

TEMPORARY ORDINANCE NO. 9-15

PERMANENT ORDINANCE NO. _____

AN ORDINANCE TO AMEND LANCASTER CODIFIED ORDINANCE PART ELEVEN – PLANNING AND ZONING CODE, TITLE THREE – ZONING AND PROPERTY RESTRICTIONS, CHAPTERS 1123.11 SCREENING WALLS OR FENCES; 1123.15 DISPLAY FOR SALE, STORAGE AND PARKING OF VEHICLES AND PORTABLE STORAGE UNITS; 1123.18 GROUP RESIDENTIAL FACILITIES; 1123.18.1 TRANSITIONAL LIVING CENTER, RESIDENTIAL TREATMENT CENTER; 1123.20 LOCATION OF CEMETERIES; 1125.01 YARDS; 1125.05 PRIVATE SWIMMING POOLS; 1155.03 PENALTIES FOR VIOLATION; AND 1161.01 DEFINITIONS; AND TO REPEAL PART ELEVEN – PLANNING AND ZONING CODE, TITLE THREE – ZONING PROPERTY RESTRICTIONS - EXISTING CHAPTERS 1123.11 SCREENING WALLS OR FENCES; 1123.15 MOTORIZED VEHICLES; 1123.18 GROUP RESIDENTIAL FACILITIES; 1123.20 LOCATION OF CEMETERIES; 1125.01 YARDS; 1125.05 PRIVATE SWIMMING POOLS; 1155.03 PENALTIES FOR VIOLATION; AND 1161.01 DEFINITIONS, AND TO DECLARE AN EMERGENCY

WHEREAS, the Code Enforcement and Zoning Committee of Lancaster City Council proposed certain changes to various sections of the Lancaster Codified Ordinances; and

WHEREAS, the Lancaster City Planning Commission received the proposed changes, reviewed the proposal and held a public hearing on April 9, 2015 in accordance with LCO 1159.03; and

WHEREAS, after receiving public comments the Lancaster City Planning Commission voted to recommend changes to Lancaster City Council in accordance with LCO 1159.01;

NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LANCASTER, STATE OF OHIO:

SECTION 1. That Lancaster Codified Ordinance Part Eleven – Planning and Zoning Code, Title Three – Zoning and Property Restrictions, Chapters 1123.11 Screening Walls or Fences; 1123.15 Display For Sale, Storage and Parking of Vehicles and Portable Storage Units; 1123.18 Group Residential Facilities; 1123.18.1 Transitional Living Center, Residential Treatment Center; 1123.20 Location Of Cemeteries; 1125.01 Yards; 1125.05 Private Swimming Pools; 1155.03 Penalties For Violation; and 1161.01 Definitions; be amended pursuant to Exhibit A, attached hereto.

SECTION 2. That Lancaster Codified Ordinance Part Eleven – Planning And Zoning Code, Title Three – Zoning and Property Restrictions, Chapters 1123.11 Screening Walls or Fences; 1123.15 Motorized Vehicles; 1123.18 Group Residential Facilities; 1123.20 Location of Cemeteries; 1125.01 Yards; 1125.05 Private Swimming Pools; 1155.03 Penalties For Violation; And 1161.01 Definitions, are repealed in their entirety.

SECTION 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the Municipality and its inhabitants for the reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the Municipality, so as to facilitate administration, daily operation and avoid practical and legal entanglements, including conflict with general State law, and shall go into effect immediately upon signage of the Mayor.

Passed: _____ after _____ reading. Vote: Yeas _____ Nays _____

Approved: _____

President of Council

Clerk: _____

Mayor

Offered by: _____

Second by: _____

Requested by Code Enforcement & Zoning Committee

I, Teresa Lee Sandy, Clerk of Council do hereby certify that on _____, 2015 the Lancaster Eagle Gazette published the summary of this ordinance in accordance with Ohio Revised Code 731.24.

Clerk of Council

EXHIBIT A

1123.11 SCREENING WALLS OR FENCES.

For the purpose of maintaining a compatible relationship between certain land uses, when a screening requirement is required by this Code, the following regulations shall apply:

(a) When the provisions of this Code require construction of a screening wall or fence, unless otherwise specified, such screening wall or fence

(1) Shall consist of a fence, landscaped earthen mound of suitable slope, wall, planting or combination thereof installed, repaired, replaced and maintained to the total height required herein and to an opacity of not less than seventy- five percent (75%). The percentage of opacity shall be determined by measurement of any square foot of vertical surface of the screening from a point perpendicular thereto.

(2) Shall not be less than six (6) feet in height, except when in a required front yard in which case the screening wall or fence shall be four (4) feet in height.

(3) Shall be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance.

(4) Shall be erected prior to the occupancy of the building or initiation of the use required to be screened.

(5) Shall be uniform in height except for significant changes in topography.

(6) Shall have consistency of design.

(7) Shall not be topped with barbed or razor wire.

(8) Shall not consist of a chain link fence which utilizes inserts of metal or other materials.

Inserts may be added to existing chain link fencing to provide screening, as long as inserts are of a neutral color. Inserts should be made of durable material and replaced whenever an insert is damaged.

(b) When screening consisting of live plants, alone or in combination with other materials, is installed, the plants

(1) Shall be selected for density of year round foliage

(2) Shall be selected to achieve the required height and density within three (3) years of installation

(3) Shall have a minimum height of three (3) feet at time of installation

(4) Shall be maintained in a healthy, live state and replaced as needed to comply with the original site plan and the specifications herein set forth.

