firefighting operations. All matters within the intent of this Code and not covered by this Code shall comply with accepted engineering practices or standards in the respective field.

(Ord. 43-97. Passed 5-27-97.)

1501.03 DEFINITIONS.

- (a) The following are general definitions found throughout "Part Fifteen - Fire Prevention Code":

- (1) "Municipality" means the City of Richmond Heights, Ohio.
- (2) "City" means the City of Richmond Heights, Ohio.
- (3) "Corporation Counsel" means the Law Director of the City.
- (4) "Fire Department" means the Fire Division of the Department of Public Safety.
- (5) "Bureau" means the Bureau of Fire Prevention.
- (6) "Fire Safety Inspector" means any person possessing a certificate in accordance with Ohio R.C. 3737.34 as a Certified Fire Safety Inspector.
- (7) "Code" means the Fire Prevention Code as established in Section 1501.06.
- (8) "Commissioner" means the Commissioner of Building and Zoning.
- (9) "Responsible Party" means the owner or manager of the occupancy.

- (b) Other sections of this Code may contain additional definitions.

(Ord. 43-97. Passed 5-27-97.)

1501.04 ESTABLISHMENT OF THE POSITION OF FIRE SAFETY INSPECTOR IN DIVISION OF BUILDING, ZONING AND HOUSING.

- (a) The Fire Prevention Code shall be enforced by the Division of Building, Zoning and Housing.
- (b) The Mayor shall designate a person or persons to act as Fire Safety Inspectors who shall perform the duties thereof within the Division of Building, Zoning and Housing. The number of persons assigned to the

position of Fire Safety Inspector shall be determined by the Mayor within the appropriations and authorization of City Council and at the Mayor's sole discretion.

(c) No person shall function as a Fire Safety Inspector for the City unless that person possesses a certificate in accordance with Ohio R.C. 3737.34 as a Certified Fire Safety Inspector. (Ord. 113-2014. Passed 1-27-15.)

1501.05 DUTIES OF THE BUREAU.

(a) The duties of all Fire Safety Inspectors shall include: the inspection of industrial and commercial structures, regulated by the Ohio Basic Building Code, under construction within the City, prior to the issuance of a Certificate of Occupancy by the Division of Building, Zoning and Housing; inspections of all existing non-residential structures and common areas of any multi-family residential structure within the City to determine potential life hazards, fire hazards, or conditions that will affect or interfere with safe firefighting operations; and to prescribe remedies for such hazardous conditions through the enforcement of the Fire Prevention Code.

(b) A Fire Safety Inspector shall issue parking violations, in accordance with Part Three, Traffic Violations of the Codified Ordinances of the City, to parties parked in fire lanes or blocking fire hydrants and other fire protective equipment.

(c) With the consent of the owner or legal occupant, or with a properly granted search warrant, a Fire Safety Inspector may, at all reasonable hours, enter into all buildings and upon all premises and vehicles within their jurisdiction for the purpose of examination.

(d) No person, who is not a Certified Fire Safety Inspector officially designated by the Mayor, shall act as such or hold himself or herself out to be such, or function in a capacity equal to such.

(e) The duties of all Fire Safety Inspectors shall also include the investigation of all fires or other similar incidents, when requested by the Building Commissioner or the Chief of Fire.

(f) A report of all Fire Safety Inspectors' activities shall be prepared and transmitted to the Building Commissioner on a quarterly and annual basis.

(Ord. 113-2014. Passed 1-27-15.)

1501.06 ESTABLISHMENT OF THE FIRE PREVENTION CODE .

(a) The Fire Prevention Code for the City of Richmond Heights is hereby established and shall encompass all the requirements of the Ohio Fire Code, any standards or technical bulletins adopted by the Ohio Fire Code, and all provisions of Part Fifteen, Fire Prevention Code. From the time this chapter shall take effect, the provisions of the Fire Prevention Code shall govern the City.

(Ord. 43-97. Passed 5-27-97.)

(b) There is hereby adopted by this Municipality, the Ohio Fire Code, as adopted by the Ohio Division of State Fire Marshal, Department of Commerce, effective December 15, 2017, as published in Division 1301:7 of the Ohio Administrative Code.

(Ord. 97-2018. Passed 8-28-18.)

(c) The adoption of the Ohio Fire Code by subsection (b) hereof shall not limit or prevent the enforcement of the Ohio Fire Code through the Ohio Department of Commerce, Division of State Fire Marshal.

(Ord. 43-97. Passed 5-27-97.)

1501.07 APPLICATION OF THE FIRE PREVENTION CODE.

(a) The Fire Prevention Code as adopted herein applies to the use of all lands and properties within the City.

(b) All occupancies shall be brought up to the current fire safety requirements of the Fire Prevention Code upon change of use or occupancy, upon change in ownership of the business, or before a new Certificate of Occupancy is issued.

(Ord. 43-97. Passed 5-27-97.)

1501.08 ENFORCEMENT OF THE FIRE PREVENTION CODE.

(a) The Fire Prevention Code shall be enforced by the Division of Building, Zoning and Housing.

(b) All Fire Safety Inspectors shall enforce the Fire Prevention Code according to the policies and procedures as approved by the Building Commissioner.

(c) When a Fire Safety Inspector finds conditions that are contrary to this Code, the Fire Safety Inspector shall cause a Notice of Fire Code Violation to be issued. Such notices shall specify the nature of the violation, the necessary corrective measures, and the allowed amount of time to correct the violation.

(d) A Fire Safety Inspector, upon examination or inspection, shall cause an Order To Repair to issue when conditions as specified in Ohio R.C. 3737.41 are found which are especially dangerous to the safety of persons, buildings, premises, or property, and shall cause any necessary remedial orders to issue in connection therewith. When an Order to Repair has been issued, a follow-up inspection shall be conducted, and each follow-up inspection shall be considered a separate inspection and shall be charged as such.

(e) A Fire Safety Inspector shall cause a citation to issue after investigation or inspection reveals conditions in violation of the Fire Prevention Code exist after notification that a Fire Code violation exists. The citation shall be issued to the responsible person.

(Ord. 113-2014. Passed 1-27-15.)

1501.09 INSPECTION FEES.

(a) When an Order to Repair has been issued, the Fire Safety Inspector shall reinspect the property at the time interval specified on the Order. If the Inspector finds the conditions have not been corrected, a reinspection fee of one hundred dollars (\$100.00) shall be charged for each reinspection.

(b) A Fire Safety Inspector may waive, at their sole discretion, the reinspection fee if a good faith effort has been shown in correcting the conditions.

(Ord. 43-97. Passed 5-27-97.)

1501.10 COMPLIANCE WITH FIRE PREVENTION CODE; PENALTY.

(a) No person or entity shall violate any provision of the Fire Prevention Code as adopted herein or any order issued pursuant thereto.

(b) No person or entity shall fail to comply with fire prevention measures or fire protection activities as prescribed in the Fire Prevention Code, or fail to obtain a permit or license for the various uses or activities as required by such Code, or fail to comply with the Municipal application and plan submission and processing requirements, including payment of the fees designated therefor.

(Ord. 43-97. Passed 5-27-97.)

(c) It shall be unlawful for any person or entity to remove a notice posted by a Fire Safety Inspector identifying a life or fire hazard. The responsible person shall be fined not less than three hundred dollars (\$300.00) when a posted notice has been removed.

(d) Any person or entity who violates this chapter shall be guilty of a misdemeanor of the first degree in addition to any other penalties contained herein.

(Ord. 76-2003. Passed 9-23-03.)

1501.11 CONFLICT WITH OTHER CODES.

(a) When a conflict arises between the Ohio Basic Building Code and the Ohio Fire Code, the Code providing a higher degree of safety shall prevail.

(b) In all other cases of conflict between the Ohio Fire Code and any other Municipal ordinance or technical Code adopted thereby, the provision providing a higher degree of safety shall prevail.

(Ord. 43-97. Passed 5-27-97.)

1501.12 VARIANCES.

Upon application received in writing by the owners or lessees of a property, or their duly authorized agents, when there are practical difficulties in the way of carrying out the strict letter of the Code, provided that the spirit of such Code shall be observed, public safety secured and substantial justice done, a Fire Safety Inspector may, with approval of the Building Commissioner, grant a variance for a Code provision. The variance shall be in writing and the reasons for the variance shall be stated.

(Ord. 113-2014. Passed 1-27-15.)

1501.13 APPEALS.

(a) The Board of Fire Code Appeals is hereby established consisting of members and alternate members of the Architectural Review Board as appointed by the City, by reason of education, experience, and knowledge, and are deemed to be competent to sit in judgment on matters concerning this Code. The Board of Fire Code Appeals shall provide for reasonable interpretation of the provisions of this Code and rule on appeals from decisions of the Fire Safety Inspectors.

(b) The Board of Fire Code Appeals shall meet whenever requested by the Bureau to interpret provisions of this Code, and to consider and rule on any properly filed appeal from a decision of a Fire Safety Inspector, giving at least five days notice of hearing, but in no case shall fail to meet on an appeal within thirty days of the filing of the appeal.

(c) Whenever a Fire Safety Inspector disapproves an application for variance from the Fire Prevention Code, refuses to grant a permit, or when it is claimed that the provisions of the Code do not apply, or that the true intent and meaning of the Code have been misconstrued or wrongly interpreted, the applicant so affected may make a written request for an appeal hearing within twenty days of being notified of the decision. The appeal shall be in writing, shall be filed with the Commissioner of Building and Zoning, shall outline the issues to be presented as well as the Code provision from which relief is sought, shall state the reasons for such relief, and shall state the remedy proposed. The Board of Fire Code Appeals shall render a decision based on testimony submitted by all affected parties. Such decision shall be served by U.S. Certified Mail, Return Receipt requested.

(d) When an appeal has been filed, the enforcement of any non-threatening condition will be held in abeyance until such time as the appeal is heard and a decision has been rendered. Any conditions that create a serious threat to life, property, or public welfare shall be corrected immediately, regardless of the appeal. It shall be the sole discretion of the Fire Safety Inspector as to the severity or threat of the condition.

(Ord. 43-97. Passed 5-27-97.)

1501.14 SEPARABILITY.

All sections, subsections, parts, and provisions of this chapter and of the Codes adopted by this chapter are hereby declared to be independent sections, subsections, parts, and provisions, and the holding of any section, subsection, part, or provision to be unconstitutional, void, or ineffective for any cause shall not affect or render invalid any other section, subsection, part, or provision thereof.

(Ord. 43-97. Passed 4-3-97.)

1501.15 FILE CONFIDENTIALITY AND REPRODUCTION.

(a) A record of examinations, approvals, and variances granted shall be maintained by the Bureau. The Bureau shall also keep a record of all fire safety inspections, including the date of the inspection, and a summary of the violations found to exist, and a record of the final disposition of all violations.

(b) The cost of reproducing information contained in Bureau files is twenty five cents (\$0.25) per page.

(c) All records required to be kept shall be maintained until their usefulness has been served, for as long as the occupancy is in existence within the City, or as otherwise may be required by law.

(d) Whosoever violates this section will be criminally prosecuted in accordance with Section 545.14 .

(Ord. 43-97. Passed 4-3-97.)