(c) When the erection of a screening wall or fence is required by this Code due to the location of the use adjacent to an R District, and the R District property abutting such use is an arterial or collector roadway, such screening wall or fence shall not be required, except as provided in Section **1123.11** (d) below.

(d) For junk and salvage yards, as defined in Chapter **1161**, the required screen or fence enclosing such use shall:

(1) Be a minimum of eight (8) feet high

(2) Be constructed of common fencing materials, designed and arranged to provide substantial visual separation from other land uses, and from view from adjacent streets, highways and thoroughfares.

(3) Be uniform in height, except for significant changes in topography

(4) Be constructed with all braces and supports on the interior, except when both sides are of the same design and appearance.

- (5) Be erected prior to occupancy and/or use of the site.
- (e) The screening wall or fence shall be maintained by the owner of the lot containing the use required to construct the screening. Failure to maintain after notice by the Zoning Inspector shall constitute an offense hereunder.
- (f) The Board of Zoning Appeals, as a Special Exception, may:
 - (1) Modify or remove the screening requirement where existing physical features provide for the visual separation of the uses.
 - (2) Modify the screening requirement where alternative screening will provide for the visual separation of the uses.
 - (3) Grant an extension of time to erect a screen where properties which are to be benefited by the screen are undeveloped.
 - (4) Remove the screening requirement where the purposes of the screening requirement cannot be achieved, or is prohibited by other ordinances or regulations.

1123.15 ~~MOTORIZED VEHICLES DISPLAY FOR SALE, STORAGE AND PARKING OF VEHICLES AND PORTABLE STORAGE UNITS..~~

- (a) All motorized vehicles which are designed for travel upon public streets and which are being parked, stored or displayed for sale shall be parked, stored or displayed on an all- weather material as defined in Chapter 1161. Definitions. ~~The foregoing provisions of this Section shall not apply to vehicles located within junk and salvage yards.~~
- (b) ~~The Board of Zoning Appeals may, as a special exception, permit the storage and/or display of motorized vehicles on a surface other than one consisting of an all-weather material if located behind the building setback line.~~ All recreational vehicles and portable storage units shall be parked, stored or displayed for sale in accordance with the following conditions:
 - (1) On an all weather material/surface as defined in Chapter 1161 of this Code;
 - (2) No closer than three feet to the side property lines; and
 - (3) Not within the front yard. Furthermore, no recreational vehicle or portable storage unit shall be parked, stored or displayed for sale in a manner that blocks any sidewalk or obstructs sight lines for any vehicle entering or exiting the right of way.
 - (A) Recreational vehicles and Portable Storage Units may be parked on an all weather surface within the front yard for a period not to exceed 48 hours for loading or unloading.
 - (B) A Portable Storage Unit may be placed in any right of way without first obtaining the appropriate permit(s) from the City.
- (c) All vehicles not defined as a motor vehicle or recreational vehicle shall be parked stored or displayed for sale in accordance with the following conditions;
 - (1) On an all weather material/surface as defined in Chapter 1161 of this Code;
 - (2) No closer than three feet to the side property lines; and
 - (3) Not within the front yard within a residential district.
- (d) This provision shall not apply to vehicles located within junk and salvage yards or construction equipment on a site with an approved active building permit.
- (e) For the purposes of this sections, "recreational vehicle" shall have the same meaning as in Section 1161.01(96) of this Code, and the terms "vehicle" and "motor vehicle" shall have the same meaning as Chapter 301 of this Code.

1123.18 GROUP RESIDENTIAL FACILITIES.

"Group residential facilities" shall be defined and classified in Chapter **1161** of this Code. A Class I Type B group residential facility, as defined in Chapter **1161**, is permitted by right in any zoning district that permits single-family dwellings. A Class I Type A group residential facility shall be considered as a Special Exception in the RM-2., RM-3, RM-4, CG and CH Districts, subject to the standards below. A Class II Type A or Type B group residential facility shall be treated as a Special Exception in the CG and CH Districts subject to the standards below:

- (a) The facility shall obtain all approvals and/or licenses as required by state and local laws.
- (b) The facility shall provide 24-hour supervision by trained and qualified professional personnel.
- (c) No exterior alterations of the structure shall be made which would be inconsistent with the residential character of the residential structures in the surrounding neighborhood.
- (d) The facility shall comply with the district regulations applicable to other properties in the zoning district in which they are located.
- (e) Such facilities shall be required to provide appropriate sleeping quarters without using normal living areas, such as living rooms, dining room or kitchen for sleeping.
- (f) Such facilities shall meet all applicable local and/or state building, safety and fire safety requirements for the proposed use and level of occupancy.
- (g) Such facilities shall be reasonably accessible, by virtue of location or transportation provided by the applicant, to medical, recreational and retail services, and employment opportunities.
- (h) The applicant shall provide a plan indicating the manner in which the facility will maintain contact with neighborhood residents, including a structured procedure whereby their grievances may be filed and resolved.

1123.18.1, TRANSITIONAL LIVING CENTER, RESIDENTIAL TREATMENT CENTER

In order to provide opportunities for location of the uses listed above, to avoid over concentration of said facilities, and to establish the suitability of the requested use at a proposed location, above said facilities shall be allowed as a Special Exception only in the RM Zoning District. A copy of a signed application that has been submitted to the appropriate State licensing or certifying agency for such a facility must be submitted before any Special Exception request can be processed. The applicant shall be responsible for demonstrating compliance with all requirements of this section. The Board of Zoning Appeals shall consider the following criteria in determining whether a location is appropriate for such a facility and may attach conditions to a zoning clearance consistent with the purpose of this section.

- (a) Said facilities must be 500 feet from any other said facility listed in this section. The 500 feet shall be measured in a straight line from the nearest point of the wall of the portion of the building in which said facility is located to the nearest point of the wall of the building in which another such facility is located.**
- (b) Above/said facilities must be 500 feet from a church. Church as used herein shall mean all contiguous church buildings or structures irrespective of any interior lot lines. The 500**

feet shall be measured in a straight line from the nearest point of the property in which said facility is located, to the nearest point of the church property.

(c) Above/said facilities must be 500 feet from a school of the type which offers a compulsory education curriculum. School as used herein shall mean all contiguous property owned or leased by a school upon which is located the principal school building(s) irrespective of any interior lot lines. The 500 feet shall be measured in a straight line from the nearest point of the property of said facility to the nearest point of the school property.

(d) Above/said facilities must be 500 feet from a public park, private park, Historic District, or Central Business District. The 500 feet shall be measured in a straight line from the nearest point of the property of said facility to the nearest point of the park.

(e) The facilities shall be occupied by not more than thirty (30) residents, exclusive of staff, limited by the size of the existing or proposed building and its allocated space for sleeping.

(f) Prior to occupancy and continuously thereafter, the applicant of such facilities shall:

(1) Be licensed or certified by a federal, state, or local agency which requires screening potential residents.

(2) Comply with all applicable City Codes.

(3) Agree in writing to maintain with the Lancaster Police Department and/or Fairfield County Sheriff Department, a current list of all residents of the facility by name, description and photograph.

(4) Submit a copy of the B.1 License or Certificate to the zoning inspector initially prior to occupancy and subsequent to each renewal

1123.20 LOCATION OF CEMETERIES.

No person/group shall establish any cemetery or other place for the interment of dead bodies, human remains, or human ashes within the corporate limits of the City. However, nothing in this section shall prevent cemeteries existing before October 31, 2005, from acquiring land for expansion when done in accordance with the provision of the Ohio Revised Code.

1125.01 YARDS.

Except as otherwise provided, required yards shall be open and unobstructed from ground to sky. Yards provided for a building for the purpose of complying with the provisions of this Code, shall not be considered the yard for any other building, and yards provided for a lot shall not be considered the yard of any other lot.

Obstructions are permitted in required **side and rear** yards as follows:

(a) Cornices, canopies, eaves, fireplaces and similar architectural features may project not more than two (2) feet into a required yard.

(b) Fire escapes may project not more than 4 1/2 feet into a required yard.

(c) Fences, plant materials, berms, walls and permitted signs may be located in any yard provided that the same do not constitute a nuisance as provided in Lancaster Revised Code. Fences must meet the standards of Section **1125.03** below.

(d) Detached accessory structures, subject to the standards of Section **1125.02** below.

- (e) Swimming pools, tennis courts, clotheslines, barbeque pits, playground equipment and similar structures customary and ancillary to the primary residential use of the property.
- (f) Antennas and supporting structures, subject to the standards of Section **1125.04** below.
- (g) Signs which are otherwise permitted as an accessory use in the specific district, may be located within any yard bounded by a public street, provided the setback requirements of Chapter **1317** are met.

1125.05 PRIVATE SWIMMING POOLS.

A "private swimming pool" as regulated herein, means any pool or open tank not located within a completely enclosed building and containing water to a depth, at any point greater than one and one-half (1 1/2) feet. A private spa or hot tub with a lockable cover shall not be considered as a "swimming pool" subject to the provisions of this Section. No such swimming pool, exclusive of ~~portable~~ **storable** swimming pools ~~with an area of less than 100 square feet,~~ shall be allowed in any residential district unless the following conditions and requirements are complied with:

- (a) The pool is intended to be used solely for the occupants of the principal use of the property on which it is located.
- (b) ~~No such pool of any kind (including storable swimming pools),~~ including any walks, paved areas, and appurtenances thereto, shall ~~not be~~ located in any front yard, nor closer than five (5) feet to any property line or structure.
- (c) The area of the swimming pool, exclusive of decks, walks and other appurtenances, shall not exceed ten percent (10%) of the area of the lot or parcel.
- (d) Any private swimming pool, or the property on which the pool is located, shall be enclosed by a wall or fence constructed so as to prevent uncontrolled access. Such wall or fence shall **meet the requirements established in the current version of the International Residential Code (IRC), Appendix G (Swimming Pools, Spas and Hot Tubs) and be not be less than six (6) feet in height, maintained in good condition, and affixed with an operable gate and lock.**
- (e) All lights used for the illumination of the swimming pool and adjacent areas shall be designed, located and installed so as to confine the direct beams thereof to the lot or parcel on which the pool is located.

A zoning clearance permit shall be required for the construction or installation of any private swimming pool. The owner of the property, or his agent, shall certify that the pool will be constructed, installed and maintained in conformance with the above requirements.

1155.03 PENALTIES FOR VIOLATION

- (a) Any person, firm or corporation ~~who violates any provisions of the~~ **Lancaster Zoning Code, or who otherwise fail or failing to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variance or special exceptions, shall be deemed is guilty of a minor misdemeanor punishable by a fine of not more than one hundred dollars (\$100.00).** **on a first offense and of a misdemeanor of the fourth degree on each subsequent offense.** Each day that a violation continues shall be deemed a separate offense.
- (b) Nothing herein contained shall prevent the City of Lancaster or its authorized officials from taking other action, authorized by law, to remedy a violation.