CHAPTER 1503

Plan Review and Permits

1503.01 Plan review.

1503.02 Permits required.

1503.03 Bureau notification.

1503.99 Penalties.

1503.01 PLAN REVIEW.

(a) All blueprints, drawings, or other sketches for buildings regulated by the Ohio Basic Building Code received by the Division of Building and Zoning for construction, erection, and/or alteration shall be submitted for review by the Fire Prevention Bureau. When such submitted plans have been found to conform to the provisions of the Fire Prevention Code, and all other Codes or standards adopted by the Bureau pertaining to fire protection, fire safety, life safety, and fire extinguishment, such plans shall be stamped as approved. When plans are submitted that do not conform to such Codes, a list of deficiencies shall be written and attached to the submitted plans. The owner of such plans, his representative or designated person shall be responsible for compliance with the deficiencies and must submit revised plans, addenda, or other data to show evidence of Code compliance with the applicable provisions of the Codes.

(b) The construction, erection, and/or alteration of a building regulated by the Ohio Basic Building Code and the equipment and maintenance thereof, shall conform to the required plans which have been approved by the Fire Prevention Bureau. When the Bureau finds work or equipment that is contrary to such approved plans, the Commissioner of Building and Zoning shall be notified and the owner, occupant, builder, or other responsible person shall be given a specific time period in which to conform to such plans. The building, or part thereof, shall not be occupied until such violations are corrected and approved by the Bureau.

(c) The responsibility of all Code compliance issues is incumbent upon the owner, operator, builder, contractor, or other responsible person for the premises. Failure to identify a deficiency of the Code during the plan review process does not relieve the owner, occupant, builder, or other responsible person from complying with the applicable Codes or laws. The Fire Department, Fire Prevention Bureau, and the City shall not be held liable for such occurrences.

(Ord. 43-97. Passed 5-27-97.)

1503.02 PERMITS REQUIRED.

(a) No work, of any type, shall be performed on any fire protection equipment or other equipment, appliances, or items pertaining to fire or life safety without first obtaining a permit for such work from the Bureau. Permit applications shall be filed in accordance with Bureau policy. Emergency work shall comply to the requirements of Section 1503.03 (b).

(b) There is no fee for permits required by the Bureau, unless otherwise stated in another section of this Code. Failure to obtain a permit will result in a fine of one hundred dollars (\$100.00).

(c) When a permit is issued for work, the person or entity to whom the permit was issued shall, within ten calendar days, submit written proof to the Bureau the work was performed. Failure to comply with this section shall result in a fine of twenty-five dollars (\$25.00).

(d) All persons planning to perform work within the City shall be responsible for verifying the need for a permit before any work is performed. The absence of a permit listed in the Code does not relieve any contractor from the responsibility of obtaining the necessary permits.

(Ord. 43-97. Passed 5-27-97.)

1503.03 BUREAU NOTIFICATION.

(a) All contractors doing required, regularly scheduled service within the City, on any fire protective equipment or other equipment that may affect life or fire safety, shall notify the Bureau at least forty-eight hours in advance of the scheduled work. Examples of such work shall include, but not be limited to chemical agent suppression systems tests, sprinkler tests, or alarm tests. Submittal of the permit application form will be accepted as notification, providing such permit is approved.

(b) All contractors doing emergency service within the City, on any fire protective equipment or other equipment that may affect life or fire safety, shall notify the Bureau as soon as practically possible. Submittal of the permit application form will be accepted as notification.

(c) When a contractor is performing service work that is required at certain time intervals, such as chemical agent suppression systems tests, sprinkler tests, and alarm tests, the contractor who last performed the service shall notify the Bureau, in writing, when a required test, inspection, or other work is more than thirty days overdue. This section shall include all required tests, inspections, or services, not just the items listed above.

(d) Any contractor failing to comply with this section shall be fined one hundred dollars (\$100.00) for a first offense, and two hundred fifty dollars (\$250.00) for subsequent offenses.

(Ord. 43-97. Passed 5-27-97.)

1503.99 PENALTIES.

(a) All persons or entities failing to obtain permits are guilty of a misdemeanor of the first degree.

(b) All persons or entities failing to comply with all other provisions of this chapter are guilty of a misdemeanor of the first degree.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1505

General Requirements and Precautions Against Fire

1505.01 Fire damaged premises and structures.

1505.02 Vacant structures.

1505.03 Duty to report a fire.

1505.04 False alarm of fire.

1505.05 Open burning.

1505.06 Grills, use prohibited.

1505.07 Fireworks.

1505.08 Decorations in non-residential occupancies.

1505.09 Commercial cooking exhaust system.

1505.10 Accumulation of combustible materials.

1505.11 Lock box required.

1505.12 Tar kettles.

1505.13 Address markings.

1505.99 Penalties.

1505.01 FIRE DAMAGED PREMISES AND STRUCTURES.

(a) All premises within the City wherein a fire has occurred, and either interior or exterior damage to the building or structure has been suffered, is hereby declared to be a public nuisance. Such nuisance may be summarily abated or the premises condemned for occupancy by the Director of Public Safety when he has determined that a hazard to the public health or safety exists, and may be abated in the manner provided in the Codified Ordinances of the City. In either case, prior to such abatement, the premises shall first be inspected by the Building Commissioner and the Fire Chief, or their duly authorized representatives, and each shall make written recommendations to the Director of Public Safety as to specific work to be performed in order to properly abate such nuisance and to protect the public health and safety. The Director of Public Safety shall follow such recommendations to the extent possible in abating such nuisances.

(b) The Municipality hereby authorizes the procedures described in Ohio R.C. 3929.86 (C) and (D) to be implemented whereby no insurance company doing business in the State shall pay a claim of a named insured for fire damage to a structure located within the Municipality unless the applicable provisions of the Ohio R.C. 3929.86 are fully complied with. The Director of Finance is hereby designated as the officer authorized to carry out the duties of Ohio R.C. 3929.86.

(Ord. 43-97. Passed 5-27-97.)

1505.02 VACANT STRUCTURES.

(a) Every person owning or having charge or control of any vacant building shall remove all combustible waste and refuse, remove all flammable products or any other materials that represent a potential hazard therefrom, and lock, barricade, or otherwise secure all windows, doors, and other openings in the building to prohibit entry by unauthorized persons.

(b) Buildings that are vacant shall maintain all required fire protection systems in service.

(c) The Bureau shall have the authority to require an inspection and test of any fire protection system that is in a building or portion thereof that has been vacant for more than thirty days before the building or portion is again occupied.

(Ord. 43-97. Passed 5-27-97.)

1505.03 DUTY TO REPORT A FIRE.

(a) The owner, operator, or lessee, an employee of any owner, operator, or lessee, an occupant, and any person in direct control of any building regulated by the Ohio Building Code, or the owner or occupant of any residential structure, or any person within any residential structure, upon the discovery of an unfriendly fire, or upon receiving information that there is or may be an unfriendly fire on the premises, shall immediately, and with all reasonable dispatch and diligence, call or otherwise notify the Fire Division concerning the fire, and shall spread an alarm immediately to all occupants of the building. No person or entity shall, after being notified of a fire, attempt to control the fire in any manner without first ensuring the Fire Division is being or has been notified.

(b) Whenever an alarm monitoring station receives an alarm signal, it shall be assumed the alarm is functioning correctly and reporting an actual fire condition. The alarm monitoring station shall notify the Fire Division immediately, as the first party to be notified, of the alarm condition. All other parties to whom notification is requested shall be contacted only after the Fire Division is notified. Any alarm monitoring station failing to comply with this section shall be assessed a fine of at least five hundred dollars (\$500.00), but not more than one thousand dollars (\$1000.00).

(c) For the purpose of this section, the term "unfriendly fire" means a fire of destructive nature as distinguished from a controlled fire intended for a beneficial purpose.

(d) No person or entity shall fail to comply with this section.

(Ord. 43-97. Passed 5-27-97.)

1505.04 FALSE ALARM OF FIRE.

(a) It shall be unlawful for any person to give or assist in giving a false alarm of fire or to proclaim that any fire is extinguished when it is not. Malicious activation of any fire alarm device is considered turning in a false alarm.

(b) When an alarm has been turned in that is not reporting an actual fire condition, the person turning in the alarm shall immediately notify the person or persons responsible for the premises. The responsible parties shall then immediately notify the Fire Division. Failure to comply with this section shall be considered the same as turning in a false alarm.

(Ord. 43-97. Passed 5-27-97.)

1505.05 OPEN BURNING.

All open burning shall conform to the requirements of the Ohio Fire Code. All provisions of that Code pertaining to open burning shall apply equally to residential uses as it does to non-residential uses.

(Ord. 43-97. Passed 5-27-97.)

1505.06 GRILLS, USE PROHIBITED.

(a) No person or entity shall kindle or maintain a fire for the preparation of food or any other purpose in any type of outdoor or portable grill in any dwelling or upon any balcony or common walkway of a multi-family dwelling, or within 15 feet of any multi-family dwelling.

(b) No person or entity shall store liquefied petroleum gas (LPG) grills and/or cylinders, any other type of compressed fuel cylinder, or any other type of grill fire starting liquids in any dwelling unit or upon any balcony or common walkway of a multi-family dwelling, or within 15 feet of any multi-family dwelling.

(Ord. 43-97. Passed 5-27-97.)

1505.07 FIREWORKS.

The use of all fireworks, as defined by the Ohio Fire Code, shall conform to all requirements of the said Code.

(Ord. 43-97. Passed 5-27-97.)

1505.08 DECORATIONS IN NON-RESIDENTIAL OCCUPANCIES.

(a) Decorative materials used in all non-residential occupancies shall be either noncombustible or flame resistant, except any material permitted by the Ohio Fire Code (OAC 1301:7) or Ohio Basic Building Code (OAC 4101:2).

(b) Natural cut Christmas trees shall not be permitted in assembly, educational, health care, residential boarding and care, institutional, mercantile, hotel, or dormitory occupancies. Living trees in a balled condition

with their roots protected by an earth ball are permitted as long as they are maintained in a fresh condition and not allowed to become dry.

- (c) Christmas trees or other similar decorations shall not obstruct any exit, means of egress, or other exit way.

(Ord. 43-97. Passed 5-27-97.)

1505.09 COMMERCIAL COOKING EXHAUST SYSTEMS.

(a) The hood, duct work, plenum, fan assemblies, and filters shall be cleaned on a regular basis to remove deposits of grease and other residue. The cleaning process shall utilize positive cleaning methods such as scraping and brushing. All components of any fire detection or fire suppression system shall be protected during the cleaning process.

- (b) A permit is required for all hood cleaning services in accordance with Section 1503.02 .

(c) A cleaning schedule shall be maintained by the responsible person of the occupancy where an exhaust system exists. The cleaning schedule shall indicate the method of cleaning, chemicals used in the cleaning process, and the time intervals between cleanings.

(d) "Mesh style" air filters do not sufficiently filter the grease from the cooking vapor and are hereby declared a public nuisance. All commercial cooking exhaust systems shall have a "baffle design" filter meeting the requirements of the Ohio Fire Code and the referenced technical standard installed. This requirement shall be retroactive to all cooking systems located within the City. A time limit of six months from the effective date of this section shall be granted for compliance.

(Ord. 43-97. Passed 5-27-97.)

1505.10 ACCUMULATION OF COMBUSTIBLE MATERIALS.

No person or entity shall permit the accumulation of combustible materials above the amount necessary for normal business operation. "Stockpiling" of materials is prohibited.

(Ord. 43-97. Passed 5-27-97.)

1505.11 LOCK BOX REQUIRED.

(a) Other than at one-, two-, and three-family dwellings, an approved lock box shall be provided at all occupancies with a fire alarm system, automatic sprinkler system, or fire suppression system, or any other type of fire protection system that will notify the Division of Fire of an activation of that system.

- (b) The lock box will be mounted in an approved location.