1161.01 DEFINITIONS.

(1) **Abutting:** In the context of notice and a screening or enclosure requirement, abutting shall mean contiguous or separated there from only by a nonarterial street, alley or railroad right-of-way. In other instances, abutting shall mean contiguous.

(2) **Accessory Use or Structure:** A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

(3) **All-Weather Material:** A hard surface, dust-free material capable, during ordinary use, of withstanding without substantial deterioration, normal weather conditions. Gravel, rock, or screenings alone, without use of a petroleum or cement binder, does not meet the definition of an all-weather, dust-free material.

(4) **Alley:** A public right-of-way ten (10) to twenty (20) feet wide which provides only secondary means of access to abutting property.

(5) **Animation:** The presentation of pictorials and graphics on signs displayed in a progression of frames which give the illusion of motion, including but not limited to the illusion of moving objects, moving patterns or bands of light, or expanding or contracting shape.

(6) **Arterial:** A street designated on the Major Street and Highway Plan as an arterial, thoroughfare, parkway or special traffic way.

(7) **Assisted Living Center:** A residential facility designed to meet housing and care needs of older persons and individuals with disabilities in a residential rather than institutional environment, while maximizing independence, choice, and privacy. Assisted living programs provide personal care for persons with needs for assistance in the activities of daily living, and can respond to unscheduled needs for assistance. Services typically provided include: meals, housekeeping, laundry and linen service, medication monitoring, transportation, and activities. Assisted living settings also typically provide features that enhance resident autonomy, such as lockable doors, full bathrooms, temperature control, and single occupancy, and may provide limited cooking facilities in individual units. Assisted Living Centers exclude nursing homes and other special housing facilities as elsewhere defined.

(8) **Average Ground Elevation:** The mid point between the highest and lowest ground elevations at the building wall.

(9) **Bar/Tavern:** A commercial establishment open to the general public which sells and serves intoxicating beverages (as defined herein) for consumption on the premises.

(10) **Bed and Breakfast Inn:** A residential structure that provides twelve or fewer guest rooms and meals for overnight guests who pay a fee for such services. Said structure may also be rented for special events, such as weddings, receptions, anniversaries, private dinner parties, business seminars, etc., as may be approved by the Board of Zoning Appeal.

(11) **Board of Zoning Appeals (BZA):** The Board of Zoning Appeals of the City of Lancaster.

(12) **Building:** A structure which is permanently affixed to the land, and has one or more floors and a roof, and is bounded by either another building with a common party wall, open air, or the lot lines of a lot.

(13) **Building Setback:** The horizontal distance, from the point of measurement, such as the right-of-way line of an abutting street or the boundary line of an abutting zoning district to the nearest building wall.

(14) **Bulk and Area Requirements:** The term "bulk and area requirements" as used in this code refers to lot widths, lot areas, structure heights, front, rear and side yard setbacks and floor area ratios.

(15) Caliper: The diameter of the tree trunk measured at 6" above ground level for a tree trunk having a diameter of 4" or less and the diameter of the tree trunk measured at 12" above ground level for a tree trunk having a diameter exceeding 4".

(16) Changeable Copy: A sign which, in whole or in part, provides for periodic changes in the material or message composing the sign. This definition includes both electronically and manually changeable signs.

(17) Character: Any letter of the alphabet or numeral.

(18) City Council: The City Council of the City Lancaster.

(19) Commercial Mixed Use Development: shall mean any development containing a combination of uses permitted by right or special exception in a CN zoning district.
(Ord. 47-05. Passed 6-27-05.)

(20) Condominium New: A form of ownership of property where each owner has title to a percentage of a project and the project's common areas and the actual ownership is of the interior surfaces established by the perimeter walls, floor and ceilings of a unit. Because of the unique ownership of the lot or lots, condominiums shall be included in PUD zoning. Copies of the ownership structure shall be filed with the Certified Building Department prior to issuance of an occupancy permit. A new condominium is a new development that is not currently in existence and is not a conversion of any existing structure.

(20 1.) Condominium Conversion: A form of ownership of property where each owner has title to a percentage of a project and the project's common areas and the actual ownership is of the interior surfaces established by the perimeter walls, floor and ceilings of a unit. Copies of the ownership structure shall be filed with the Certified Building Department prior to issuance of an occupancy permit. A condominium conversion contemplates the conversion of an existing structure.

(Ord. 20-08. Passed 7-14-08.)

(21) Convict Pre-Release Center or Correctional Community Treatment Center: means a facility for supervision and rehabilitation of persons placed therein by the Department of Rehabilitation and Correction, Federal Bureau of Prison, a court , or otherwise for parole, probation, furlough, treatment of drug or alcohol abuse and addition, vocational training and counseling, or adjustment to private life and noninstitutional society and which may be licensed and inspected by the Ohio Department of Rehabilitation and Correction, the Adult Parole Authority , the Ohio Department of Health or a similar agency. Prisoners in these facilities are not in the custody of local law enforcement and the facilities are often privately owned.

(22) Curb Level: The mean level of the established curb at the frontage of a lot. Where no curb has been established, the City Engineer shall establish such curb level or its equivalent for the purposes of this Code.