(c) The box shall contain entry keys for the occupancy, including all interior doors and locks. The responsible person shall immediately notify the Division of Fire and provide new keys any time a lock is changed or rekeyed, and that key is contained in the lock box. In the event the Division of Fire responds to a call where a lock box is provided, and the access keys do not function properly, the occupancy shall be fined fifty dollars (\$50.00) for the first offense and one hundred dollars (\$100.00) for each subsequent offense.

(d) Residential Lock Box Program. A residential lock box program is authorized and approved by the Council of the City of Richmond Heights, and, therefore, an owner of a single- family home within the City of Richmond Heights may, at the owner's sole discretion purchase a lock box through a vendor that has been designated and approved by the City of Richmond Heights, Division of Fire, and grant the Division of Fire personnel and other first responders pre- authorized entry to the home in the event of an emergency.

(Ord. 42-2013. Passed 8-13-13.)

1505.12 TAR KETTLES.

- (a) Operating kettles shall not be located inside of or on the roof of any building.

- (b) The kettle shall be operated in a controlled area, identified by the use of barricades, cones, or other barrier markings.

(c) Each operating kettle shall be attended by a minimum of one person knowledgeable in the operation of said kettle, as well as the hazards associated with it. The attendant shall be within twenty five feet of the kettle and have the kettle in sight at all times.

(d) Two approved fire extinguishers with a minimum U.L. rating of 60BC shall be provided and maintained no closer than ten feet, but no more than thirty feet of each operating kettle. Fire extinguishers shall be located and marked in a manner to be accessible and visible at all times.

- (e) Two separate and remote means of roof access/egress shall be provided at all locations where an operating tar kettle is located.

- (f) Roofing kettles shall not block exits, means of egress, gates, roadways, fire lanes, or entrances. In no case shall an operating kettle be located closer than twenty feet from an exit or means of egress.

(Ord. 43-97. Passed 5-27-97.)

1505.13 ADDRESS MARKINGS.

(a) Every structure in the City shall have posted in a conspicuous manner the identifying number thereof which has been assigned by the Building Commissioner. The numerals shall be not less than three and one-half inches in height with proportional stroke width and shall be of a contrasting color to the background. The numbers shall be mounted on the front elevation of the structure in the vicinity of the primary entrance so that it is clearly visible from the public right-of-way.

(b) Every structure having more than five units or suites with rear doors shall have the rear door marked with a portion of the address. For three and four digit addresses, the last two numbers shall be displayed. For five digit addresses, the last three digits shall be displayed. For structures having only one street address, the suite designation shall be displayed. Doors serving more than one suite shall be marked with all of the addresses or suite designations. The numbers shall be not less than three and one-half inches in height with proportional stroke width and shall be of a contrasting color to the background.

(Ord. 43-97. Passed 4-3-97.)

1505.99 PENALTIES.

Whosoever violates any of the provision of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1507

Storage

1507.01 Underground storage tanks.

1507.02 Vehicle storage.

1507.03 Storage limits.

1507.04 Storage and sale of Christmas trees.

1507.05 Storage heights and limitations.

1507.06 Storage of propane gas tanks.

1507.99 Penalties.

1507.01 UNDERGROUND STORAGE TANKS.

(a) All underground storage tanks shall conform to all requirements set forth by the State of Ohio, including but not limited to the Ohio Fire Code and the Bureau of Underground Storage Tank Regulations.

(b) The Bureau may require that any or all flammable liquid storage tanks and piping be inspected by the State of Ohio, Department of Commerce, Division of State Fire Marshal, Bureau of Underground Storage Tank Regulations. All tests ordered will be performed at the expense of the owner/operator.

- (c) The installation of new storage tanks shall conform to all state requirements.

- (d) The Fire Division shall be notified immediately of any spillage or leakage of a flammable liquid more than five gallons in quantity.

(Ord. 43-97. Passed 5-27-97.)

1507.02 VEHICLE STORAGE.

(a) No person or entity shall park any fuel powered vehicle in any room, or on any landing or patio of any multi-family dwelling, or within twenty feet of any multi-family dwelling, or any commercial building or structure regulated by the Ohio Basic Building Code, unless parked in an approved and designated parking space or in a building approved and designated for the parking or repair of motor vehicles.

(b) In all buildings, other than one-family, two-family and three-family houses and garages accessory thereto, where space is provided for the storage of motor vehicles, the

following protective measures shall be followed:

- (1) The lawful capacity of each storage space shall be the number of vehicles which can be stored therein without blocking any aisle or exit. Storage of vehicles shall be so arranged and limited that each vehicle shall have free access from its parking space without necessitating the moving of any other vehicle

- (2) A sign indicating the capacity, as determined above, shall be conspicuously posted near each entrance and exit of each storage space, in letters and figures not less than four inches, with a proportional stroke width.

- (3) No person or entity owning or being in charge or control of the storage space shall store or park or cause or knowingly permit to be stored or parked in the storage space, at any time, a number of vehicles exceeding the capacity of the storage space determined as hereinbefore provided.

- (4) No automotive repairs of any kind shall be made in any basement or subbasement garage, or in any garage connected to an occupied commercial or multi-family building or portion thereof.

(Ord. 43-97. Passed 5-27-97.)

1507.03 STORAGE LIMITS.

(a) Storage of flammable liquids shall conform to all requirements of the Ohio Fire Code and the Codified Ordinances of the City.

(b) New bulk plants for the storage of flammable liquids are prohibited within the City.

(c) Bulk storage of liquefied petroleum gas is prohibited within the City.

(d) Storage of explosives and blasting agents shall conform to all requirements of the Ohio Fire Code and the Codified Ordinances of the City.

(Ord. 43-97. Passed 5-27-97.)

1507.04 STORAGE AND SALE OF CHRISTMAS TREES.

The storage and sale of natural Christmas trees within fifty feet of building or structure regulated by the Ohio Basic Building Code is prohibited.

(Ord. 43-97. Passed 5-27-97.)

1507.05 STORAGE HEIGHTS AND LIMITATIONS.

(a) All storage shall be limited in height to the following requirements:

- (1) In non-sprinklered structures, storage shall not be closer than twenty- four inches to the ceiling.

- (2) In sprinklered structures, storage shall not be closer than eighteen inches to the ceiling.

- (3) In warehouse and similar storage conditions, storage shall not be closer than thirty-six inches to the ceiling.

- (4) In all cases, storage shall not be higher than twelve feet from floor level.

(b) All storage areas shall have a red two inch stripe painted around the perimeter of the room indicating the appropriate maximum storage height as indicated above.

(Ord. 43-97. Passed 5-27-97.)

1507.06 STORAGE OF PROPANE GAS TANKS.

(a) No person, firm or corporation shall engage in or carry on the business of storing, for commercial sale or exchange, filled propane gas tanks or gas cylinders larger than thirty pounds or to sell or exchange such items within the City.

(b) Any person, firm or corporation that engages in or carries on the business of storing, for commercial sale or exchange, filled propane gas tanks or gas cylinders of thirty pounds or less each or sells or exchanges such items within the City shall adhere to the following regulations:

- (1) Any storage outside of buildings or filled propane gas tanks or gas cylinders awaiting use, resale or part of a tank or cylinder exchange program shall be located not less than: twenty feet from any existing access

doors, exits, stairways, windows, areas normally used, or intended to be used, as a means of egress, or other openings into buildings; twenty feet from any motor vehicle fuel dispenser; and ten feet from any combustible materials. A minimum distance of twenty-five feet shall be maintained between the storage area and any public right-of-way or lot line of property has a structure upon it or can be built upon.

- (2) Filled propane gas tanks or gas cylinders at locations accessible to the public shall be protected by a lockable, ventilated, noncombustible enclosure that prevents tampering with valves and pilferage of the tanks or cylinders. Such an enclosure shall be kept locked at all times and only unlocked by a person authorized by the business to dispense the tanks or cylinders.
- (3) Any storage outside of buildings of filled propane gas tanks or gas cylinders awaiting use, resale or part of a tank or cylinder exchange program shall not exceed two storage enclosures. A maximum total of 750 pounds of propane and/or gas is permitted to be stored outside of buildings.
- (4) Protection of said enclosures against vehicle impact shall be provided pursuant to the direction of the Fire Safety Inspector in situations where vehicle traffic normally is expected at an enclosure site. Protection of enclosures from vehicles shall consist of one or more six-inch diameter pipes filled with concrete as specified by the Fire Safety Inspector. These pipe stanchions shall be six feet in length and located no more than four and one-half feet apart unless otherwise specified by the Fire Safety Inspector. Three feet of these stanchions shall be installed below grade, pursuant to the Fire Safety Inspector's direction, and the three feet appearing above grade shall be painted the color of yellow identified by the Occupational Safety and Health Administration.
- (5) A permit shall be obtained from the Division of Building, Zoning, and Housing for any storage permitted by this section and a site plan showing the exact location of the storage enclosure(s) in relation to the items set forth in subsection (b)(1) above shall be submitted with the permit application.
- (6) "No Smoking" signs and hazardous materials signs indicating the hazard severity shall be posted under the Fire Safety Inspector's direction.
- (7) All storage permitted by this section shall comply with Section 3809.11 of the 2003 edition of the International Fire Code.
(Ord. 44-2005. Passed 8-30-05.)

1507.99 PENALTIES.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1509

Means of Egress

1509.01 Scope.

1509.02 Unsafe means of egress.

1509.03 Owner responsibility.

1509.04 Occupant load posting.

1509.05 Overcrowding.

1509.06 Continued maintenance.

1509.07 Exterior egress.

1509.08 Egress alteration requirements.

1509.09 Areas under repair.

1509.10 Obstructions to egress.

1509.11 Displays in means of egress.

1509.12 Storage in means of egress.

1509.13 Locking of means of egress.

1509.14 Illumination of means of egress.

1509.15 Emergency illumination of means of egress.

1509.16 Exit signs required.

1509.17 Operator responsibility.

1509.99 Penalties.

1509.01 SCOPE.

The provisions of this chapter shall govern the maintenance and utilization of means of egress and provide the minimum requirements for means of egress. These requirements shall be in addition to the Ohio Fire Code and Ohio Basic Building Code.

(Ord. 43-97. Passed 5-27-97.)

1509.02 UNSAFE MEANS OF EGRESS.

In any structure in which the means of egress are deemed inadequate for safety by the Code official, additional provisions shall be made for the safe means of egress as the Code Official shall order.

(Ord. 43-97. Passed 5-27-97.)

1509.03 OWNER RESPONSIBILITY.

The owner, lessee, or responsible person of every structure shall be responsible for the safety of all persons in or occupying such premises with respect to the adequacy of means of egress therefrom.

(Ord. 43-97. Passed 5-27-97.)

1509.04 OCCUPANT LOAD POSTING.

An assembly or educational occupancy shall be posted with an approved legible sign in contrasting colors conspicuously located near the main point of egress from the room or space stating the number of occupants permitted within such space. The number on the sign shall be calculated in accordance with the provisions of the Ohio Basic Building Code. The responsible person shall be responsible for posting and maintaining such signs. Whoever violates this section shall be fined two hundred fifty dollars (\$250.00).

(Ord. 43-97. Passed 5-27-97.)

1509.05 OVERCROWDING.

A person shall not permit overcrowding or admittance of any person beyond the approved occupant load. The Code official, upon finding overcrowded conditions or obstructions in aisles, passageways, or other means of egress, or upon finding any condition which constitutes a hazard to life and safety, shall cause the occupancy, performance, presentation, spectacle, or entertainment to be stopped until such a condition or obstruction is corrected and the addition of any further occupants prohibited until the approved occupant load is reestablished. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.06 CONTINUED MAINTENANCE.

All means of egress devices and safeguards which are required by this Code or another Code shall be maintained in good working order. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.07 EXTERIOR EGRESS.

All exit discharge, exterior stairways, and fire escapes shall be kept clear of snow and ice. Any fire escape or exterior stairway found to be in a state of deterioration or determined to be unsafe by the Code official shall be repaired immediately. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.08 EGRESS ALTERATION REQUIREMENTS.

A structure shall not be occupied or altered in any manner that will reduce the number of means of egress or the capacity of the means of egress below that which is required for the structure according to the building Code. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.09 AREAS UNDER REPAIR.

Structures shall not be occupied during repairs or alterations unless all means of egress serving the area under repair are continuously maintained or other approved measures are taken to provide equivalent safety. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.10 OBSTRUCTIONS TO EGRESS.

The means of egress from each part of the structure, including exits, stairways, egress doors, and any panic hardware installed thereon, aisles, corridors, passageways, and similar elements of the means of egress, shall at all times be maintained in a safe condition and available for immediate utilization and free of all obstructions. Security devices affecting means of egress shall be subject to approval by the Code official. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.11 DISPLAYS IN MEANS OF EGRESS.

Aisles, passageways, or stairways, in any structure shall not be obstructed with tables, showcases, Christmas trees, vending machines or other obstructions during hours when the structure is open to the public, nor shall obstructions be located in such a manner to interfere with firefighting access. Display boards, signs, coat racks and any other movable equipment that obstructs the path of egress travel shall be prohibited. A mirror shall not be placed in or adjacent to any means of egress in such a manner as to confuse the direction of egress. Draperies and similar hangings shall not obscure an exit. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.12 STORAGE IN MEANS OF EGRESS.

Storage is prohibited in any means of egress, within ten feet of any means of egress, or hanging from any ceiling within ten feet of a means of egress. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.13 LOCKING OF MEANS OF EGRESS.

All means of egress doors shall be readily operable from the side which egress is to be made without a key, special tool, or special knowledge, except as provided for in the Ohio Fire Code or Ohio Basic Building Code. Whoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.14 ILLUMINATION OF MEANS OF EGRESS.

All means of egress shall be continuously and adequately illuminated with artificial light to allow ease of egress. Whosoever violates this section shall be fined two hundred fifty dollars (\$250.00).

(Ord. 43-97. Passed 5-27-97.)

1509.15 EMERGENCY ILLUMINATION OF MEANS OF EGRESS.

All means of egress shall be provided with emergency lighting for a power failure. All emergency lighting shall have the capacity to provide a minimum illumination of ninety minutes. Whosoever violates this section shall be fined two hundred fifty dollars (\$250.00).

(Ord. 43-97. Passed 5-27-97.)

1509.16 EXIT SIGNS REQUIRED.

All means of egress shall be indicated with an approved exit sign. All exit signs shall be visible and illuminated whenever the structure is occupied. All exit signs must be capable of providing a minimum of ninety minutes of operation during a power failure. Whosoever violates this section shall be fined two hundred fifty dollars (\$250.00).

(Ord. 43-97. Passed 5-27-97.)

1509.17 OPERATOR RESPONSIBILITY.

The operator or responsible person for of each occupancy shall check the egress facilities before such building is occupied to determine compliance with this section. If said inspection reveals that any element of the required means of egress cannot be accessed, is obstructed, locked, fastened, or otherwise unsuited for immediate utilization, admittance to the building shall not be permitted until necessary corrective measures have been completed. Whosoever violates this section shall be fined one thousand dollars (\$1000.00).

(Ord. 43-97. Passed 5-27-97.)

1509.99 PENALTIES.

Whosoever violates any section of this chapter for which no other penalty has been provided is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1511

Fire Suppression Equipment

1511.01 Registration of fire protective equipment contractors required.

1511.02 Tampering with fire protective equipment.

1511.03 Acceptance test required.

1511.04 Commercial cooking fire suppression systems.

1511.05 Discontinued systems.

1511.06 Water based fire protective equipment.

1511.07 Standpipe systems.

1511.08 Wall hydrants.

1511.09 Systems out of service.

1511.10 Water supply and hydrant regulations.

1511.99 Penalties.

1511.01 REGISTRATION OF FIRE PROTECTIVE EQUIPMENT CONTRACTORS REQUIRED.

All fire protection equipment contractors are required to register with the Division of Building and Zoning, and shall be subject to all the provisions of Chapter 1335 , "Contractor Registration, Procedure, Suspension, and Revocation" of Part 13, Building Code, of the Codified Ordinances for the City.

(Ord. 43-97. Passed 5-27-97.)

1511.02 TAMPERING WITH FIRE PROTECTIVE EQUIPMENT.

(a) No person or entity shall tamper with, cause damage to, or interfere with the effectiveness of any fire alarm box or attachments to any fire alarm system or any smoke detector, carbon monoxide detector, fire extinguisher, emergency light or units, exit light unit, sprinkler system, standpipe, fire suppression system, fire hydrant, or any other public emergency safety equipment. The titled owner or, in the event the premises is leased, the tenant of record shall be responsible for any equipment set forth in this section which is found to be tampered with within any dwelling unit.

(b) Notwithstanding the penalties set forth in Section 1511.99 , any person found to have violated this section by damaging, tampering with, disconnecting, or otherwise altering a smoke detector or carbon monoxide detector shall be required to purchase and install an approved tamper resistant smoke detector or carbon monoxide detector guard. Any person found to have damaged, tampered with, disconnected, or otherwise altered the smoke detector or carbon monoxide detector after the installation of an approved tamper resistant smoke detector or carbon monoxide guard shall be guilty of a misdemeanor of the first degree.

(Ord. 43-97. Passed 5-27-97.)

1511.03 ACCEPTANCE TEST REQUIRED.

(a) All newly installed fire protection equipment including, but not limited to sprinkler systems, standpipe systems, chemical agent extinguishing systems, and fire detection systems, is subject to a new installation acceptance test.

(b) All existing fire protection equipment that is modified in any manner shall be subject to a modified system acceptance test.

(c) The acceptance test shall include the operation of all system parts that will likely function during a fire situation. The contractors performing such test shall discuss, with the Bureau, the specific requirements of the acceptance at least seventy-two hours in advance of the test.

(d) Acceptance tests shall be scheduled at least seventy-two hours in advance with the Bureau.

(Ord. 43-97. Passed 5-27-97.)

1511.04 COMMERCIAL COOKING FIRE SUPPRESSION SYSTEMS.

(a) All commercial cooking fire suppression systems shall be maintained in accordance with the Ohio Fire Code.

(b) Upon change of occupancy, use, or ownership, or upon change of cooking method, the occupant shall furnish the Bureau with acceptable documentation indicating the hood fire suppression system currently in place meets the current test requirements of Underwriter's Laboratories. If the system currently in place does not meet the requirements of Underwriter's Laboratories, the hood fire suppression system shall be changed, modified, or replaced to meet the current requirements.

(c) If the occupancy is protected by a fire alarm system, upon change of occupancy, use, or ownership, or upon change of cooking method, the fire alarm system shall activate whenever the hood fire suppression system is discharged.

(d) If the occupancy is not protected by a fire alarm system, upon change of occupancy, use, or ownership, or upon change of cooking method, an approved audio and/or visual device shall be installed in such location to provide adequate warning to the occupants of the tenant space. The alarm device shall be of an adequate volume to be heard over the normal noise volume of the establishment. The device shall have a permanent sign attached directly adjacent to the device reading "WHEN ALARM SOUNDS, EVACUATE BUILDING AND CALL FIRE DEPT."

(e) When a new suppression system is installed in a commercial cooking exhaust system, all parts or components of the suppression system that are subject to an inspection shall be installed in readily accessible locations. These parts shall include, but not be limited to the gas shut off valve, system cylinders, solenoids, or relays. The installation of these parts above the ceiling is strictly prohibited.

(f) In all cases where fire suppression system components were not properly protected during the cleaning process, a complete fire suppression system inspection and service shall be performed, regardless of the next scheduled service date.

(g) The owner or operator of a commercial cooking exhaust system shall make every attempt possible to schedule the exhaust system cleaning before the semi-annual fire suppression system test is performed. In all cases where the cleaning can not be performed before the semiannual fire suppression system test, a fire suppression system test shall be performed after the cleaning is completed, unless the detection devices show no signs of chemical exposure.

(h) In all cases where a commercial cooking fire suppression system fails to pass the semi-annual inspection, or parts of the system necessary to effect fire suppression fail to operate, the system shall be sealed, and the use of any and all cooking equipment protected by the fire suppression system shall be prohibited, until such time repairs can be made to make the fire suppression.

(i) All employees shall receive approved training in the use of the fire suppression on an annual basis. All new employees shall receive approved training on the fire suppression system before their first work shift.

(Ord. 43-97. Passed 5-27-97.)

1511.05 DISCONTINUED SYSTEMS.

Because the manufacturer of fire suppression systems known as "Safety First" is no longer in business, and parts for the proper maintenance of the system are no longer available, all owners or operators of a "Safety First" dry chemical fire suppression system shall have a time period of one year from the effective date of this section to replace the suppression system with an Underwriter's Laboratories approved suppression system.

(Ord. 43-97. Passed 5-27-97.)

1511.06 WATER BASED FIRE PROTECTIVE EQUIPMENT.

(a) All water based fire protective equipment shall be installed and maintained according to the Ohio Basic Building Code, Ohio Fire Code, and applicable NFPA Standards. All threads shall be Cleveland Standard hose thread.

(b) In situations where a water based fire protection system is located in such a manner as to protect more than one business or occupancy, the owner of the building shall be responsible for maintaining the system, regardless of any lease agreement or other agreement assignment. This section shall not limit the building owner, within the constraints of any binding agreement, from recovering maintenance costs from the tenants of record.

(c) All portions of a water based fire protection system that contains atmospheric pressure, and is not specifically addressed by subsection (a) hereof shall be subjected to a hydrostatic water test of 200 psi for two hours with no loss of pressure at five year intervals. This includes Fire Department Connections. EXCEPTION: Areas having less than ten feet of pipe containing atmospheric pressure, where all portions of the pipe are visible and accessible, except where passing through a wall, and where the pipe does not show any signs of breakage or decay.

(d) Portions of a water based fire protection system containing atmospheric pressure, including Fire Department Connections, meeting the exception of subsection (b) hereof shall undergo an air test to determine the integrity of the piping. Piping systems containing less than ten feet of pipe, where all of the pipe is visible and accessible, except where passing through a wall, shall be subjected to an air test at 10 psi below the static water pressure in the system. The test shall be held for two hours with a loss of less than 5% of the test pressure.

(e) At five year intervals, all wet sprinkler systems shall be drained completely to remove all possible foreign matter. Upon charging of the sprinkler system, all inspector test connections and auxiliary drains shall be opened and allowed to flow water, until such time that the water flows clean, and it is certain all air has been expelled from the piping.

(f) All water based fire protection systems that contain a Fire Department Connection shall have the connection clearly marked with a weather resistant and durable sign at least twelve inches wide and eighteen inches in height reading "FIRE DEPT. CONNECTION" OR "FDC" in large letters. The sign shall also indicate the type of system the connection supports, along with the areas of the building supplied by the connection. In occupancies having more than one connection, the connection number, as assigned by the Bureau shall be included on the sign. The final design of the sign and placement shall be approved by the Bureau.