(23) Customary Residential Exterior Finishing Materials: Roof and siding materials traditionally used to provide the finished exterior of single-family dwellings. Customary roofing materials include composition shingles, fiberglass shingles, wood shingles (shakes), and clay tile applied according to the manufacturers specifications. Customary siding materials include aluminum lap or vinyl lap siding, cedar or other wood siding, masonry (stucco, brick, stone, block, tilt-up panel) and wood grain weather resistant pressboard siding.

(24) Dance Hall: A commercial establishment open to the general public which provides a dance area of 1,000 square feet or more.

(25) Day Care Center: A facility providing child day care as defined by Ohio Law to seven or more children of any age. Such a facility must be licensed by the Ohio Department of Human Services.

(26) Designated Residential Development Area: An area specifically designated for residential development by conditions imposed in a Planned Unit Development (PUD) or Corridor District (CO).

(27) Detention/Correctional Facility: A facility for the detention, confinement, treatment and/or rehabilitation of persons arrested or convicted for the violation of civil or criminal law. Such facilities include an adult detention center, juvenile delinquency center, jail and prison. These facilities house prisoners who are in the custody of City/county/law enforcement and the facilities are typically government owned.

(28) Development: Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation, or drilling operations.

(29) Display Surface: The surface of a sign as defined in Section **1317.10**.

(30) Drip line: The periphery of the area underneath a tree which would be encompassed by perpendicular lines extending from the exterior edges of the crown of the tree.

(31) Dwelling: A building or structure used in whole or in part for human habitation.

(32) Dwelling, Duplex: A building containing two dwelling units, designed for occupancy by not more than two families.

(33) Dwelling, Manufactured Home: See Manufactured Home.

(34) Dwelling, Multifamily: A building containing three or more dwelling units.

(35) Dwelling, Townhouse: A building containing two or more attached dwelling units with no unit above another unit and each unit located on a separate lot within a townhouse development.

(36) Dwelling, Single-Family Detached: See Single Family Dwelling.

(37) Dwelling Unit: A room or group of rooms arranged, intended, or designed as a habitable unit, containing kitchen, bath and sleeping facilities, for not more than one family living independently of any other family.

(38) Elderly/Retirement Housing: A residential complex containing multifamily dwellings designed for and principally occupied by senior citizens. Such facilities may include a congregate meals program in a common dining area, but exclude institutional care such as medical or nursing care and are distinguished from life care retirement centers as elsewhere defined.

(39) Emergency and Protective Shelter: A residential facility which provides room and board for a temporary (30 days or less) period, protection, counseling, and pre-placement screening for abused, displaced, or transient children or adults.

(40) Essential services: The erection, construction, alteration, or maintenance, by public utilities or municipal or other governmental agencies, of underground or overhead gas, electrical, steam, or water transmission or distribution systems; collection, communication, supply, or disposal systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, traffic signals, hydrants and other similar equipment and accessories in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities or municipal or other governmental agencies or for the public health, safety, or general welfare.

(41) Family: One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, adoption or marriage, no such family shall contain more than five (5) persons.

(42) Family Child Care Home (Type B): The provider's personal residence used to house and provide supervision and care for one to six children, said total to include those children of the provider under six years of age who reside in the residence. No more than three children may be under the age of two years. A "Type B" home does not require licensing. Certification by Department of Human Services is required if child care is publicly funded.

(43) Family Day Care Home (Type A): The provider's personal residence used to house and provide supervision and care for seven to twelve children, said total to include those children of the provider under six years of age who reside in the residence. The facility must be licensed by the Ohio Department of Human Services.

(44) Flashing Illumination: A light source or other image which in whole or in part physically changes in light intensity or gives the appearance of such change.

(45) Floor area: The sum of the horizontal areas of a building as measured by the outside dimensions of the building at each floor area intended for occupancy or storage, provided that for the purposes of calculating required parking spaces, basements shall not be included.

(46) Floor Area Ratio (FAR): The floor area of a building or buildings on a lot divided by the lot area.

(47) Freeway: A street designated as a freeway on the Major Street Plan.

(48) Freeway Sign Corridor: Reserved.

(49) Frontage: The lineal measurement of a lot boundary which abuts a public street or the lineal measurement of the building setback line when the boundary of the lot abuts a curved nonarterial street or cul-de-sac.

(50) Group Residential Facility: A community facility, licensed and/or authorized by the State of Ohio, which provides rehabilitative or habilitative services in a residential setting. "Group residential facility" shall include the terms "adult group home", as defined in Ohio Revised Code 37722.01(A) (8) and "group home", as defined in Ohio Revised Code 5123.19(A) (3). There are two (2) classes of group residential facilities:

A. "Class I group residential facility" means any state, federal or locally approved dwelling or place used as a foster home for children or adults (not including nursing homes) or as a place for the care or rehabilitation of dependent or predelinquent children, for the physically handicapped or disabled, or for those with mental illness or developmental disabilities. A Class I Type A facility contains more than five (5) residents, exclusive of staff. A Class I Type B facility contains five (5) or fewer residents, exclusive of staff.

B. "Class II group residential facility" means any state, federal or locally approved dwelling or place used as a home for juvenile offenders; a halfway house providing residential care or rehabilitation for adult offenders in lieu of institutional sentencing; a halfway house providing residence for persons leaving correctional institutions; and residential rehabilitation centers for alcohol and/or drug abusers, provided that detoxification is expressly prohibited on such premises. A Class II Type A group residential facility contains more than five (5) residents, exclusive of staff. A Class II Type B facility contains five (5) or fewer residents, exclusive of staff.

(51) Habitable Floor: Any floor usable for living purposes, which includes working, sleeping, eating, cooking, or recreation, or a combination thereof. A floor used for storage purposes only is not a "habitable floor".