(g) No person or entity shall plow, pile, or otherwise deposit snow within ten feet of a Fire Department Connection, suppression system control valve, fire hydrant, or other similar device. Whosoever violates this section shall be fined five hundred dollars (\$500.00).

(Ord. 43-97. Passed 5-27-97.)

(h) Each automatic sprinkler system, or portion thereof, installed in a storage area, loading dock, or other similar area of a building shall be designed to provide protection for "Ordinary Hazard, Group 2," as defined by National Fire Protection Association Standard 13, Installation of Sprinkler Systems, 1994 edition, as adopted by the Ohio Fire Code.

(i) Each automatic sprinkler system, or portion thereof, installed in kitchen and cooking areas of a building shall be designed to provide protection for "Extra Hazard, Group 1," as defined by National Fire Protection Association Standard 13, Installation of Sprinkler Systems, 1994 edition, as adopted by the Ohio Fire Code.

(Ord. 99-97. Passed 10-28-97.)

1511.07 STANDPIPE SYSTEMS.

(a) All standpipe systems shall be installed in accordance with the Ohio Basic Building Code unless otherwise specified herein. All threads shall be Cleveland Standard hose thread.

(b) All standpipe systems shall be a Class I system with 2½ inch connections, and a detachable 2½ by 1½ reducer, with an 1½ cap and chain. The chain shall be permanently attached to the cabinet or wall and be of sufficient length to facilitate easy turning of the cap. Class II systems for occupant use are strictly prohibited.

(c) Closets and cabinets used to contain standpipe valves shall be of sufficient size to allow the quick installation of firefighting equipment without interfering with the standpipe valves. The valve shall be mounted to provide a minimum of two inches from the back wall of the cabinet to the threads; a minimum of two inches from the back wall of the cabinet to the valve handle for the full travel of the valve, and a minimum of eight inches from the side of the cabinet to the threads. Any doors attached to the cabinet must be capable of providing eight inches clearance in front of the valve for equipment attachments. The overall size of the cabinet must be at least twelve inches in height and twenty inches in width.

(d) All hydraulic calculations for an automatic system or a semi-automatic system shall be based solely on the available water supply. Calculations for a manual system shall be based on an inlet pressure of 150 psi at the Fire Department Connection.

(e) All pressure reducing valves or attachments shall be subject to Bureau approval.

(f) All standpipe systems that contain a Fire Department Connection shall have the connection clearly marked with a weather resistant and durable sign at least twelve inches wide and eighteen inches in height reading "FIRE DEPT. CONNECTION" OR "FDC" in large letters. The sign shall also indicate the type of system the connection supports, along with the areas of the building supplied by the connection. In occupancies having more than one connection, the connection number, as assigned by the Bureau shall be included on the sign. The final design of the sign and placement shall be approved by the Bureau.

(g) No person or entity shall plow, pile, or otherwise deposit snow within ten feet of a Fire Department Connection, suppression system control valve, fire hydrant, or other similar device. Whosoever violates this section shall be fined five hundred dollars (\$500.00).

(Ord. 43-97. Passed 5-27-97.)

(h) Dry pipe standpipes shall be provided to supply fire fighting water on the roof for each building twenty feet or higher, when mechanical or other service equipment is located on the roof. The pipe shall be at least four inches in diameter and capable of flowing at least 250 gallons of water per minute. The supply connection shall be a single two and one-half inch female swivel connection of Cleveland Standard thread, with a clapper and drip valve. A protective cap with attaching chain shall be provided. The working end of the pipe shall have a slow closing valve with a single two and one-half inch male connection of Cleveland Standard thread. A protective cap shall be provided with an attaching chain. The number of pipes and specific locations shall be determined by the Bureau. The pipe shall be supported in a proper manner and maintained in accordance with dry standpipe maintenance requirements.

(i) Standpipe connections shall be provided in each building where an automatic sprinkler system is installed. The size, location and number of connections shall be determined by the Bureau. A sufficient number of connections shall be provided to avoid excessive hose lays. For this section, excessive hose lays shall be defined as 300 feet when being stretched from the nearest standpipe connection to any portion of the building.

(Ord. 99-97. Passed 10-28-97.)

1511.08 WALL HYDRANTS.

Wall hydrants shall be flushed on an annual basis. Water flow tests to determine water supply shall be conducted every five years.

(Ord. 43-97. Passed 5-27-97.)

1511.09 SYSTEMS OUT OF SERVICE.

(a) Whenever a fire suppression system must be taken out of service for more than four hours in a twenty-four hour period, the building or fire area shall be evacuated until the suppression system is restored to service.

(b) Whenever the conditions or hazard do not warrant a total evacuation, the Bureau shall determine the best course of action to ensure the safety of the occupants.

(Ord. 43-97. Passed 5-27-97.)

1511.10 WATER SUPPLY AND HYDRANT REGULATIONS.

(a) All hydrants shall have a minimum six inch barrel, a four and one half inch outlet, and two and one half inch outlets of Cleveland Standard size and thread, and shall conform to the American Waterworks Association Standards.

(b) Hydrant discharge height, measured from the bottom of the lowest discharge on the hydrant, shall be not less than sixteen inches nor more than thirty inches above the surrounding finish grade.

(c) The four and one half inch discharge shall face the street or drive.

(d) Spacing requirements for each hydrant on private or public property shall be as follows:

(1) At every street intersection.

(2) At the beginning of each cul-de-sac turnaround.

(3) Within 500 feet of any one, two, or three family dwelling.

(4) Within 250 feet of any building or structure regulated by the Ohio Basic Building Code.

(5) Additional hydrants shall be required as necessary to meet the required flows, support building fire suppression systems, accomplish tactical operations, and/or avoid excessive hose lays resulting in excessive friction loss. Excessive hose lays shall be defined as 250 feet when being stretched from any portion of the building to the nearest hydrant.

(6) Hydrants shall not be spaced more than 300 feet apart.

(7) When a water based fire suppression system is to be installed, a hydrant shall be located no more than seventy-five feet from each Fire Department Connection.

(8) Distances measured in this section shall be measured along actual fire apparatus routes of travel.

(e) All public and private hydrants required by these regulations shall be installed and maintained in accordance with the following:

(1) All hydrants and water mains shall be installed pursuant to the direction of the Chief, and in accordance with American Waterworks Association Standards and the Cleveland Water Department.

(2) All hydrant locations shall be clearly marked on any plans submitted and shall be approved by the Bureau.

(3) All hydrants shall be accessible at all times for firefighting purposes and no obstructions shall be placed within ten feet of any such hydrant.

(4) All private hydrants shall be maintained in working order by the property owner, occupant, or other responsible person.

(f) All water mains or water lines served and fitted by hydrants or other types of valves or faucets from which water may be drawn before it passes through a recording meter shall be under the complete control of the Cleveland Water Department and subject to the rules and regulations of said agency. Water mains and water lines on private property shall be maintained by the property owner, occupant, or other responsible person. No person, firm, or corporation shall draw water from any such hydrant, valve, or faucet except as required for firefighting or testing of hydrants as required by the Fire Chief. Water for any other purpose may be drawn only on order from the Cleveland Water Department, and only after receiving a permit from both the Fire Prevention Bureau and Cleveland Water Department to do so. The permit, or copy thereof, shall be prominently displayed on site, and shall be immediately available for examination by the Code Official.

(g) The minimum size of a private fire line shall be eight inches, except single fire hydrant lines of 600 feet or less may be six inches, unless fire flows require a higher flow, in which case, the size necessary to obtain the necessary fire flows shall be installed.

(h) When more than one fire hydrant is to be installed on the same main, such main shall be looped or supplied water from two sources.

(i) Hydrants located on private property shall be within ten feet of the paved or improved portion of a roadway, fire lane, or driveway, provided however, that no hydrant shall be located closer to a building or structure than one and one half times the height of said building or structure.

(j) All fire hydrants located on private property shall be identified with an approved marker extending a minimum of five feet above grade. The markers shall be installed each year by October 15, and shall remain in place until March 15, unless snow conditions are still present after this date. The markers shall not interfere with the operation of the hydrant and shall be placed per the Bureau's specifications.

(k) All fire hydrants shall be faced in the proper direction for fire department use. If a hydrant is not faced in the proper direction, adjacent parking or road areas shall be considered a fire lane and marked accordingly, with provisions made to prevent the parking of vehicles in such a manner to interfere with hydrant operation.

(Ord. 43-97. Passed 5-27-97.)

1511.99 PENALTIES.

Whosoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1513

Alarm System Requirements

1513.01 Residential smoke detector requirements.

1513.02 Residential carbon monoxide detector requirements.

1513.03 Commercial carbon monoxide detector requirements.

1513.04 Municipal alarm monitoring system.

1513.05 Private monitoring companies.

1513.06 Educational and institutional occupancies.

1513.07 Alarm supervisory notification.

1513.08 Alarm systems out of service.

1513.09 Fire signaling systems required.

1513.99 Penalties.

1513.01 RESIDENTIAL SMOKE DETECTOR REQUIREMENTS.

(a) Smoke detectors shall be installed in each single family dwelling hereinafter constructed. There shall be a minimum of one smoke detector for each dwelling, with at least one smoke detector located adjacent to the main sleeping area of the dwelling, and at least one smoke detector located on every level of the dwelling, including the basement, but excluding any attics or crawlspaces. The smoke detectors shall be hard wired to 110 volt power with a battery back-up. The builder of the dwelling shall be held responsible for compliance with this requirement.

(b) Smoke detectors shall be installed in every existing single family dwelling. There shall be a minimum of one smoke detector for each dwelling, with at least one smoke detector located adjacent to the main sleeping area of the dwelling, and at least one smoke detector located on every level of the dwelling. The occupant of the dwelling shall be responsible for compliance with this requirement and shall have a time period of one (1) year from the effective date to comply.

(c) Smoke detectors shall be installed in each dwelling unit of all existing and hereinafter constructed multiple family dwellings, attached one-family, two family, and three family dwellings. There shall be a minimum of one smoke detector for each dwelling unit in the main sleeping area and at least one smoke detector for each level of the dwelling if more than one level exists, including the basement, but excluding any attics or crawlspaces. Smoke detectors shall also be installed in all locker/storage areas and laundry rooms of multiple family dwellings.

(d) All smoke detectors must be approved by Underwriter's Laboratory.

(e) All smoke detectors must be installed to comply with the manufacturer's recommendations and the recommendations of the approving or listing agency.

(f) Batteries in all smoke detectors containing batteries shall be changed at least annually, with the date of installation clearly marked on the battery.

(g) The owner or agent of any dwelling shall be responsible for installing special notification devices as required due to hearing impairment or other physical limitation or impairment.

(Ord. 43-97. Passed 5-27-97.)

1513.02 RESIDENTIAL CARBON MONOXIDE DETECTOR REQUIREMENTS.

(a) Prior to the issuance of an occupancy permit by the City, carbon monoxide alarms must be installed in any residential building which is equipped with a fuel-fired furnace, boiler, dryer, water heater, stove, range, or other such appliances. A carbon monoxide alarm shall be installed according to the manufacturer's recommendations pertaining to the number of alarms required in a particular unit, location of alarms, and all other recommendations. All carbon monoxide alarms installed pursuant to this section shall be listed with Underwriter's Laboratories, shall be 110 volt power models, and shall be installed by the builder, contractor, or other person responsible for the construction, remodeling, renovation, or occupancy of the structure.

(b) In newly-constructed one-family and two-family residential structures equipped with fuel-fired furnaces, boilers, dryers, water heaters, stoves, ranges or other such appliances, carbon monoxide alarms shall be installed with at least one alarm per floor level, including the basement level. In any such residential unit, there shall be at least one alarm located in the main sleeping area of the dwelling and at least one alarm located in the main utility area of the dwelling which contains the fuel-fired components of the heating and/or water heater systems of the dwelling.

(Ord. 43-97. Passed 5-27-97.)

1513.03 COMMERCIAL CARBON MONOXIDE DETECTOR REQUIREMENTS.

(a) Prior to the issuance of an occupancy permit by the City, carbon monoxide alarms must be installed in any commercial building which is equipped with a fuel-fired furnace, boiler, dryer, water heater, stove, range, or other such appliances. A carbon monoxide alarm shall be installed according to the manufacturer's recommendations pertaining to the number of alarms required in a particular unit, location of alarms, and all other recommendations. All carbon monoxide alarms installed pursuant to this section shall be listed with Underwriter's Laboratories, shall be 110 volt power models, and shall be installed by the builder, contractor, or other person responsible for the construction, remodeling, renovation, or occupancy of the structure.

(b) Carbon monoxide alarms shall be installed in all existing buildings used for human assembly and in all educational and other institutional structures which are equipped with fuel-fired appliances, such as boilers, furnaces, water heaters, dryers, or cooking appliances. All alarms installed pursuant to this section shall be listed with Underwriter's Laboratories, shall be 110 volt power model, and shall be installed by the person whose name appears on the present Certificate of Occupancy issued by the City for the said structure. All alarms shall be installed according to the manufacturer's recommendations pertaining to the number of alarms required in a particular structure, the location of alarms, as well as all other recommendations.

(Ord. 43-97. Passed 5-27-97.)

1513.04 MUNICIPAL ALARM MONITORING SYSTEM.

(a) No fire detection or signaling system shall be connected to the alarm panel at City Hall. All fire detection and signaling systems shall be monitored by a remote supervising station capable of receiving alarm signals and immediately notifying the Division of Fire. The remote supervising station shall be capable of monitoring alarm, supervisory, and trouble signals. All remote supervising stations shall comply with Section 1513.05 of this Code and the most current edition of the National Fire Protection Association, pamphlet #72.

(b) Any person, firm or corporation connected to the alarm panel at City Hall shall have until December 31, 1998 to disconnect from the panel and provide remote supervision in accordance with subsection (a) hereof.

(c) Until December 31, 1998, if a condition exists with any person, firm or corporation connected to the alarm panel at City Hall, that may create a threat to the property or occupants, the person, firm or corporation may be ordered to immediately disconnect from the City alarm panel and provide remote supervision in accordance with subsection (a) hereof. This decision shall be at the sole discretion of the Fire Chief.

(Ord. 80-98. Passed 9-8-98.)

1513.05 PRIVATE MONITORING COMPANIES.

(a) All monitoring companies shall follow the policies of the Bureau. Failure to do so shall result in fines ranging from one hundred dollars (\$100.00) to five hundred dollars (\$500.00.)

(b) Whenever an alarm monitoring station receives an alarm signal, it shall be assumed the alarm is functioning correctly and reporting an actual fire condition. The alarm monitoring station shall notify the Fire Division immediately, as the first party to be notified, of the alarm condition. All other parties to whom notification is requested shall be contacted only after the Fire Division is notified. Any alarm monitoring station failing to comply with this section shall be assessed a fine of at least five hundred dollars (\$500.00), but not more than one thousand dollars (\$1000.00).

(c) Whenever an alarm monitoring station does not receive a signal indicating the detection system has returned to normal service within four hours of the initial alarm signal, the Fire Division shall be notified to further investigate the matter.

(Ord. 43-97. Passed 5-27-97.)

1513.06 EDUCATIONAL AND INSTITUTIONAL OCCUPANCIES.

(a) Every public, private, parochial school, or other occupancy with an educational use group, and every institutional use group shall have an adequate fire alarm system monitored by an approved monitoring agency or by direct connection to the Municipal Alarm Monitoring System. Existing educational or institutional occupancies that do not currently comply shall have a time period of one year from the effective date of this section to comply.

(b) Fire drills shall be conducted in all educational occupancies in accordance with the requirements of the Ohio Fire Code. Records shall be maintained by the person in charge of the occupancy and a copy of such records shall be filed each year with the Bureau in June.

(c) Fire drills shall be conducted in all institutional occupancies in accordance with the Ohio Fire Code. Records shall be maintained by the person in charge of the occupancy and shall include date of the fire drill, time of the fire drill, location of the fire drill, total number of occupants evacuated, total time of the evacuation, and other information relevant to the drill. A copy of these records shall be filed with the Bureau each year in December.

(d) In all institutional occupancies, there shall be an attendant or attendants on the premises at all times the building is occupied. The number of attendants required shall be sufficient to perform the duties required under the evacuation plan approved by the Bureau. Attendants as required herein shall be at least eighteen years of age and capable of performing the duties required of evacuation. No person other than the management or an employee of the management shall be considered an attendant.

(e) All employees of an educational or institutional occupancy shall receive approved training for procedures in the event of a fire. The training shall include activation of the fire alarm system, evacuation of the building, and notifying the fire department. All new employees shall receive this training prior to beginning their first work shift.

(Ord. 43-97. Passed 5-27-97.)

1513.07 ALARM SUPERVISORY NOTIFICATION.

(a) All fire protective equipment contractors shall notify all alarm monitoring stations prior to working on or conducting any system test or repair.

(b) Any contractor failing to comply with this section shall be fined one hundred dollars (\$100.00).

(c) Any contractor failing to comply with this section, and causing the Fire Division to respond on a fire alarm condition shall be fined five hundred dollars (\$500.00).

(Ord. 43-97. Passed 5-27-97.)

1513.08 ALARM SYSTEMS OUT OF SERVICE.

Whenever a fire detection system must be taken out of service for more than four hours in a twenty-four hour period, the Bureau must be notified and an approved fire watch must be provided.

(Ord. 43-97. Passed 5-27-97.)

1513.09 FIRE SIGNALING SYSTEMS REQUIRED.

(a) A fire signaling system shall be installed and maintained in all occupancies in Use Group A-1, as classified by the Ohio Basic Building Code. Manual fire alarm boxes shall be located at each exit from an individual theater and each exit way. Additional manual fire alarm boxes shall be provided in common areas, so that no point shall be farther than 200 feet from a manual fire alarm box.

(b) A fire signaling system shall be installed and maintained in all covered malls, as classified by the Ohio Basic Building Code. Manual fire alarm boxes shall be located on both sides of each exit way. Additional manual fire alarm boxes shall be provided in common areas, so that no point shall be farther than 200 feet from a manual fire alarm box (measurements do not have to include tenant spaces).

(c) A fire signaling system shall be installed and maintained in all anchor stores to a covered mall, as classified by the Ohio Basic Building Code. Manual fire alarm boxes shall be located on both sides of each exit way. Additional manual fire alarm boxes shall be provided, so that no point shall be farther than 200 feet from a manual fire alarm box.

(Ord. 100-97. Passed 10-28-97.)

1513.99 PENALTIES.

All persons or companies failing to comply with this chapter are guilty of a misdemeanor of the first degree unless otherwise stated for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1515

Fire Lanes

1515.01 Authority to establish fire lanes.

1515.02 Obstructions to fire lanes.

1515.03 Marking of fire lanes.

1515.04 Access to structures and occupancies.

1515.05 Design elements of fire lanes.

1515.99 Penalties.

1515.01 AUTHORITY TO ESTABLISH FIRE LANES.

(a) The Bureau is hereby authorized to establish fire lanes on either public or private property located within the City:

(1) As deemed necessary for the safe and efficient use of fire apparatus.

(2) When necessary for the safeguarding of life and property from the hazards of fire, explosion, or hazardous materials.

(3) For the safe use and occupancy of buildings, structures, and adjacent property.

(4) For safe egress of occupants in the event of a fire or other emergency requiring building evacuation.

(b) All fire lanes shall be constructed in accordance with the Ohio Fire Code. The width shall be such as to provide access and operation of firefighting equipment and personnel likely to be used at a fire on the premises. The minimum width shall be eighteen feet.

(c) A minimum of fourteen feet of nominal clearance shall be provided over the full width and length of the fire lane.

(Ord. 43-97. Passed 5-27-97.)

1515.02 OBSTRUCTIONS TO FIRE LANES.

(a) Fire lanes shall be continually maintained free of all obstructions.

(b) No person or entity shall obstruct a fire lane by parking, stopping, or leave standing a motor vehicle, whether such vehicle is attended or not. Any vehicle shall be moved immediately upon request by any member of the Department of Public Safety.

(c) No person or entity shall obstruct a fire lane with a fence or other barricade.

(d) Landscaping or other obstructions shall not be placed around structures in a manner as to impair or impede accessibility for firefighting and/or rescue operations.

1515.03 MARKING OF FIRE LANES.

(a) All fire lanes shall be marked with a sign reading "FIRE LANE NO PARKING NO STOPPING" and shall be provided at all normal and emergency access points to a structure, within ten feet of any hydrant, sprinkler connection, standpipe connection, or other connection to fire protective equipment located within the fire lane, and every thirty linear feet within the fire lane. All fire lane signs shall be permanently mounted at

an appropriate height to be clearly visible from vehicles traveling in the fire lane. No fire lane sign shall be mounted higher than six feet from grade level. Any non-conforming sign shall be corrected.

(b) In addition to the above fire lane signs, each piece of fire protective equipment that is located in a fire lane shall be marked with a sign reading "FIRE EQUIPMENT DO NOT BLOCK" or other approved wording. All signs shall be permanently mounted at an appropriate height to be clearly visible from vehicles traveling in the fire lane. No sign shall be mounted higher than six feet from grade level. Any non-conforming sign shall be corrected.

(c) The curb area directly adjacent to all fire lanes shall be painted red. Where no curb exists, a four inch wide red stripe shall be painted along the edge of the fire lane closest to the structure. When the fire lane is directly adjacent to a building, and no curb exists, a four inch wide stripe shall be painted on the side of the building no more than five feet from grade level. For areas that do not conform to one of these situations, the Bureau shall determine the best application of this section.

(d) All markings shall be replaced at intervals necessary to ensure clear legibility and adequate visibility.

(Ord. 43-97. Passed 5-27-97.)

1515.04 ACCESS TO STRUCTURES AND OCCUPANCIES.

(a) Access for fire department apparatus shall be provided to all structures. The maximum distance from the structure allowed for Fire Department access shall be no more than fifty feet.

(b) At least two separate means of access shall be provided for all buildings over thirty feet or three stories in height.

(c) The means of access shall be maintained in a usable manner at times, including the removal of snow during the winter months.

(d) Parking shall not be permitted within twenty feet of any means of access to a fire lane.

(Ord. 43-97. Passed 5-27-97.)

1515.05 DESIGN ELEMENTS OF FIRE LANES.

(a) Means of access shall be constructed of a hard, all weather surface adequately designed to support the heaviest piece of fire apparatus likely to be used at a fire on the premises.

(b) Fire lanes shall be able to withstand the live load of fire apparatus during all weather climates.

(c) Every dead-end roadway or fire lane more than 300 feet in length shall be provided at the closed end with a turn around acceptable to the fire department. The turn around shall have a minimum centerline radius of fifty feet.

(d) Where bridges or other elevated surfaces are to be used as fire department access, the surface shall be constructed in such a manner as to support the live load of all fire apparatus likely to be used at a fire on the premises.

(e) In all cases where a fire lane is located between a structure and approved parking spaces, designated parking spaces shall be provided for temporary parking of delivery type vehicles.