(52) Handicap means, with respect to a person, a physical or mental impairment which substantially limits one or more major life activities; a record of such an impairment; or being regarded as having such an impairment. This term does not include current, illegal use of or addiction to a controlled substance. For purposes of these guidelines, an individual shall not be considered to have a handicap solely because that individual is a transvestite. As used in this definition:

A. "Physical or mental impairment" includes:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

2. Any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, emotional illness, drug addiction (other than addiction caused by current, illegal use of a controlled substance) and alcoholism. These guidelines are designed to make units accessible or adaptable for people with physical handicaps.

B. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.

C. "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

D. "Is regarded as having an impairment" means:

1. Has a physical or mental impairment that does not substantially limit one or more major life activities but that is treated by another person as constituting such a limitation;

2. Has a physical or mental impairment that substantially limits one or more major life activities only as a result of the attitudes of others toward such impairment; or

3. Has none of the impairments defined in paragraph A. of this definition but is treated by another person as having such an impairment.

(53) Height, building: The vertical distance measured from the average ground elevation at the building wall to the highest point of the structure, not including the height exceptions cited in Section **1123.09** of this Code.

(54) Height, Sign: The vertical distance measured from the curb level to the highest point of the sign.

(55) Home Occupation: That accessory use of a dwelling which constitutes some or all of the livelihood of a person living in the dwelling.

(56) Intoxicating Beverages: As used in the Ohio Revised Code, 4301.01.

A. "Intoxicating liquor" and "liquor" include all liquids and compounds, other than beer, containing one-half of one per cent or more of alcohol by volume which are fit for beverage purposes, from whatever source and by whatever process produced, by whatever name called, and whether the same are medicated, proprietary, or patented. The phrase includes wine even if it contains less than four per cent of alcohol by volume, mixed beverages even if they contain less than four per cent alcohol by volume, cider, alcohol, and all solids and confections which contain any alcohol.

B. "Alcohol" means ethyl alcohol, whether rectified or diluted with water or not, whatever its origins may be, and includes synthetic ethyl alcohol.

C. "Beer", "malt liquor", or "malt beverages" includes all brewed or fermented malt products containing one-half of one per cent or more alcohol by volume but not more than six per cent of alcohol by weight.

D. "Cider" means all liquids fit to use for beverage purposes that contain one-half of one per cent of alcohol by volume, but not more than six per cent of alcohol by weight that are made through the normal alcoholic fermentation of the juice of sound, ripe apples, including, without limitation, flavored, sparkling, or carbonated cider and cider made from pure condensed apple must.

E. "Wine" includes all liquids fit to use for beverage purposes containing no less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume, which is made from fermented juices of grapes, fruits, or other agricultural products. "Wine" does not include cider.

F. "Mixed beverages" such as bottled and prepared cordials, cocktails, and highballs are products obtained by mixing any type of whiskey, neutral spirits, brandy, gin, or other distilled spirits with, or over, carbonated or plain water, pure juices from flowers and plants, and other flavoring materials. The completed product shall contain not less than one-half of one per cent of alcohol by volume and not more than twenty-one per cent of alcohol by volume.

(57) Junk and salvage yard: An establishment providing an open area where wastes or second hand materials are bought, sold, exchanged, stored, processed or handled. Materials include but are not limited to scrap iron and other metals, paper, plastic, rags, tires, salvaged, inoperable and/or dismantled vehicles and/or parts, and bottles or cans.

(58) Kennel: The use of land or buildings for the purpose of selling, breeding, boarding or training cats or dogs, or both.

(59) Land Area: The area of a lot.

(60) Land Coverage: The land area of a lot covered by building or buildings, except structural parking.

(61) Landscaped Area: The unpaved area within a lot which contains grass, shrubs, flowers, ground cover, trees or native plant materials and which may include decorative fixtures such as rock, pools and planters.

(62) Life Care Retirement Center: A residential facility containing dwellings designed for and principally occupied by senior citizens in a planned retirement community which includes a residential complex, an activity or community center, and a medical or nursing facility which is licensed by the State of Ohio as an Intermediate Care Facility or a Skilled Nursing Center.

(63) Loading Berth, Off-Street: A space of at least 10 feet in width and 30 feet in length and having a vertical clearance of at least 14 feet, designed and located on a lot for the temporary parking of commercial vehicles while loading or unloading merchandise or materials.

(64) Lot: A lot of record.

(65) Lot of Record: A lot which is part of a subdivision, the plat of which has been recorded in the office of the County Recorder of the County in which the lot is located or a parcel of land, the deed of which is recorded in the office of the County Recorder of the County in which the parcel is located.

(66) Lot Line: Any boundary of a lot.

(67) Lot Line, Front: The boundary of a lot which abuts a public street. Where the lot abuts more than one street, the owner may select the front lot line.

(68) Lot Line, Rear: The boundary of a lot which is most distant from and most nearly parallel to the front lot line.

(69) Lot Line, Side: Any boundary of a lot which is not a front lot line or a rear lot line.

(70) Lot Width: The average horizontal distance between the side lot lines.

(71) Major Appliance: Includes, but is not limited to, washers, dryers, refrigerators, ovens/ranges, dishwashers, and other appliances not easily carried without assistance.

(72) Major Street Plan: The City of Lancaster Thoroughfare Plan Update, as adopted by the City of Lancaster on June 14, 2004, Resolution 90-04, as may be subsequently amended.