(1) The number of temporary parking spaces shall be based on the number of occupancies in the structure. One temporary parking space shall be provided for each ten occupancies. The Bureau reserves the right to require additional spaces as deemed necessary.

(2) Temporary parking spaces shall be clearly marked "DELIVERY PARKING ONLY - TIME LIMIT 15 MINUTES" on a durable sign.

(3) It shall be incumbent upon all occupancies served by the fire lane and temporary delivery parking spaces to ensure the fire lane is not obstructed by delivery vehicles. The occupancy receiving merchandise or packages shall be held liable for an obstructed fire lane when delivery type vehicles are parked in said fire lanes.

(Ord. 43-97. Passed 5-27-97.)

1515.99 PENALTIES.

Whosoever violates any provision of this chapter is guilty of a misdemeanor of the first degree for each offense.

(Ord. 76-2003. Passed 9-23-03.)

CHAPTER 1519

Fireworks

1519.01 Definitions.

1519.02 Manufacturing.

1519.03 Wholesaling.

1519.04 Purchasing and transporting.

1519.05 Prohibited activities by exhibitors.

1519.06 Unlawful conduct by exhibitor.

1519.07 Possession, sale, discharge and advertising; falsification.

1519.08 Transporting and shipping.

1519.09 Exceptions.

1519.10 Forfeiture and disposal.

1519.99 Penalty.

CROSS REFERENCES

Manufacturers to comply with building and zoning

ordinances - see Ohio R.C. 3743.06(F)

Wholesalers to comply with building and zoning ordinances -

see Ohio R.C. 3743.19(G)

Arrests, seizure of fireworks by certified fire safety

inspector - see Ohio R.C. 3743.68

Conflict of Fire Marshal's rules with rules of Ohio Board

of Building Standards - see Ohio R.C. 3781.11(D)

1519.01 DEFINITIONS.

As used in this chapter, unless otherwise provided:

(a) "Beer" and "intoxicating liquor" have the same meanings as in Section 4301.01 of the Revised Code.

(b) "Booby trap" means a small tube that has a string protruding from both ends, that has a friction-sensitive composition, and that is ignited by pulling the ends of the string.

(c) "Cigarette load" means a small wooden peg that is coated with a small quantity of explosive composition and that is ignited in a cigarette.

(d) (1) "1.3G fireworks" means display fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.3" in Title 49, Code of Federal Regulations.

(2) "1.4G fireworks" means consumer fireworks consistent with regulations of the United States Department of Transportation as expressed using the designation "Division 1.4" in Title 49, Code of Federal Regulations.

(e) "Controlled substance" has the same meaning as in Section 3719.01 of the Revised Code.

(f) "Discharge site" means an area immediately surrounding the mortars used to fire aerial shells.

(g) "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. "Explosives" does not include "fireworks" as defined below, or any explosive that is not subject to regulation under the rules of the State Fire Marshal adopted pursuant to Section 3737.82 of the Revised Code.

(h) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, except ordinary matches and except as provided in Section 1519.09 of this chapter.

(i) "Fireworks incident" means any action or omission that occurs at a fireworks exhibition, that results in injury or death, or a substantial risk of injury or death, to any person, and that involves either of the following:

(1) The handling or other use, or the results of the handling or other use, of fireworks or associated equipment or other materials;

(2) The failure of any person to comply with any applicable requirement imposed by this chapter or any applicable rule adopted under this chapter.

(j) "Fireworks incident site" means a discharge site or other location at a fireworks exhibition where a fireworks incident occurs, a location where an injury or death associated with a fireworks incident occurs, or a location where evidence of a fireworks incident or an injury or death associated with a fireworks incident is found.

(k) "Fireworks plant" means all buildings and other structures in which the manufacturing of fireworks, or the storage or sale of manufactured fireworks by a manufacturer, takes place.

(l) "Highway" means any public street, road, alley, way, lane, or other public thoroughfare.

(m) "Licensed building" means a building on the licensed premises of a licensed manufacturer or wholesaler of fireworks that is approved for occupancy by the building official having jurisdiction.

(n) "Licensed exhibitor of fireworks" or "licensed exhibitor" means a person licensed pursuant to Sections 3743.50 to 3743.55 of the Revised Code.

(o) "Licensed manufacturer of fireworks" or "licensed manufacturer" means a person licensed pursuant to Sections 3743.02 to 3743.08 of the Revised Code.

(p) "Licensed premises" means the real estate upon which a licensed manufacturer or wholesaler of fireworks conducts business.

(q) "Licensed wholesaler of fireworks" or "licensed wholesaler" means a person licensed pursuant to Sections 3743.15 to 3743.21 of the Revised Code.

(r) "Manufacturing of fireworks" means the making of fireworks from raw materials, none of which in and of themselves constitute a fireworks, or the processing of fireworks.

(s) "Novelties and trick noisemakers" include the following items:

(1) Devices that produce a small report intended to surprise the user, including, but not limited to, booby traps, cigarette loads, party poppers, and snappers;

(2) Snakes or glow worms;

(3) Smoke devices;

(4) Trick matches.

(t) "Party popper" means a small plastic or paper item that contains not more than sixteen milligrams of friction-sensitive explosive composition, that is ignited by pulling a string protruding from the item, and from which paper streamers are expelled when the item is ignited.

(u) "Processing of fireworks" means the making of fireworks from materials all or part of which in and of themselves constitute a fireworks, but does not include the mere packaging or repackaging of fireworks.

(v) "Railroad" means any railway or railroad that carries freight or passengers for hire, but does not include auxiliary tracks, spurs, and sidings installed and primarily used in serving a mine, quarry, or plant.

(w) "Retail sale" or "sell at retail" means a sale of fireworks to a purchaser who intends to use the fireworks, and not resell them.

(x) "Smoke device" means a tube or sphere that contains pyrotechnic composition that, upon ignition, produces white or colored smoke as the primary effect.

(y) "Snake or glow worm" means a device that consists of a pressed pellet of pyrotechnic composition that produces a large, snake-like ash upon burning, which ash expands in length as the pellet burns.

(z) "Snapper" means a small, paper-wrapped item that contains a minute quantity of explosive composition coated on small bits of sand, and that, when dropped, implodes.

(aa) "Storage location" means a single parcel or contiguous parcels of real estate approved by the fire marshal pursuant to division (I) of Section 3743.04 of the Revised Code or division (G) of Section 3743.17 of the Revised Code that are separate from a licensed premises containing a retail showroom, and which parcel or parcels a licensed manufacturer or wholesaler of fireworks may use only for the distribution, possession, and storage of fireworks in accordance with this chapter.

(bb) "Trick match" means a kitchen or book match that is coated with a small quantity of explosive composition and that, upon ignition, produces a small report or a shower of sparks.

(cc) "Wholesale sale" or "sell at wholesale" means a sale of fireworks to a purchaser who intends to resell the fireworks so purchased.

(dd) "Wire sparkler" means a sparkler consisting of a wire or stick coated with a nonexplosive pyrotechnic mixture that produces a shower of sparks upon ignition and that contains no more than one hundred grams of this mixture.

(Ord. 29-2009. Passed 6-9-09.)

1519.02 MANUFACTURING.

- (a) No licensed manufacturer of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Section 3743.05 of the Revised Code or the requirements of Section 3743.06 of the Revised Code.
- (b) No licensed manufacturer of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by Section 3743.07 of the Revised Code, or to permit inspection of these records or the premises of a fireworks plant pursuant to Section 3743.08 of the Revised Code.
- (c) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Section 3743.08(B)(1) of the Revised Code within the specified period of time.
- (d) No licensed manufacturer of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Section 3743.08(B)(2) of the Revised Code. The order shall be effective until the nonconformities are eliminated, corrected or otherwise remedied or the 72-hour period specified in that division has expired, whichever occurs first.
- (e) No person shall smoke or shall carry a pipe, cigarette, or cigar, or match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a fireworks plant, except as smoking is authorized in specified lunchrooms or restrooms by a manufacturer pursuant to Section 3743.06(C) of the Revised Code.
- (f) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises of a fireworks plant.

(Ord. 29-2009. Passed 6-9-09.)

1519.03 WHOLESALING.

- (a) No licensed wholesaler of fireworks shall knowingly fail to comply with the rules adopted by the State Fire Marshal pursuant to Section 3743.18 of the Revised Code or the requirements of Section 3743.19 of the Revised Code.
- (b) No licensed wholesaler of fireworks shall fail to maintain complete inventory, wholesale sale and retail records as required by Section 3743.20 of the Revised Code, or to permit an inspection of these records or the premises of the wholesaler pursuant to Section 3743.21 of the Revised Code.
- (c) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Section 3743.21(B)(1) of the Revised Code within the specified period of time.
- (d) No licensed wholesaler of fireworks shall fail to comply with an order of the State Fire Marshal issued pursuant to Section 3743.21(B)(2) of the Revised Code. The order shall be effective until the nonconformities are eliminated, corrected or otherwise remedied or the 72- hour period specified in that division has expired, whichever occurs first.
- (e) No person shall smoke or shall carry a pipe, cigarette, or cigar, or a match, lighter, other flame-producing item, or open flame on, or shall carry a concealed source of ignition into, the premises of a wholesaler of fireworks, except as smoking is authorized in specified lunchrooms or restrooms by a wholesaler pursuant to Section 3743.19(D) of the Revised Code.
- (f) No person shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substance while on the premises of a wholesaler of fireworks.

(Ord. 29-2009. Passed 6-9-09.)

1519.04 PURCHASING AND TRANSPORTING.

- (a) No person who resides in another state and purchases fireworks in this State shall obtain possession of the fireworks in this State unless the person complies with Section 3743.44 of the Revised Code, provided that knowingly making a false statement on the fireworks purchasers form is not a violation of this section but is a violation of Section 2921.13 (Falsification) of the Revised Code or a substantially similar municipal ordinance.
- (b) No person who resides in another state and who purchases fireworks in this State shall obtain possession of fireworks in this State other than from a licensed manufacturer or wholesaler, or fail, when transporting the fireworks, to transport them directly out of this State within 72 hours after the time of their purchase. No such person shall give or sell to any other person in this State fireworks that the person has acquired in this State.
- (c) No person who resides in this State and purchases fireworks in this State shall obtain possession of the fireworks in this State unless the person complies with Section 3743.45 of the Revised Code, provided that knowingly making a false statement on the fireworks purchasers form is not a violation of this section but is a violation of Section 2921.13 (Falsification) of the Revised Code or a substantially similar municipal ordinance.
- (d) No person who resides in this State and who purchases fireworks in this State under Section 3743.45 of the Revised Code shall obtain possession of fireworks in this State other than from a licensed manufacturer or licensed wholesaler, or fail, when transporting the fireworks, to transport them directly out of this State within 48 hours after the time of their purchase. No such person shall give or sell to any other person in this State fireworks that the person has acquired in this State.

(Ord. 29-2009. Passed 6-9-09.)

1519.05 PROHIBITED ACTIVITIES BY EXHIBITORS.

- (a) An exhibitor of fireworks licensed under Sections 3743.50 through 3743.55 of the Revised Code who wishes to conduct a public fireworks exhibition shall apply for approval to conduct the exhibition to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, having jurisdiction over the premises.
- (b) The approval required by division (a) of this section shall be evidenced by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, signing a permit for the exhibition. Any exhibitor of fireworks who wishes to conduct a public fireworks exhibition may obtain a copy of the form from the State Fire Marshal or, if available, from the Fire Chief, a fire prevention officer, the Police Chief or other similar chief law enforcement officer, or a designee of the Police Chief or other similar chief law enforcement officer.
- (c) Before a permit is signed and issued to a licensed exhibitor of fireworks, the Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall inspect the premises on which the exhibition will take place and shall determine that, in fact, the applicant for the permit is a licensed exhibitor of fireworks. Each applicant shall show his or her license as an exhibitor of fireworks to the Fire Chief or fire prevention officer.
- (d) The Fire Chief or fire prevention officer and the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall give approval to conduct a public fireworks exhibition only if satisfied, based on the inspection, that the premises on which the exhibition will be conducted allow the exhibitor to comply with the rules adopted by the State Fire Marshal pursuant to Sections 3743.53(B) and (E) of the Revised Code and that the applicant is, in fact, a licensed exhibitor of fireworks. The Fire Chief or fire prevention officer, in consultation with the Police Chief or other similar chief law enforcement officer or with the designee of the Police Chief or other similar chief law enforcement officer, may inspect the premises immediately prior to the exhibition to determine if the exhibitor has complied with the rules, and may revoke a permit for noncompliance with the rules.
- (e) If Council has prescribed a fee for the issuance of a permit for a public fireworks exhibition, the Fire Chief or fire prevention office and Police Chief or similar chief law enforcement officer, or their designee, shall not issue a permit until the exhibitor pays the requisite fee.
- (f) Each exhibitor shall provide an indemnity bond in the amount of at least one million dollars with surety satisfactory to the Fire Chief or fire prevention officer and to the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, conditioned for the payment of all final judgments that may be rendered against the exhibitor on account of injury, death, or loss to person or property emanating from the fireworks exhibition, or proof of insurance coverage of at least one million dollars for liability arising from injury, death, or loss to persons or property emanating from the fireworks exhibition. Council may require the exhibitor to provide an indemnity bond or proof of insurance coverage in amounts greater than those required by this division. The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement office, or their designee, shall not issue a permit until the exhibitor provides the bond or proof of the insurance coverage required by this division or by Council.
- (g) Each permit for a fireworks exhibition issued by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or the designee of the Police Chief or other similar chief law enforcement officer, shall contain a distinct number, designate the municipality, and identify the certified fire safety inspector, Fire Chief, or fire prevention officer who will be present before, during and after the exhibition, where appropriate. A copy of each permit issued shall be forwarded by the Fire Chief or fire prevention officer and by the Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, issuing it to the State Fire Marshal. A permit is not transferable or assignable.
- (h) The Fire Chief or fire prevention officer and Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer shall keep a record of issued permits for fireworks exhibitions. In this list, the Fire Chief, fire prevention officer, Police Chief or other similar chief law enforcement officer, or designee of the Police Chief or other similar chief law enforcement officer, shall list the name of the exhibitor, his or her license number, the premises on which the exhibition will be conducted, the date and time of the exhibition, and the number and political subdivision designation of the permit issued to the exhibitor for the exhibition.
- (i) Council shall require that a certified fire safety inspector, Fire Chief or fire prevention officer be present before, during and after the exhibition, and shall require the certified fire safety inspector, Fire Chief or fire prevention officer to inspect the premises where the exhibition is to take place and determine whether the exhibition is in compliance with this section and Chapter 3743 of the Revised Code.

(Ord. 29-2009. Passed 6-9-09.)

1519.06 UNLAWFUL CONDUCT BY EXHIBITOR.

- (a) No licensed exhibitor of fireworks shall fail to comply with the applicable requirements of the rules adopted by the State Fire Marshal pursuant to Sections 3743.53(B) and (E) of the Revised Code or to comply with Sections 3743.53(C) and (D) of the Revised Code.
- (b) No licensed exhibitor of fireworks shall conduct a fireworks exhibition unless a permit has been secured for the exhibition pursuant to Section 3743.54 of the Revised Code or a substantially similar municipal ordinance, or if a permit so secured is revoked by a Fire Chief or fire prevention officer, in consultation with a Police Chief or other similar chief law enforcement officer, or with a designee of a Police Chief or other similar chief law enforcement officer, pursuant to those sections.
- (c) No licensed exhibitor of fireworks shall acquire fireworks for use at a fireworks exhibition other than in accordance the Sections 3743.54 and 3743.55 of the Revised Code, or a substantially similar municipal ordinance.
- (d) No licensed exhibitor of fireworks or other person associated with the conduct of a fireworks exhibition shall have possession or control of, or be under the influence of, any intoxicating liquor, beer, or controlled substances while on the premises on which the exhibition is being conducted.
- (e) No licensed exhibitor of fireworks shall permit an employee to assist the licensed exhibitor in conducting fireworks exhibitions unless the employee is registered with the State Fire Marshal under Section 3743.56 of the Revised Code.

(Ord. 29-2009. Passed 6-9-09.)

1519.07 POSSESSION, SALE, DISCHARGE AND ADVERTISING; FALSIFICATION.

- (a) No person shall possess fireworks in this Municipality or shall possess for sale or sell fireworks in this Municipality, except a licensed manufacturer of fireworks as authorized by Sections 3743.02 to 3743.08 of the Revised Code, a licensed wholesaler of fireworks as authorized by Sections 3743.15 to 3743.21 of the Revised Code, a shipping permit holder as authorized by Section 3743.40 of the Revised Code, an out-of-state resident as authorized by Section 3743.44 of the Revised Code, a resident of this State as authorized by Section 3743.45 of the Revised Code, or a licensed exhibitor of fireworks as authorized by Sections 3743.50 to 3743.55 of the Revised Code, or as authorized by any municipal ordinance that is substantially similar to any of these statutes, and except as provided in Section 3743.80 of the Revised Code or a substantially similar municipal ordinance.
- (b) Except as provided in Ohio R.C. 3743.80 or a substantially similar municipal ordinance, and except for licensed exhibitors of fireworks authorized to conduct a fireworks exhibition pursuant to Ohio R.C. 3743.50 through 3743.55 or a substantially similar municipal ordinance, no person shall discharge, ignite, or explode any fireworks in this Municipality. Pursuant to Ohio R.C. 3743.45(D) this prohibition applies to ban the discharge, ignition, or explosion of all fireworks purchased pursuant to Ohio R.C. 3743.45 within this Municipality on all dates and at all times, including any and all of the dates set forth in Ohio R.C. 3743.45(B).
- (c) No person shall use in a theater or public hall what is technically known as fireworks showers, or a mixture containing potassium chlorate and sulphur.
- (d) No person shall sell fireworks of any kind to a person under 18 years of age. No person under eighteen years of age shall enter a fireworks sale showroom unless that person is accompanied by a parent, legal guardian, or other responsible adult. No person under eighteen years of age shall touch or possess fireworks on a licensed premises without the consent of the licensee. A licensee may eject any person from a licensed premises that is in any way disruptive to the safe operation of the premises.
- (e) No person, other than a licensed manufacturer, licensed wholesaler, licensed exhibitor, or shipping permit holder shall possess 1.3G fireworks in this Municipality.
- (f) Except as otherwise provided in division (J) of Section 3743.06 and division (K) of section 3743.19 of the Revised Code, no person shall knowingly disable a fire suppression system as defined in Section 3781.108 of the Revised Code on the premises of a fireworks plant of a licensed manufacturer of fireworks or on the premises of the business operations of a licensed wholesaler of fireworks.

(Ord. 29-2009. Passed 6-9-09.)

1519.08 TRANSPORTING AND SHIPPING.

- (a) No person shall transport fireworks in this Municipality except in accordance with the rules adopted by the State Fire Marshal pursuant to Section 3743.58 of the Revised Code.
- (b) As used in this division, "fireworks" includes only 1.3G and 1.4G fireworks. No person shall ship fireworks into this Municipality by mail, parcel post, or common carrier unless the person possesses a valid shipping permit issued under Section 3743.40 of the Revised Code, and the fireworks are shipped directly to the holder of a license under Sections 3743.03, 3743.16 or 3743.51 of the Revised Code.
- (c) No person shall ship fireworks within this Municipality by mail, parcel post, or common carrier unless the fireworks are shipped directly to the holder of a license issued under section 3743.03, 3743.16 or 3743.51 of the Revised Code.

(Ord. 29-2009. Passed 6-9-09.)

1519.09 EXCEPTIONS.

This section does not prohibit or apply to the following:

- (a) The manufacture, sale, possession, transportation, storage, or use in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use;
- (b) The manufacture, sale, possession, transportation, storage, or use of fuses, torpedoes, or other signals necessary for the safe operation of railroads;
- (c) The manufacture, sale, possession, transportation, storage or use of blank cartridges in connection with theaters or shows, or in connection with athletics as signals for ceremonial purposes;
- (d) The manufacture for, the transportation, storage, possession or use by, or the sale to the armed forces of the United States and the militia of this State of pyrotechnic devices;
- (e) The manufacture, sale, possession, transportation, storage or use of toy pistols, toy canes, toy guns, or other devices in which paper or plastic caps containing 0.025 grains or less of explosive material are used, provided that they are constructed so that a hand cannot come into contact with a cap when it is in place for explosion, or apply to the manufacture, sale, possession, transportation, storage or use of those caps;
- (f) The manufacture, sale, possession, transportation, storage or use of novelties and trick noise makers, auto burglar alarms, or model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models;
- (g) The manufacture, sale, possession, transportation, storage or use of wire sparklers;
- (h) The conduct of radio-controlled special effect exhibitions that use an explosive black powder charge of not more than one-quarter pound per charge, and that are not connected in any manner to propellant charges; provided, that the exhibition complies with all of the following:
 - (1) No explosive aerial display is conducted in the exhibition;
 - (2) The exhibition is separated from spectators by not less than 200 feet;
 - (3) The person conducting the exhibition complies with regulations of the Bureau of Alcohol, Tobacco and Firearms of the United States Department of the Treasury and the United States Department of Transportation with respect to the storage and transport of the explosive black powder used in the exhibition.

(Ord. 29-2009. Passed 6-9-09.)

1519.10 FORFEITURE AND DISPOSAL.

Fireworks manufactured, sold, possessed, transported, or used in violation of the provisions of this chapter shall be forfeited by the offender. The Fire Marshal's office or certified fire safety inspector's office shall dispose of seized fireworks pursuant to the procedures specified in Sections 2981.11 to 2981.13 of the Revised Code for the disposal of forfeited property by law enforcement agencies, and the Fire Marshal or that office is not liable for claims for the loss of or damages to the seized fireworks.

(Ord. 29-2009. Passed 6-9-09.)

1519.99 PENALTY.

(a) Except as otherwise provided in subsection (b) or (c) hereof, whoever violates any provisions of this chapter is guilty of a misdemeanor of the first degree.

(b) If the offender previously has been convicted of or pleaded guilty to a violation of Sections 3743.60(I) or 3743.61(I) of the Revised Code, or a substantially similar municipal ordinance, a violation of Section 1519.02(e) or Section 1519.03(e) of this Chapter is a felony to be prosecuted under appropriate state law.

(c) Whoever violates Section 1519.06(a) of this Chapter is guilty of a misdemeanor of the first degree. In addition to any other penalties that may be imposed on a licensed exhibitor of fireworks under this division and unless the third sentence of this division applies, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be suspended, and the person is ineligible to apply for either type of license, for a period of five years. If the violation of Section 1519.06(a) of this Chapter results in serious physical harm to persons or serious physical harm to property, the person's license as an exhibitor of fireworks or as an assistant exhibitor of fireworks shall be revoked, and that person is ineligible to apply for a license as or to be licensed as an exhibitor of fireworks or as an assistant exhibitor of fireworks in this State.

(Ord. 29-2009. Passed 6-9-09.)