(73) Manufactured home: A building unit or assembly of closed construction that is fabricated in an off-site facility, that conforms with the federal construction and safety standards established by the Secretary of Housing and Urban Development pursuant to the *Manufactured Housing Construction and Safety Standards Act of 1974*, and has a label or tag permanently affixed to it, certifying compliance with all applicable federal construction and safety standards.

(74) Manufactured Home Community: A development constructed primarily for manufactured homes, with continuing local general management and with special facilities for common use by occupants, including such items as common recreational buildings and/or common open space.

(75) Mini Storage: A building containing small partitioned storage spaces which are separately and individually rented or leased for the storage of personal goods or merchandise, excluding commercial warehousing.

(76) Mobile Home: Any non-self-propelled vehicle transportable in one or more sections which, in the traveling mode, is eight (8) feet or more in width or forty (40) feet or more in length, or, when erected on the site, is 320 or more square feet, and which is built on a permanent chassis and is designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, and built in compliance with the Federal Manufactured Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976.

(77) Modular Home: A non-site-built home that is certified as meeting the requirements of the State of Ohio Building Code for *modular housing*. For the purposes of this Ordinance, once certified by the State of Ohio, modular homes shall be subject to the same standards as site-built homes.

(78) Movement: Physical movement or revolution of a sign or portion of a sign up or down, around or sideways.

(79) NA: Not applicable.

(80) Nameplate: A sign, attached flush against a building identifying the name of the building or the name of an occupant thereof.

(81) NEC: Not elsewhere classified.

(82) Neighborhood Park-a park or open space of less than 15 acres owned either privately by an owners association or publicly by the City and whose function is to serve local residents. Neighborhood parks may include passive recreation areas and such active areas as jogging and bike paths, playgrounds and small athletic facilities. Neighborhood parks do not include intensive recreation facilities such as swimming pools, community centers, concession stands or lighted athletic facilities.

(83) Night Club: A commercial establishment open at night to the general public, usually serving intoxicating beverages, having a floor show, and providing music and a space for dancing.

(84) Non-Arterial: A street designated on the Major Street and Highway Plan as a collector or minor street.

(85) Nursing Home: A residential health care facility, licensed by the State of Ohio, which provides institutional lodging, nursing care, personal care and supervision to aged, chronically ill, physically infirm. or convalescent patients who are not related to the owner or administrator of the facility.

(86) Parking Space, Off-Street: A space on a lot intended and reserved for the parking of an automobile.

(87) Parking Space, Required Off-Street: A space on a lot reserved for parking required by this Code.

(88) Permanent Foundation: A foundation which meets the requirements of the City of Lancaster regulations for one and two family dwellings.

(89) Permanently sited manufactured home: A manufactured home that meets all of the following criteria:

A. The structure is affixed to a permanent foundation and is connected to appropriate facilities;

B. The structure, excluding any addition, has a width of at least twenty-two (22) feet at one point, and a length of at least twenty-two (22) feet at one point, and a living area of at least 900 square feet, excluding garages, porches, or attachments;

C. The structure has a minimum 4:12 roof pitch, conventional residential siding, and a six-inch minimum eave overhang, including appropriate guttering;

D. The structure was manufactured after January 1, 1995;

E. The structure is not located in a manufactured home community or manufactured home park as defined herein.

(90) Personal Care: Assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision of the physical and mental well-being of a person, who is incapable of maintaining a private, independent residence, or who is incapable of managing his person, whether or not a guardian has been appointed for such person.

(91) Planning Commission: The Lancaster City Planning Commission (LCPC).

(92) Planned Unit Development (PUD): A discretionary type of development for a tract of land under single ownership or control, based upon an approved development plan permitting flexibility of principal land uses, lot sizes, and accessory uses not otherwise available under conventional development standards.

(93) Principal Use Restaurant: An eating establishment which employs at least one full-time cook, has a menu, a fully equipped kitchen for cooking and preparation of meals and which eating establishment, including the kitchen area but excluding the bar area, occupies at least 75% of the total floor area of the business.

(94) Private Club: A private commercial establishment, not open to the general public, but which is operated for profit and which sells and serves intoxicating beverages (as defined herein) for consumption on the premises.

(95) Right-of-Way: A strip of land taken or dedicated for use as a public way. In addition to the roadway, it normally incorporates the curbs, lawn strips, sidewalk, lighting and drainage

facilities and may include special features (required by the topography or treatment) such as grade separation, landscaped areas, viaducts and bridges.

(96) **Recreational Vehicle (RV):** A vehicular portable structure that is designed and constructed to be used as a temporary dwelling for travel, recreation, and vacation uses and is classed as follows:

A. "Travel trailer" means a nonself-propelled recreational vehicle that does not exceed an overall length of thirty-five feet, exclusive of bumper and tongue or coupling, and includes a tent-type fold-out camping trailer as defined in Section 4517.01 of the ORC.

B. "Motor Home" means a self-propelled recreational vehicle that is constructed with permanently installed facilities for cold storage, cooking and consuming of food, and for sleeping.

C. "Truck camper" means a non-self propelled recreational vehicle that does not have wheels for road use and designed to be placed upon and attached to a motor vehicle. "Truck camper" does not include truck covers than consist of walls and a roof, but do not have floors and facilities enabling them to be used as a dwelling.

D. "Fifth wheel trailer" means a vehicle that is of such size and weight as to be movable without a special highway permit, that has a gross trailer area of four hundred square feet or less, that is constructed with a raised forward section that allows a bi-level floor plan, and that is designed to be towed by a vehicle equipped with a fifth-wheel hitch ordinarily installed in the bed of a truck.

E. "Park trailer" means a vehicle that is commonly known as a park model recreational vehicle, meets the American national standard institute standard A119.5 (1988) for park trailers, is built on a single chassis, has a gross trailer area of four hundred square feet or less when set up, is designed for seasonal or temporary living quarters, and may be connected to utilities necessary for the operation of installed features and appliances.

(97) **Residential Treatment Center:** A community-based residential facility providing diagnostic or therapeutic services, counseling, or treatment and long-term room and board in a highly structured environment for its residents for alcoholism, drug abuse, or behavioral disorders.

(98) **Rooming and Boarding House:** A facility wherein congregate meals and lodging are provided for its residents exclusive of a supervised living or residential care facility as elsewhere defined (e.g. Nursing Homes, Group Homes, Transitional Living Center, Residential Treatment Center, etc.), and exclusive of a hotel or motel.

(99) **Screening Fence:** Screening Fence means a barrier at least six feet in height, constructed of non-transparent material, and maintained so as to obscure the facility from the ordinary view of persons passing upon adjacent streets. Such screening fence can be a combination of barrier fence and landscape plantings if approved by the Zoning Board of Appeals. (See Section **1123.12**)

(100) **Setback:** A horizontal distance determining the location of a building with respect to a street, use district boundary line, or another use. Where the term "setback" is used in conjunction with a modifying word or words such as "parking area", the setback shall in its application include, but not be limited to, buildings.

(101) **Signs:** see Chapter **1317** of this Code.

(102) **Single Family Dwelling:** A detached individual dwelling unit designed and intended for occupancy by one family unit.

(103) Special Exception: A use or a design element of a use which is not permitted by right in a particular district because of potential adverse affect, but which if controlled in the particular instance as to its relationship to the neighborhood and to the general welfare, may be permitted by the Board of Zoning Appeal, where specifically authorized by the Code, and in accordance with the substantive and procedural standards of the Code.

(103A) Storable Swimming Pool: A pool capable of holding water to a maximum depth of forty two inches (42") and is constructed of non-metallic, molded polymeric or fabric walls supported on a rigid frame or by an inflatable ring and entirely on or above ground, and is designed and constructed to be readily disassembled for storage and re-assembled to its original integrity.

(104) Story: A room or set of rooms on one floor level of a building.

(105) Street: A way for vehicular traffic defined as the area form the back of curb to the back of curb or the area form the backslope of the drainage ditch to the backslope of the drainage ditch.

(106) Street Yard: The minimum required yard (residential) abutting a public street or the area of a lot contained between the minimum required building setback line (nonresidential) and an abutting public street.

(107) Structure: Anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on the ground, and includes buildings, walks, fences, and signs.

(108) Substantial Improvement: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (1) before the improvement or repair is started, or (2) if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration affects the external dimensions of the structure. The term does not, however; include either (1) any project for improvement of a structure to comply with the existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

(109) Supplemental District: A zoning district to be mapped as an overlay to a use district and which modifies or supplements the regulations of the general district in recognition of distinguishing circumstances such as historic preservation, wellhead protection, flood plain or unit development while maintaining the character and purposes of the general use district area over which it is superimposed.

(110) Tent: Any structure, enclosure, or shelter constructed of fabric or other pliable material supported by any manner except by air or the contents protected by the material. The horizontal area covered by the fabric or other pliable material shall be considered building floor area. In residential district a tent shall be considered a detached accessory building.

(111) Top Plate: The horizontal timber directly carrying the trusses of a roof or the rafters.

(112) Townhouse Development: A subdivision containing at least three townhouse lots.

(113) Transitional Living Center: A community-based residential facility that provides short-term (120 days or less) room and board in a supervised living environment utilizing counseling and rehabilitation services for persons with a history of juvenile delinquency, behavioral disorders, alcoholism or drug abuse.

(114) Variance: A relaxation of a restriction of the Code, granted by the Board of Zoning Appeal, where by reason of exceptional narrowness, shallowness, shape, topography, or other

extraordinary or exceptional situation, condition or circumstance of a particular property, the literal enforcement of the Code restriction, would result in unnecessary hardship.

(115) Veterinarian Clinic: A building used exclusively for the care and treatment of animals, including incidental overnight boarding of animals within the enclosed building, but excluding outside animal runs or boarding services.

(116) Wind Device: Any flag, banner, pennant, streamer or similar device that moves freely in the wind.

(117) Word: For the purpose of this Code, one word shall be deemed to be any of the following.

A. Any word in any language found in any standard unabridged dictionary or dictionary of slang.

B. Any proper noun or any initial.

C. Any separate symbol or abbreviation, such as "&", "S'l", "%" and "INC".

D. Any telephone number, street number or commonly used combination of numerals and/or symbols such as "\$5.00, or "50%".

E. Any symbol or logo which is a registered trademark, but which itself contains no word or character.

F. Otherwise, each separate character is considered to be a word.

(118) Yard: An open unoccupied space on a lot between a building and a lot line measured from the right-of-way.

(119) Yard, Front: A yard extending along the full length of the front lot lines between the side lot lines.

(120) Yard, Required: The minimum permitted distance of open unoccupied space between a building and a lot line.

(121) Yard, Rear: A yard extending along the full length of the rear lot line between the side lot lines.

(122) Yard, Side: A yard extending along a side lot line between the front yard and the rear yard.